IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS, A POLITICAL SUBDIVISION OF THE STATE OF NEVADA, Appellant, vs. 180 LAND CO., LLC, A NEVADA LIMITED-LIABILITY COMPANY; AND FORE STARS, LTD., A NEVADA LIMITED-LIABILITY COMPANY, Respondents.	No. 84345
180 LAND CO., LLC, A NEVADA LIMITED-LIABILITY COMPANY; AND FORE STARS, LTD., A NEVADA LIMITED-LIABILITY COMPANY, Appellants/Cross-Respondents, vs. CITY OF LAS VEGAS, A POLITICAL SUBDIVISION OF THE STATE OF NEVADA, Respondent/Cross-Appellant.	No. 84640 **AMENDED JOINT APPENDIX VOLUME 128, PART 10**

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approach to planning and anticipating the introduction of federal requirements, offers a regional planning area act, attached as Exhibit K.

PLANNED UNIT RESIDENTIAL DEVELOPMENTS

Responding to the requests of developers and public officials alike, the subcommittee gave careful study to the proposal that legislation be drafted enabling cities and counties to provide by ordinance for planned unit residential developments. Its study of the proposal persuaded the subcommittee that, by recommending such legislation, it would be offering a partial solution to the increasing demand for housing, not presently being fully satisfied by present land uses. This bill is attached as Exhibit L.

CONCLUSION

The subcommittee recognizes, in making these legislative recommendations, that it has not attended to all the problems uncovered and documented in its study of the subdivision laws of this state. As indicated earlier in this report, it has concentrated its efforts on those measures which it feels, under the circumstances, have the highest priority.

The subcommittee recommends that the ASPO report be given serious study, and that those certain specific recommendations contained therein be considered as possible areas for future implementation and legislation.

The subcommittee, without endeavoring to mention the persons who appeared before it at the various meetings and contributed so materially to its efforts, wishes, nonetheless, to give recognition to the many public-spirited people of this state who provided the information upon which this study and the resultant report are based.

Respectfully submitted,

Senator C. Clifton Young, Chairman
Senator C. Coe Swobe
Assemblyman Norman Ty Hilbrecht
Assemblyman Thomas M. Kean
Assemblyman Howard F. McKissick, Jr.
Assemblyman Arthur Olsen
Assemblyman James E. Smalley

SUMMARY--Creates Nevada Land and Water Use Act. Fiscal Note: No. (BDR 22-550)

AN ACT creating the Nevada Land and Water Use Act; providing for the protection of areas within the state of critical state concern; enabling regions of the state to control developments which have regional impact; and providing other matters properly relating thereto.

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

Section 1. Title 22 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 64, inclusive, of this act.

Sec. 2. This chapter may be cited as the Nevada Land and Water Use Act.

Sec. 3. The legislature finds in order:

1. To protect the natural resources and environment of this state;

2. To insure a water management system that will improve water quality and provide optimum utilization of our limited water resources;

3. To facilitate orderly and well planned development; and

4. To protect the health, welfare, safety and quality of life of the residents of this state,

that it is necessary for planning to precede growth and development

within this state. In order to accomplish these purposes, it is necessary that the State of Nevada establish land and water management policies to guide and coordinate local decisions relating to growth and development, and that such state land and water management policies should, to the maximum possible extent, be implemented by local government units through existing processes for the guidance of growth and development, and that all existing rights of private property be preserved in accord with the Nevada constitution and the United States Constitution.

Sec. 4. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 5 to 22, inclusive, of this act, have the meanings ascribed to them in such sections.

Sec. 5. "Commission" means the administration commission created under this act.

Sec. 6. "Developer" means any person, including a governmental agency, undertaking any development.

Sec. 7. 1. "Development" means:

(a) Carrying out of any building or mining operation;

(b) Making any material change in the use or appearance of any structure or parcel of land; or

(c) Dividing of land into three or more parcels.

2. Its meaning is further illustrated, limited and related to specific instances by sections 23, 24 and 25 of this act.

3. When appropriate to the context "development" refers to the act of developing or the result of development.

Sec. 8. "Development order" means any order granting, denying or granting with conditions an application for a development permit.

Sec. 9. A "development permit" includes any building permit, plat approval, rezoning, variance or other action having the effect of permitting development.

Sec. 10. "Governmental agency" means:

1. The United States or any department, commission, agency or other instrumentality thereof;

2. This state, or any department, commission, agency or other instrumentality thereof;

3. Any local government unit or any department, commission, agency or other instrumentality thereof; or

4. Any school board or other special district, authority or other governmental entity.

Sec. 11. "Land" means the earth, water and air, above, below or on the surface, and includes any improvements or structures customarily regarded as real property.

Sec. 12. "Land development regulations" include local zoning, subdivision, building and other regulations controlling the development of land.

Sec. 13. A "land use" means the development that has occurred on land.

Sec. 14. "Local government unit" means any county or incorporated city.

Sec. 15. "Major public facility" means any publicly-owned facility of more than local significance.

Sec. 16. "Parcel of land" means any quantity of land capable of being described with such definiteness that its location and boundaries may be established and which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

Sec. 17. "Person" means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest or any other legal entity.

Sec. 18. "Regional planning agency" means the agency designated by the state land planning agency to exercise responsibilities under this act in a particular region of the state.

Sec. 19. "Rule" means any rule adopted and promulgated pursuant to the provisions of this chapter.

Sec. 20. "State land development plan" means a comprehensive statewide plan or any portion thereof setting forth state land development policies.

Sec. 21. "State land planning agency" means the agency designated by law to undertake statewide comprehensive planning.

Sec. 22. "Structure" means anything constructed or installed or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural or office purposes, either temporarily or permanently. Structure also includes billboards, swimming pools, poles, pipelines, transmission lines, tracks and advertising signs.

Sec. 23. 1. The following activities or uses involve development:

(a) A reconstruction, alteration of the size or material change in the external appearance of a structure on land.

(b) A change in the intensity of use of land, such as increase in the number of dwelling units in a structure or on land, or a material increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land.

(c) Alteration of a shore or bank of a river, stream, lake, pond or canal.

(d) Commencement of drilling, mining or excavation on a parcel of land except to obtain soil samples.

(e) Demolition of a structure.

(f) Clearing of land as an adjunct of construction.

(g) Deposit of refuse, solid or liquid waste or fill on a parcel of land.

2. The activities and uses listed in subsection 1 are illustrative and not exclusive.

Sec. 24. 1. Except as otherwise provided in subsection 2, the following operations or uses do not involve development:

(a) Work by a highway or road agency or railroad company, for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.

(b) Work by any utility or by any other person engaged in the distribution or transmission of gas, water, electricity or the like for the purpose of inspecting, repairing, renewing or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, powerlines, towers, poles, tracks or the like.

(c) Work for the maintenance, renewal, improvement or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

(d) The use of any structure or land devoted to dwelling uses for any purposes customarily incidental to enjoyment of the dwelling.

(e) The use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products, raising livestock or for other agricultural purposes.

(f) A change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class.

(g) A change in the ownership or form of ownership of any parcel or structure.

(h) The creation or termination of rights of access, easements or covenants concerning development of land or other rights in land.

2. An operation or use listed in subsection 1 may constitute development when it is part of another operation, use or activity.

Sec. 25. A specific kind of development as designated in any ordinance, rule or development permit includes all other development customarily associated with the kind designated, unless otherwise specified.

Sec. 26. 1. The administration commission is hereby created. The commission shall consist of the governor and 5 persons to be appointed by him from the public at large. The appointees, who shall be persons identified with conservation and natural resources interests of the state, shall serve at the pleasure of the governor.

2. The appointees shall not be holders of state office at the time of their appointment nor occupy any state office during their terms as commissioners.

3. The governor shall appoint the chairman of the commission.

4. Four members shall constitute a quorum and a majority of those present shall concur in any decision.

5. The commission shall serve as the land and water adjudicatory commission.

6. All its proceedings shall be conducted in keeping with the provisions of chapter 233B of NRS.

Sec. 27. The governor's executive office of planning and coordination is hereby designated as the state land planning agency.

Sec. 28. Regional planning agencies are those city, county or regional planning commissions, organized under the provisions of chapter 278 of NRS, which have been expressly designated by the state land planning agency to carry out the provisions of this chapter.

Sec. 29. An area of critical state concern may be designated only if it is:

1. An area containing, or having a significant impact upon, environmental, historical, natural or archeological resources of regional or statewide importance;

2. An area significantly affected by, or having a significant effect upon, an existing or proposed major public facility or other area of major public investment; or

3. A proposed area of major development potential, which may include a proposed site of a new community, designated in a state land development plan.

Sec. 30. Each regional planning agency may recommend to the state land planning agency, from time to time, areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern as defined in this chapter. Each regional planning agency shall solicit from the local government units within its jurisdiction suggestions as to areas to be recommended. A local government unit in an area where there is no regional planning agency may recommend to the state land planning agency, from time to time, areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern. If the state land planning agency does not designate as an area of critical state concern an area substantially similar to one that has been recommended by a regional planning agency, or local government unit, it shall submit a written explanation to the regional planning agency or local government unit.

Sec. 31. 1. The state land planning agency may from time to time recommend to the administration commission specific areas of critical state concern. In its recommendation the agency shall:

(a) Specify the boundaries of the proposed areas.

(b) State the reasons why the particular area proposed is of critical concern to the state or region.

(c) State the dangers that would result from uncontrolled or inadequate development of the area.

(d) State the advantages that would be achieved from the development of the area in a coordinated manner.

(e) Propose specific principles for guiding the development of the area.

2. Prior to the designation of any area as an area of critical state concern by the administration commission, an inventory of public lands within the state shall be filed with the state land planning agency by all governmental agencies within this state. This inventory shall be compiled by the state land planning agency.

3. Within 45 days of the receipt of a recommendation from the agency, the administration commission shall either reject the recommendation as tendered or adopt it with or without modification, and, by rule, designate the particular area as an area of critical state concern and the principles for guiding the development of the area.

Sec. 32. Prior to submitting any recommendation to the administration commission under section 31 of this act and, in addition to any other notice that may be required by law, the state land planning agency shall give notice of such proposed submission to all local government units and regional planning agencies that

include within their boundaries any part of any area of critical state concern proposed to be designated by the rule.

Sec. 33. 1. After the adoption of a rule designating a particular area as an area of critical state concern, the local government unit having jurisdiction may submit to the state land planning agency its existing land development regulations, if any, for the area, or shall prepare, adopt and submit new or modified regulations, taking into consideration the principles set forth in the rule designating the area as well as the other factors that it would normally consider.

2. If the state land planning agency finds that the land development regulations submitted by a local government unit comply with the principles for guiding the development of the area specified under the rule designating the area, the state land planning agency shall, by rule, approve the land development regulations. No proposed land development regulation within an area of critical state concern becomes effective until the state land planning agency rule approving it becomes effective.

Sec. 34. The state land planning agency and any appropriate regional planning agency shall, to the extent possible, provide technical assistance to local government units in the preparation of land development regulations for areas of critical state concern.

Sec. 35. 1. If any local government unit fails to transmit land development regulations within 6 months after the adoption of a rule designating a particular area as an area of critical state concern, or if the regulations transmitted do not comply with the principles for guiding development set out in the rule designating the area as an area of critical state concern, the state land planning agency shall, no later than 120 days following such 6-month period, submit to the administration commission recommended land development regulations applicable to that local government unit's portion of the area of critical state concern, unless it determines that the area is no longer of critical state concern.

2. Within 45 days following receipt of a recommendation from the agency, the administration commission shall either reject the recommendation as tendered or adopt it with or without modification. The commission shall then, by rule, establish land development regulations applicable to that local government unit's portion of the area of critical state concern.

3. In the rule the commission shall specify the extent to which its land development regulations shall supersede local land development regulations or be supplementary thereto. Notice of any proposed rule issued under this section shall be given to all local government units and regional planning agencies in the area

of critical state concern, in addition to any other notice required by law.

4. The land development regulations adopted by the commission under this section may include any type of regulation that could have been adopted by the local government unit. Any land development regulations adopted by the commission under this section shall be administered by the local government unit as if the regulations constituted or were part of the local land development regulations.

Sec. 36. If the state land planning agency determines that the administration of the local regulations is inadequate to protect the state or regional interest, the state land planning agency may institute appropriate judicial proceedings to compel proper enforcement of the land development regulations.

Sec. 37. At any time after the adoption of land development regulations by the administration commission, a local government unit may propose land development regulations under section 33 of this act which, if approved by the state land planning agency, shall supersede any regulations adopted under section 35.

Sec. 38. 1. Land development regulations adopted by a local government unit in an area of critical state concern may be amended or rescinded by the local government unit, but the amendment or rescission becomes effective only upon approval thereof by the

state land planning agency under section 33 of this act in the same manner as for approval of original regulations.

2. Land development regulations for an area of critical state concern adopted by the administration commission under section 35 of this act may be amended by rule in the same manner as for original adoption.

Sec. 39. If within 12 months after the adoption of the rule designating a particular area as an area of critical state concern, land development regulations for the district have not become effective under either section 33 or section 35 of this act, the designation of the area as an area of critical state concern terminates. No part of such area may be redesignated until at least 12 months after the date the designation terminates.

Sec. 40. No person shall undertake any development within any area of critical state concern except in accordance with the provisions of this chapter.

Sec. 41. If an area of critical state concern has been designated and if land development regulations for the area of critical state concern have not yet become effective under sections 33 or 35 of this act, a local government unit may grant development permits in accordance with such land development regulations as were in effect immediately prior to the designation of the area as an area of critical state concern.

Sec. 42. 1. The designation of a particular area as an area of critical state concern and the adoption of regulations for such an area does not, if the requirements of subsection 2 are met, limit or modify the rights of any person to complete any development that has been authorized by a subdivision recordation pursuant to local law or by a building permit or authorization to commence development.

2. The right to complete any development rests on the production of evidence that:

(a) There has been reliance and a change of position.

(b) The recordation was accomplished or the permit or other authorization was issued prior to the approval under section 33 of this act or the adoption under section 35 of this act of land development regulations for the area of critical state concern.

3. If a developer has, by his actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government unit from changing those regulations in a way adverse to his interests, this chapter does not authorize any governmental agency to abridge those rights.

Sec. 43. 1. In addition to any other notice required to be given under the local land development regulations, the local government unit shall give notice to the state land planning agency

of any application for a development permit in any area of critical state concern, except to the extent that the state land planning agency has, in writing, waived its right to such notice in regard to all or certain classes of such applications.

2. The state land planning agency may, by rule, specify additional classes of persons who shall have the right to receive notices of and participate in hearings under this section.

Sec. 44. 1. Within the 12-month period following the effective date of sections 26 to 45, inclusive, of this act, the administration commission shall not designate more than 500,000 acres as areas of critical state concern.

2. At no time shall the commission designate a land area to be an area of critical state concern if the effect of such designation would be to subject more than 5 percent of the nonfederally held land of the state to supervision under this chapter.

3. Any future designation by the legislature of any area of this state as an area of critical state concern or any other legislative declaration of like effect shall not be construed as preempting any part of the total area which the commission may so designate.

Sec. 45. The administration commission may by rule terminate, partially or wholly, the designation of a particular area as an area of critical state concern.

Sec. 46. "Development of regional impact" as used in sections 47 to 56, inclusive, of this act, means any development which, because of its character, magnitude or location, would have a substantial effect upon the health, safety or welfare of residents of more than one county.

Sec. 47. 1. Prior to January 1, 1974, the state land planning agency shall recommend to the administration commission specific guidelines and standards for adoption and promulgation pursuant to this section.

2. Prior to March 15, 1974, the administration commission shall, by rule, adopt and promulgate guidelines and standards to be used in determining whether particular developments shall be presumed to be of regional impact.

3. In adopting its guidelines and standards the administration commission shall consider and be guided by:

(a) The extent to which the development would create or alleviate environmental problems such as air or water pollution or noise.

(b) The amount of pedestrian or vehicular traffic likely to be generated.

(c) The number of persons likely to be residents, employees or otherwise present.

(d) The size of the site to be occupied.

(e) The likelihood that additional or subsidiary development will be generated.

(f) The unique qualities of particular areas of the state.

4. The rules adopted by the administration commission pursuant to this section shall become effective July 1, 1974.

Sec. 48. Each regional planning agency may recommend to the state land planning agency from time to time types of development for designation as development of regional impact under section 47 of this act. Each regional planning agency shall solicit from the local government units within its jurisdiction suggestions regarding development to be recommended.

Sec. 49. 1. If any developer doubts whether his proposed development would be a development of regional impact, he may request a determination from the state land planning agency. Within 60 days of the receipt of such request, the state land planning agency shall issue a binding letter of interpretation with respect to the proposed development.

2. Requests for determinations made pursuant to this section shall be in writing and in such form as may be prescribed by the state land planning agency.

Sec. 50. A developer may undertake a development of regional impact if:

1. The land on which the development is proposed is within the jurisdiction of a local government unit that has adopted a zoning ordinance and the development has been approved under the requirements of sections 47 to 56, inclusive, of this act.

2. The land on which the development is proposed is within an area of critical state concern and the development has been approved under the requirements of this chapter.

3. The developer has given written notice to the state land planning agency and to any local government unit having jurisdiction to adopt zoning or subdivision regulations for the area in which the development is proposed, if no zoning or subdivision regulations have been adopted nor designation of area of critical state concern issued within 90 days of the receipt of such notice.

Sec. 51. 1. If the development of regional impact is to be located within the jurisdiction of a local government unit that has adopted a zoning ordinance, the developer shall file an application for development approval with the appropriate local government unit having jurisdiction. The application shall contain, in addition to such other matters as may be required, a statement that the developer proposes to undertake development of regional impact as defined in section 46 of this act.

2. The appropriate local government unit shall give notice and hold a hearing on the application in the same manner as for a

reclassification or change of land use, as provided by state law or as provided under the appropriate local law, and shall comply with the following additional requirements:

(a) The notice of hearing shall state that the proposed development would be development of regional impact.

(b) The notice shall be published and given in the manner provided by law, at least 4 weeks in advance of the hearing.

(c) The notice shall be given to the state land planning agency, to the applicable regional planning agency, and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.

Sec. 52. Within 30 days after receipt of the notice required in section 51 of this act, the regional planning agency, if one has been designated for the area including the local government unit, shall prepare and submit to the local government unit a written report and recommendations on the regional impact of the proposed development. In preparing its report and recommendations the regional planning agency shall consider whether and the extent to which:

1. The development will have a favorable or unfavorable impact on:

(a) The environment and natural resources of the region.

(b) The economy of the region.

2. The development will efficiently use or unduly burden:

(a) Water, sewer, solid waste disposal or other necessary public facilities.

(b) Public transportation facilities.

3. The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

4. The development complies or does not comply with such other criteria for determining regional impact as the regional planning agency shall deem appropriate.

Sec. 53. The state land planning agency may publish each week, and mail to any person requesting it, upon payment of a reasonable charge to cover costs of preparation and mailing, a list of all applications for development of regional impact that have been filed with it.

Sec. 54. If the development is in an area of critical state concern, the local government unit shall approve it only if it complies with the land development regulations therefor under the provisions of this chapter.

Sec. 55. If the development is not located in an area of critical state concern, in considering whether the development shall

be approved, denied or approved subject to conditions, restrictions or limitations, the local government unit shall consider whether and the extent to which:

1. The development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area;

2. The development is consistent with the local land development regulations; and

3. The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to section 52 of this act.

Sec. 56. 1. The designation of developments of regional impact does not, if the requirements of subsection 2 are met, limit or modify the rights of any person to complete any development that has been authorized by a subdivision recordation pursuant to local law or by a building permit or authorization to commence development.

2. The right to complete any development rests on the production of evidence that:

(a) There has been reliance and a change of position.

(b) The recordation was accomplished or the permit or other authorization was issued prior to the effective date of the rules

issued by the administration commission pursuant to section 47 of this act.

3. If a developer has, by his actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government unit from changing those regulations in a way adverse to his interests, this chapter does not authorize any governmental agency to abridge those rights.

Sec. 57.. 1. Whenever any local government unit issues any development order in any area of critical state concern, or in regard to any development of regional impact, a copy of such order shall be transmitted to the state land planning agency and the owner or developer of the property affected by such order.

2. Within 30 days of such transmittal, the owner, the developer, an appropriate regional planning agency, or the state land planning agency may appeal the order to the land and water adjudicatory commission by filing a notice of appeal with the commission.

3. The appellant shall furnish a copy of the notice of appeal to the opposing party, if there is any, and to the local government unit which issued the order.

4. The filing of the notice of appeal shall stay the effectiveness of the order, and shall stay any judicial proceedings in relation to the development order, until after the completion of the appeal process. The land and water adjudicatory commission may

permit materially affected parties to intervene in the appeal upon motion and good cause shown.

Sec. 58. 1. Prior to issuing an order the land and water adjudicatory commission shall hold a hearing. The commission shall encourage the submission of appeals on the record made below in cases where the development order was issued after a full and complete hearing before the local government unit or an agency thereof.

2. The land and water adjudicatory commission may designate a hearing officer to:

(a) Conduct hearings.

(b) Issue notices of hearings.

(c) Issue subpenas requiring the attendance of witnesses and the production of evidence.

(d) Administer oaths.

(e) Take such testimony as may be necessary in conformity with the provisions of this chapter.

(f) Certify and file with the commission, recommendations, findings of fact and a proposed order.

Sec. 59. 1. Within 120 days of the filing of the appeal provided by section 57 of this act, the land and water adjudicatory commission shall issue a decision granting or denying permission

to develop pursuant to the standards of this chapter, and may attach conditions and restrictions to its decisions.

2. Decisions of the commission shall contain a statement of the reasons therefor and are subject to judicial review.

Sec. 60. 1. This chapter does not purport to authorize any governmental agency to adopt a rule or regulation or issue any order which:

(a) Is so restrictive that it violates the Nevada constitution or the United States Constitution;

(b) Constitutes a taking of property without the payment of full compensation as required by the Nevada constitution or without due process of law as required by the United States Constitution.

2. If any governmental agency authorized to adopt a rule or regulation or issue any order under the provisions of this chapter determines that to achieve the purposes of this chapter it is in the public interest to acquire the fee simple or lesser interest in any parcel of land, such agency shall so certify to the state land planning agency and other appropriate governmental agencies.

3. If any governmental agency denies a development permit under this chapter, it shall specify its reasons in writing and indicate any changes in the development proposal that would make it eligible to receive the permit.

Sec. 61. 1. The state land planning agency shall study all facets of land resource management and land development regulation with a view toward insuring that Nevada's land use laws give the highest quality of human amenities and environmental protection consistent with a sound and economic pattern of well planned development, and shall recommend such new legislation or amendments to existing legislation as are needed to achieve those goals.

2. As part of its work, the agency shall review the land use laws of other states, the relevant federal laws, the progress of the American Law Institute's project to draft a model land development code, and the general pattern of court decisions in the land use area. The agency shall examine techniques for encouraging new types of well planned development including methods of regulating planned unit developments and new communities.

3. The agency shall also consult with local government units and regional planning agencies regarding their land use problems. It shall consult with relevant state agencies and obtain the views of the public, including the views of businesses and professions concerned with use of land, and of other interested groups.

Sec. 62. 1. The state land planning agency shall prepare and submit to the governor and to the legislative commission, not later than December 31, 1974, a report which shall contain:

(a) Such proposals for changes in legislation as are recommended by the committee.

(b) Drafts of model development ordinances which will assist local government units in adopting development ordinances as required by this chapter.

(c) A review of, and recommendations on, the current status and effectiveness of regional planning agencies with regard to land and water management.

(d) Such other findings and recommendations as the committee chooses to make.

2. The committee shall prepare and submit an interim report to the governor and to the legislative commission not later than December 31, 1973.

Sec. 63. 1. The initial standards and guidelines adopted by the administration commission shall be transmitted to the secretary of state for presentation to the 58th session of the legislature.

2. These initial standards and guidelines shall then be approved or disapproved by a concurrent resolution of the legislature or be modified by law, and upon concurrence of both houses of the legislature, the provisions of the standards and guidelines thereof shall become effective as the initial standards and guidelines of the administration commission.

3. Subsequent to the next regular session of the legislature the standards and guidelines may be revised, subject to the provisions of this chapter, without legislative approval.

4. If the legislature disapproves the initial standards and guidelines, the administration commission shall adopt by rule new standards and guidelines and submit such standards and guidelines to the legislature pursuant to this section.

Sec. 64. In any region of this state for which there has been created by interstate compact a regional planning agency, the powers conferred by the provisions of this chapter are subordinate to the powers of such regional planning agency and may be exercised only to the extent that their exercise does not conflict with any ordinance or plan adopted by such regional planning agency. The powers conferred by the provisions of this chapter shall be exercised whenever appropriate in furtherance of a plan adopted by such regional planning agency.

Sec. 65. This act shall become effective upon passage and approval.

SUMMARY--Enables counties and cities to use hearing examiners in zoning appeals. Fiscal Note: No. (BDR 22-555)

AN ACT relating to zoning appeals; enabling counties and cities to utilize hearing examiners in the review of decisions affecting variances and special use permits; and providing other matters properly relating thereto.

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 the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. The governing body of any county or city may appoint as many full-time hearing examiners as in its discretion may be necessary and appropriate to assist it in the discharge of its duties under NRS 278.010 to 278.630, inclusive, regarding the review of decisions made affecting zoning variances and special use permits.

Sec. 3. 1. Hearing examiners appointed under the authority of section 2 of this act shall possess the qualifications and receive such compensation as is considered necessary by the governing body.

2. Hearing examiners shall serve at the pleasure of the governing body.

Sec. 4. Upon the determination of any governing body that a hearing examiner is to be employed and before any hearings are conducted utilizing his services, an ordinance shall be enacted

setting forth rules of procedure for the processing and hearing of applications for the review of decisions made affecting zoning variances and special use permits.

Sec. 5. 1. Any ordinance enacted pursuant to the provisions of section 4 shall provide, in substance, the same notice of hearing and conduct of hearing safeguards required by chapter 233B of NRS for contested cases.

2. Provision in any such ordinance shall be made for the transmittal to the governing body or zoning board of adjustment of the hearing examiner's written report. The report shall include:

(a) Findings;

(b) Recommendations of approval, denial or other disposition of the application for review; and

(c) Reasons supporting the recommendations.

SUMMARY--Enables cities and counties to adopt official map of public streets, watercourses and public grounds. Fiscal Note: No. (BDR 22-549)

AN ACT relating to public planning; enabling cities and counties to adopt surveys of existing and proposed public streets, watercourses and public grounds as the official map; and providing other matters properly relating thereto.

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 the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. 1. The governing body of each city or county may make or cause to be made surveys of the exact location of the lines of existing and proposed public streets, watercourses and public grounds, including widenings, narrowings, extensions, diminutions, openings or closings, for the whole of the city or county and, by ordinance, adopt such surveys as the official map or part thereof of the city or county.

2. The governing body, by amending ordinances, may make additions or modifications to the official map or part thereof by adopting surveys of the exact location of the lines of the public streets, watercourses or public grounds to be so added or modified, and may also vacate any existing or proposed public street,

watercourse or public ground contained in the official map or part thereof.

Sec. 3. 1. Prior to the adoption of any survey of existing or proposed public streets, watercourses or public grounds as the official map or part thereof, or any amendments to the official map, the governing body shall refer such surveys and amendments to the appropriate planning commission for review.

2. The planning commission shall report its recommendations on such proposed official map, part thereof or amendment thereto within 40 days, unless an extension of time is agreed to by the governing body. Before voting on the adoption of any proposed official map, part thereof or amendment thereto, the governing body shall hold a public hearing thereon. Notice of such public hearing shall be given by publication in a newspaper published in and having a general circulation in the county, at least once a week for a period of 2 weeks.

Sec. 4. After adoption of the official map or part thereof, all public streets, watercourses and public grounds appearing on final recorded maps, which have been approved as provided by this chapter shall be deemed amendments to the official map. No public hearing need be held or notice given if the amendment of the official map is the result of the recording of a final map as provided by this chapter.

Sec. 5. 1. The adoption of any street or street lines as part of the official map shall not, of itself, constitute the opening or establishment of any street, nor the taking or acceptance of any land for street purposes, nor shall it obligate the city or county to improve or maintain any such street.

2. The adoption of proposed watercourses or public grounds as part of the official map shall not, of itself, constitute a taking or acceptance of any land by the city or county.

Sec. 6. 1. For the purpose of preserving the integrity of the official map of the city or county, and except as provided by section 7 of this act, no permit shall be issued for any building within the lines of any street, watercourse or public ground shown or laid out on the official map.

2. No person may recover any damages for the taking for public use of any building or improvements or part thereof constructed within the lines of any public street, watercourse or public ground after such public street, watercourse or public ground appears on the official map. Any such building or improvement shall be removed at the expense of the owner.

3. When the property of which the reserved location forms a part cannot yield a reasonable return to the owner unless a permit is granted, the owner may apply to the governing body for the granting of a permit to build. Before granting any permit authorized in this subsection, the governing body shall give public

notice and hold a public hearing in the manner provided for the adoption of the official map, at which all parties in interest shall have an opportunity to be heard.

4. A refusal by the governing body to grant the permit applied for may be appealed by the applicant to court in the same manner and with the same time limitation as is provided by law for zoning appeals.

Sec. 7. 1. The governing body may fix the time for which proposed public streets, watercourses and public grounds on the official map shall be deemed reserved for future taking or acquisition for public use.

2. The reservation of proposed public streets, watercourses and public grounds shall lapse and become void 1 year after the owner of the property affected by such reservation has submitted a written notice to the governing body announcing his intention to build, subdivide or otherwise develop the land covered by the reservation, or has made formal application for an official permit to build a structure for private use, unless the governing body has acquired the property or begun condemnation proceedings to acquire such property before the end of the year.

Sec. 8. The governing body may designate any of its agencies to negotiate with the owner of land, whereon reservations are made, for releases of claims for damages or compensation for such

reservations or agreements indemnifying the governing body from such claims by others. These releases or agreements, when properly executed by the governing body and the owner, shall be binding upon the successor in title when recorded.

SUMMARY--Enables cities or counties to require dedication of land for park purposes or payment in lieu as condition of subdivision approval. Fiscal Note: No. (BDR 22-551)

AN ACT relating to the subdivision of land; enabling cities or counties to require the dedication of land, the payment of fees in lieu thereof or a combination of both for park or recreational purposes as a condition to the approval of a final subdivision map.

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 the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. The governing body of a city or county may, by ordinance, require the dedication of land, the payment of fees in lieu thereof or a combination of both for park or recreational purposes as a condition to the approval of a final subdivision map, in the manner provided in sections 2 to 10, inclusive, of this act.

Sec. 3. 1. The ordinance adopted pursuant to the provisions of section 2 of this act shall bear reference and, insofar as is practicable, conform to the recreational plan previously incorporated in the appropriate master plan.

2. If no such recreational plan has been previously adopted, the ordinance shall, by means of accompanying maps, diagrams, charts, descriptive matter and reports, adopt a recreational plan. This plan shall show a comprehensive system of recreation areas, including natural reservations, parks, parkways, beaches, playgrounds and other recreation areas, including, when practicable, the location and proposed development thereof.

Sec. 4. The ordinance shall further provide:

1. Definite standards for determining the proportion of a subdivision to be dedicated and the amount of any fee to be paid in lieu thereof.

2. Requirements that:

(a) The land, fees or combination thereof be used only for the purpose of providing park or recreational facilities to serve the subdivision.

(b) The amount and location of land to be dedicated or the fees to be paid bear a reasonable relationship to the use of the park or recreational facilities by the future residents of the subdivision.

(c) The governing body, at the time of the recording of the final map of the subdivision, designate the time when development of the park or recreational site shall commence.

Sec. 5. The tentative map of any subdivision filed with the governing body of the city or county shall not be affected by the provisions of this act if the ordinance adopted pursuant to the provisions of section 2 of this act has not been in effect at least 30 days prior to the filing of the tentative map.

Sec. 6. The standards for determining the proportion of a subdivision to be dedicated and the amount of any fee to be paid in lieu thereof shall be based upon:

1. The number and type of residential dwelling units or mobile homes, as that term is defined in NRS 40.215, to be included in each subdivision.

2. Studies and surveys which may have been made by the city or county to determine the need, if any, for recreational sites generated by existing subdivisions.

Sec. 7. 1. The ordinance enacted pursuant to section 2 of this act may provide that the appropriate governing body or a designated department or agency of the city or county may select the location of land areas to be dedicated for park or recreational purposes.

2. If such authority is exercised, the dedication provision shall take into consideration variations in the relative desirability and market value of the land that may be included within the area of any particular proposed subdivision.

Sec. 8. If in-lieu payments have been received, the moneys shall be deposited in a trust fund account. The use of such moneys is restricted to the purchase and development of land for park or recreational purposes, consistent with the provisions of sections 2 to 10, inclusive, of this act.

Sec. 9. 1. Provision may be made in the ordinance for the in-lieu payment to be made in installments following the approval of the final map of the subdivision. The final installment payment, under any such option, shall be made no later than 18 months from the recording date of the final map of the subdivision.

2. If the installment payment option is used in the satisfaction of the in-lieu payment requirement, the subdivider shall post a bond, as provided by law, guaranteeing the payment of the total amount.

Sec. 10. The governing body of the city or county shall, within 18 months after the recording date of the final map of the subdivision, commence the development of the dedicated park or recreational land or apply the moneys deposited, pursuant to the provisions of section 8 of this act, to the purchase and development of park or recreational land.

SUMMARY--Enacts Flood Plain Management Act. Fiscal Note: No. (BDR 48-321)

AN ACT relating to public health and safety; providing for statewide flood plain management; requiring the director of the department of conservation and natural resources to coordinate local, state and federal flood plain management activities; providing for the adoption of local ordinances; providing for injunctive relief; and providing other matters properly relating thereto.

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

Section 1. Title 48 of NRS is hereby amended by adding thereto a new chapter, to consist of the provisions set forth as sections 2 to 21, inclusive, of this act.

Sec. 2. This act may be cited as the Flood Plain Management Act.

Sec. 3. The legislature finds and declares that:

1. A portion of the state's land resource is subject to recurrent flooding by overflowing of streams and other watercourses, causing loss of life and property, disruption of commerce and governmental services, unsanitary conditions, and interruption of transportation and communications, all of which are detrimental to the health, safety, welfare and property of the occupants of flooded lands and the people of this state.

2. The public interest necessitates sound land use development as land is a limited and irreplaceable resource, and the flood plains of this state are a land resource to be developed in a manner which will result in minimum loss of life and threat to health and reduction of private and public economic loss caused by flooding.

Sec. 4. It is the policy of this state and the purpose of this act to guide development of the flood plains of this state consistent with the enumerated legislative findings so that there may be provision for:

1. State coordination and assistance to local governmental units in flood plain management.

2. Encouragement of local governmental units to adopt, enforce and administer sound flood plain management ordinances.

3. Arrangements for the director to guide a flood plain management program for the state in coordination with federal, state and local flood plain management activities in the state.

Sec. 5. As used in sections 1 to 21, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 11, inclusive, of this act, have the meanings ascribed to them in sections 6 to 11, inclusive, of this act.

Sec. 6. "Director" means the director of the department of conservation and natural resources.

Sec. 7. "Floodway" means the channel of the watercourse of those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

Sec. 8. "Flood fringe" means that portion of the flood plain outside the floodway.

Sec. 9. "Flood plain" means the area adjoining a watercourse which has been or hereafter may be covered by the regional flood.

Sec. 10. "Local government unit" means a county, municipality or political subdivision.

Sec. 11. "Regional flood" means a flood which is representative of large floods known to have occurred generally in Nevada and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

Sec. 12. 1. The director shall:

(a) Collect and distribute information relating to flooding and flood plain management.

(b) Coordinate local, state and federal flood plain management activities to the greatest extent possible.

(c) Assist local government units in their flood plain management activities within the limits of available appropriations and personnel in cooperation with the state planning agency.

(d) Do all other things within his lawful authority which are necessary or desirable to manage the flood plains for beneficial

uses compatible with the preservation of the capacity of the flood plain to carry and discharge the regional flood.

2. In cooperation with local government units, the director shall conduct, whenever possible, periodic inspections to determine the effectiveness of local flood plain management programs, including an evaluation of the enforcement of and compliance with local flood plain management ordinances.

Sec. 13. 1. In places where the flood plain has been delineated by ordinance in the manner required by this act, no major alteration to a structure in existence on the effective date of the ordinance and no new fill, structure, deposit or other flood plain use that is unreasonably hazardous to the public or that unduly restricts the capacity of the flood plain to carry and discharge the regional flood shall be permitted after the effective date of the ordinance delineating the flood plains.

2. As used in this section, major alterations of existing structures shall not include repair or maintenance, and shall not include repairs, maintenance or alterations to structures made pursuant to the authority of any authorized agency of a state or the Federal Government, provided, further, that this section shall not apply to alterations, repair or maintenance recently done under emergency circumstances to preserve or protect life or property.

3. This section applies to alterations to existing structures and to new fill, structures, deposits or other flood plain uses by the state and its agencies.

Sec. 14. 1. In accordance with the provisions of this act, and the rules and regulations which the director may adopt and promulgate pursuant to this act, local government units shall adopt, administer and enforce flood plain management ordinances which shall include, but not be limited to:

(a) The delineation of flood plains and floodways.

(b) The preservation of the capacity of the flood plain to carry and discharge regional floods.

(c) The minimization of flood hazards.

(d) The regulation of the use of land in the flood plain.

2. The ordinances shall be based on adequate technical data and competent engineering advice, and shall be consistent with local and regional comprehensive planning.

Sec. 15. No later that June 30, 1974, every local government unit shall submit a letter of intent to comply with this act on a form provided by the director, including any existing flood plain management ordinances, to the director for his review. The letter of intent shall list the watercourses within the boundaries of the local government unit in the order of the degree of flood damage potential associated with each watercourse, and

shall include a description of the type of information that is available for each, such as high watermarks and topographic maps.

Sec. 16. 1. When the director determines that sufficient technical information is available for the delineation of flood plains and floodways on a watercourse, he shall notify affected local government units that this technical information is available. As soon as practicable after receiving this notice, each local government unit shall prepare or amend its flood plain management ordinance in conformance with the provisions of this act, and shall submit the ordinance to the director for his review and approval before adoption.

2. The director shall approve or disapprove the proposed ordinance no later than 120 days after receiving it. If the director disapproves the proposed ordinance, he shall return it to the local government unit with a written statement of his reasons for disapproval. Thereafter, the local government unit shall resubmit an amended proposed ordinance for his further review and approval before adoption.

3. A flood plain management ordinance adopted by a local government unit after June 30, 1974, is invalid unless it is approved by the director.

4. A local government unit may adopt a flood plain management ordinance in the absence of notification by the director that the

required technical data is available, provided any such ordinance be submitted to the director for his approval prior to its adoption.

5. Nothing in this act limits the power of the local government unit to adopt or continue in force a flood plain management ordinance which is more restrictive than that which may be required pursuant to this act.

Sec. 17. Flood plain management ordinances may be amended by a local government unit upon the approval of the director.

Sec. 18. In the manner provided by chapter 233B of NRS, the director shall adopt and promulgate rules and regulations necessary to carry out the purposes of this act, including, but not limited to the following:

1. Criteria for determining the flood plain uses which may be permitted without creating an unreasonable public hazard or unduly restricting the capacity of the flood plain to carry and discharge the regional flood.

2. Variance procedures.

3. The establishment of criteria for alternative or supplemental flood plain management measures such as flood proofing, subdivision regulations, building codes, sanitary regulations and flood warning systems.

Sec 19. The director, in adopting and promulgating guidelines pursuant to section 18, and local government units, in preparing

flood plain management ordinances, shall give due consideration to the needs of an industry whose business requires that it be located within a flood plain.

Sec. 20. Every structure, fill, deposit or other flood plain use placed or maintained in the flood plain in violation of a flood plain management ordinance adopted under or in compliance with the provisions of this act is a public nuisance and the creation thereof, may be enjoined and the maintenance thereof abated by an action brought by the director, or by a local government unit.

Sec. 21. Ordinances prepared pursuant to the provisions of this act may contain penalty provisions as well as provisions for injunctive relief.

SUMMARY--Provides for seismic safety in preparation of master plans. Fiscal Note: No. (BDR 22-320)

AN ACT to amend NRS 278.160, relating to master plans, by adding as a category in the overall master plan a seismic safety plan.

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

Section 1. NRS 278.160 is hereby amended to read as follows:

278.160 1. The master plan, with the accompanying maps, diagrams, charts, descriptive matter and reports, shall include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan shall also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment

of the conservation plan, prevention, control and correction of the erosion of soils, beaches, and shores, and protection of watersheds.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public funds in order to provide for the economical and timely execution of the various components of the plan.

(d) Housing. Survey of housing conditions and needs and plans and procedure for improvement of housing standards and for the provision of adequate housing.

(e) Land use plan. An inventory and classification of natural land types and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land.

(f) Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(g) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor.

(h) Recreation plan. Showing a comprehensive system of recreation areas, including natural reservations, parks, parkways, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(i) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures or

to effects of seismically induced waves such as tsunamis and seiches. The plan shall provide for such protection as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures and geological hazard mapping in areas of known geological hazards.

(j) Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of street naming or numbering, and house numbering, with recommendations concerning proposed changes.

[(j)] (k) Transit plan. Showing a proposed system of transit lines, including rapid transit, streetcar, motorcoach and trolley coach lines and related facilities.

[(k)] (l) Transportation plan. Showing a comprehensive transportation system, including locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, shall be deemed to prohibit the preparation and adoption of any such subject as a part of the master plan.

SUMMARY--Redefines subdivision in planning and zoning law.
Fiscal Note: No. (BDR 22-319)

AN ACT relating to planning and zoning; redefining subdivision; making special provision for certain small subdivisions; and providing other matters properly relating thereto.

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

Section 1. NRS 117.120 is hereby amended to read as follows:

117.120 1. A condominium project consisting of [five] four or more units shall be deemed to be a subdivision of land within the meaning of NRS 278.320, but only NRS 278.330, 278.340, 278.350, 278.360, 278.370, 278.380, 278.390, subsection 1 of NRS 278.400, subsections 1, 2, 3, 4, 5, 7, 8, 9 and 10 of NRS 278.410 and NRS 278.420, 278.430, 278.450, 278.460, 278.470, 278.480 and 278.490 shall be applicable to such condominium projects.

2. A condominium project consisting of [four] three units or less shall be deemed to be a subdivision within the meaning of NRS 278.500, but only NRS 278.500, 278.510, 278.530, 278.540, 278.550 and [subsection 1 of NRS] 278.560 shall be applicable to such condominium projects.

3. Tentative or final maps or records of survey required to be prepared and recorded by any of the statutory sections listed in subsections 1 and 2 of this section shall conform with the

requirements of NRS 117.020. The sections of NRS listed in subsections 1 and 2 of this section and all other sections of NRS which are deemed applicable to condominiums or condominium projects shall be liberally construed to avoid unreasonable and unduly technical application of such sections to condominiums and condominium projects, and to encourage the establishment of condominiums and condominium projects in Nevada.

Sec. 2. NRS 278.320 is hereby amended to read as follows:

278.320 1. "Subdivision" refers to any land [or portion thereof, shown on the last preceding tax roll as a unit or as contiguous units, which is divided for the purpose of sale or lease, whether immediate or future, by any subdivider into 5 or more parcels within any 1 calendar year.

2. "Subdivision" does not include either of the following:

(a) Any parcel or parcels of land in which all of the following conditions are present:

(1) Which contain less than 5 acres.

(2) Which abut upon dedicated streets or highways.

(3) In which street opening or widening is not required by the governing body in dividing the land into lots or parcels.

(4) The lot design meets the approval of the governing body.

(b) Any parcel or parcels of land divided into lots or parcels, each of a net area of 10 acres or more, a tentative map of which has been submitted to the governing body and has been approved by it as to street alignment and widths, drainage provisions and lot design.

3. In either case provided in subsection 2, there shall be filed a record of survey map pursuant only to the provisions of NRS 278.010 to 278.630, inclusive.] vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots or interests, for the purpose of any transfer or development or any proposed transfer or development.

2. For subdivisions containing not more than three lots, parcels, sites, plots or interests, there shall be filed a record of survey map pursuant only to the provisions of NRS 278.010 to 278.630, inclusive, which shall include a certificate by the health division of the department of health, welfare and rehabilitation showing that the health department approved the subdivision concerning sewage disposal, water pollution, water quality and, subject to confirmation by the state engineer, water quantity.

[4.] 3. In any county having a population of 100,000 or more but less than 200,000, as determined by the last preceding national census of the Bureau of the Census of the United

States Department of Commerce, the board of county commissioners may exempt any parcel or parcels of land from the provisions of NRS 278.010 to 278.630, inclusive, if:

(a) Such land is owned by a railroad company and was in the past used in connection with any railroad operation; and

(b) Other persons now permanently reside on such land.

[5.] 4. Nothing contained in NRS 278.010 to 278.630, inclusive, shall apply to land platted for cemetery purposes not involving any street, road or highway opening or widening or easements of any kind.

[6.] 5. Nothing contained herein shall apply to the division of land for agricultural purposes, in parcels of more than 10 acres, not involving any street, road, or highway opening or widening or easements of any kind.

Sec. 3. NRS 278.540 is hereby amended to read as follows:

278.540 If the record of survey contains more than [four] three lots or parcels, the surveyor or person or one of the persons for whom the record of survey is made shall place upon the map thereof a statement of the facts which will clearly show that such record of survey is not of a subdivision as defined in NRS 278.010 to 278.630, inclusive, or all requirements of NRS 278.010 to 278.630, inclusive, concerning subdivision of real property and the regulations of transactions pertaining thereto shall be complied with.

SUMMARY--Makes technical changes in surveying and mapping provisions affecting subdivision of land. Fiscal Note: No. (BDR 22-552)

AN ACT relating to subdivision of land; making certain technical changes in the procedures affecting surveying and mapping; and providing other matters properly relating thereto.

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 the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. If an error or omission in any recorded subdivision plat, record of survey or reversionary map is discovered by a county surveyor or is accurately reported to him, an amended plat, survey or map, correcting such error or supplying such omission, shall be prepared and recorded within 90 days of such discovery or report. The registered land surveyor who made the survey shall prepare and record the amended plat, survey or map. If such surveyor is no longer professionally active in the county, the preparation and recording shall be handled by the county surveyor.

2. The county surveyor shall send written notice to all persons having any record title interest in the property affected by such amendments. Mailing shall be to the last-known address of such

persons, which shall be supplied by the registered land surveyor or obtained from him.

Sec. 3. The amended plat, survey or map shall:

1. Be an exact size and scale reproduction on linen of the plat, survey or map being amended.

2. Have the phrase "Amended Plate of" prominently displayed on each sheet above the tract number or subdivision name, record of survey title or reversionary map title, as the case may be.

3. Have a blank margin for the county recorder's indexing information.

4. Have a 3-inch by 3-inch square adjacent to and on the left side of the existing square for the county recorder's information and stamp.

5. Show a solid, heavy line under the letter, word, phrase, number, bearing or distance being corrected and the correction shown adjacent thereto and appropriately referenced or keyed to a legend shown thereon.

Sec. 4. If the amendments are made by the registered land surveyor, the following certificates shall appear on the title sheet:

1. A certificate executed by the surveyor reciting, in substance, that he has prepared the amended plat, survey or map in conformance with NRS 278.010 to 278.630, inclusive, and with any controlling ordinance.

2. A certificate executed by the county surveyor reciting, in substance, that he has examined the amended plat, survey or map, and is satisfied that it is technically correct.

Sec. 5. If the amendments are made by the county surveyor, a certificate shall appear on the title sheet reciting, in substance, that he has prepared the amended plat, survey or map in conformance with NRS 278.010 to 278.630, inclusive, and with any controlling ordinance.

Sec. 6. NRS 278.330 is hereby amended to read as follows:

278.330 1. The initial action in connection with the making of any subdivision shall be the preparation of a tentative map or maps which shall show, or be accompanied by, such data as are specified by the provisions of NRS 278.010 to 278.630, inclusive.

2. The subdivider shall file copies of such map or maps with the planning commission, or with the clerk of the governing body if there be no planning commission.

3. If there is no planning commission, the clerk of the governing body shall submit the tentative map to the governing body at its next regular meeting. The governing body shall act thereon within 40 days after such submittal.

4. If there is a planning commission, it shall [report] :

(a) Report in writing to the subdivider and to the governing body on the map or maps of any subdivision [submitted to it] within 30 days after the tentative map has been filed [; and the] or refiled

with it. The report shall approve, conditionally approve, or disapprove the tentative map or maps of the subdivision [. If conditionally approved or disapproved, the report shall state the conditions under which the map would have been approved.] as filed or refiled. If the report conditionally approves or disapproves the tentative map, it shall state the conditions under which the map will be approved.

(b) Be deemed to have approved the tentative map if all conditions are met by the subdivider and the tentative map is refiled within 90 days of the date of the report.

5. If the subdivider is dissatisfied with any action of the planning commission, he may, within 15 days after such action, appeal from the action of the planning commission to the governing body which must hear the same, unless the subdivider consents to a continuance, within 10 days or at its next succeeding regular meeting. The governing body may by a majority vote of its members overrule any ruling of the planning commission in regard to the tentative map, and make such findings as are not inconsistent with the provisions of NRS 278.010 to 278.630, inclusive, or local ordinance adopted pursuant thereto.

6. No provision of this chapter shall be construed to prevent a governing body from disapproving a tentative map if such disapproval is in the best interests of the public health, safety or welfare,

and such disapproval is by unanimous vote and made within the time limit provided in subsection 3.

Sec. 7. NRS 278.340 is hereby amended to read as follows:

278.340 1. Whenever any subdivider proposes to subdivide any land within 3 miles of the exterior boundary of a city, which city has a planning commission, the [subdivider] county planning commission or governing body shall file a copy of the subdivider's tentative map [of his proposed subdivision] with the city planning commission. The city planning commission shall have not to exceed 30 days' time for action on the map and report to the governing body of the county in which the subdivision is situated. The planning commission or governing body of the county shall take into consideration the report of the city planning commission before approving the [final] tentative map of any subdivision within the 3-mile limit.

2. If such city has no planning commission, the [subdivider] county planning commission or governing body shall file a copy of the subdivider's tentative map [of his proposed subdivision] with the governing body of the city, which shall report to the planning commission or governing body of the county in which the subdivision is situated within 30 days after such filing. The planning commission or governing body of the county shall take such report into consideration before approving the [final] tentative map of any subdivision within the 3-mile limit.

Sec. 8. NRS 278.345 is hereby amended to read as follows:

278.345 Whenever any subdivider proposes to subdivide any lands within an incorporated city in a county having a population of 200,000 or more, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, which does not have a regional planning commission, the [subdivider] city planning commission or governing body shall file a copy of the subdivider's tentative map of [his] the proposed subdivision with the county planning commission. The county planning commission shall have not to exceed 30 days' time for action on the map and report to the governing body of the city in which the subdivision is situated. The planning commission or governing body of the city shall take into consideration the report of the county planning commission before approving the [final] tentative map of any subdivision.

Sec. 9. NRS 278.360 is hereby amended to read as follows:

278.360 1. The subdivider may within 1 year after approval [or conditional approval] of the tentative map or maps of a subdivision cause the subdivision, or any part thereof, to be surveyed and a final map thereof to be prepared in accordance with the tentative map as approved. Any failure so to record a final map within 1 year from the approval [or conditional approval] of the tentative

map shall terminate all proceedings, and before the final map may thereafter be recorded, or any sales be made, a new tentative map shall be [submitted.] filed.

2. No final map of a subdivision as defined in NRS 278.010 to 278.630, inclusive, shall be accepted by the county recorder for record unless all provisions of NRS 278.010 to 278.630, inclusive, and of any local ordinance have been complied with. The county recorder [may have not more than 10 days to examine the final map before accepting or refusing it for recordation.] shall accept or refuse it for recordation within 10 days of its delivery to him.

Sec. 10. NRS 278.370 is hereby amended to read as follows:

278.370 1. [The enactment of local ordinances is hereby authorized.] Local ordinances [may prescribe] shall be enacted by the governing body of every incorporated city and every county, prescribing detailed regulations which, in addition to the provisions of NRS 278.010 to 278.630, inclusive, [would] shall govern matters of improvements, mapping, accuracy, engineering and related subjects, but shall not be in conflict with NRS 278.010 to 278.630, inclusive.

2. [In case there is a local ordinance, the] The subdivider shall comply with [its] the provisions of the appropriate local ordinance before the map or maps of a subdivision may be approved.

[3. In case there is no local ordinance, the governing body may, as a condition precedent to the approval of the map or maps of a

subdivision, require streets and drainage ways properly located and improved and of an adequate width, but may make no other requirements.]

Sec. 11. NRS 278.400 is hereby amended to read as follows:

278.400 1. The survey ,final monumenting and final map shall be made by a [civil engineer or] Nevada registered land surveyor , prior to the recordation of the final map, who shall set sufficient durable monuments so that another [engineer or] surveyor may readily retrace the survey. The final monuments need not be set at the time the [survey is made if a satisfactory assurance is given of their being set later.] final map is recorded if:

(a) Satisfactory assurance is given to the governing body of their being set on or before a day certain; and

(b) A performance bond, in an amount to be determined by the county surveyor or city surveyor is deposited.

2. [Monuments required by subsection 1 shall be of stone of not less than 6 inches smallest dimension and not less than 12 inches in length with a cross chiseled to mark the point of reference, or of concrete of not less than 6 inches smallest dimension and not less than 12 inches in length, with the point of reference marked by a metal plug firmly set therein. Monuments shall be firmly set with the tops not less than 4 inches below the surface of the ground or street.] Final monuments shall:

(a) Be of sufficient number, length, type and material to insure their durability.

(b) Be placed as follows:

(1) A 2-inch I.D. iron pipe at all subdivision boundary corners, angle points and section corners.

(2) A 1-inch I.D. iron pipe at all:

(I) Intersections of street centerlines.

(II) Intersections of street centerlines with subdivision boundaries.

(III) Angle points and points of curvature in street center lines.

(IV) Quarter section corners.

(c) Meet the following minimum specifications or the county surveyor's or city surveyor's equal specifications:

(1) Have a metal plate or disc securely attached to the top with a mark for the exact point, stamped with the surveyor's license number.

(2) Be firmly set with the tops not less than 4 inches below the surface of the ground or flush with the finish grade of the street.

(d) Be referenced, in the case of street centerline monuments in a subdivision with paved streets, within 100 feet to at least two durable tie monuments shown on the map.

3. At all lot corners, angle points and curve points shown on the final map, where no monument is set or found, a redwood 2-inch by 2-inch hub, at least 12 inches long, shall be driven flush with the surface of the ground with a metal tack marking the exact corner or point. Such hubs shall be stamped or tagged with the surveyor's license number.

Sec. 12. NRS 278.410 is hereby amended to read as follows:

278.410 1. The final map shall be clearly and legibly drawn in black waterproof india ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession, but affidavits, certificates and acknowledgments may be legibly stamped or printed upon the map with opaque ink.

2. The size of each sheet of the map shall be 24 by 32 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

3. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end.

4. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

5. The final map shall show all survey and mathematical information and data necessary to locate all monuments, and to locate and retrace any and all interior and exterior boundary lines appearing thereon, including bearings and distances of straight lines, and radii and arc length for all curves, and such information as may be necessary to determine the location of the centers of curves.

6. Each lot shall be numbered, and each block may be numbered or lettered.

7. Each street shall be named.

8. The exterior boundary of the land included within the subdivision shall be indicated by [colored border.] a blue border light enough to make all delineations covered by it readily discernible on reproductions or prints of the original.

9. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys.

10. The final map shall also satisfy any additional survey and map requirements of the local ordinance [.] , city surveyor or county surveyor.

11. Each sheet:

(a) Shall show the subdivision tract number assigned by the county recorder.

(b) May show the subdivision name and unit number.

Sec. 13. NRS 278.420 is hereby amended to read as follows:

278.420 The following certificates and acknowledgements shall appear on the final map and may be combined where appropriate:

1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the map. A lien for state, county, municipal or local taxes and for special assessments or beneficial interest under trust deeds or trust interests under bond indentures shall not be deemed to be an interest in land for the purpose of this section. Any map including territory originally patented by the United States or the State of Nevada, under patent reserving interest to either or both of the entities, may be recorded under the provisions of NRS 278.010 to 278.630, inclusive, without the consent of the United States or the State of Nevada thereto, or to dedications made thereon. Signatures required by this section of parties owning rights-of-way, easements or reversions which by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value, and which signatures it is impossible or impracticable to obtain, may be omitted if the names of such parties and the nature of their interest is endorsed on the map, together with a reasonable statement of the circumstances preventing the procurement of such signatures.

2. A certificate, signed and acknowledged as above, offering for dedication for certain specified public uses (subject to such reservations as may be contained in any such offer of dedication) those certain parcels of land which the parties desire so to dedicate. The certificate may state that any certain parcel or parcels are not offered for dedication; but a local ordinance may require as a condition precedent to the approval of any final map that any or all of the parcels of land shown thereon and intended for any public use shall be offered for dedication for public use except those parcels other than streets intended for the exclusive use of the lot owners in such subdivision, their licensees, visitors, tenants and servants.

3. A certificate for execution by the clerk of each approving governing body stating that the body approved the map and accepted or rejected on behalf of the public any parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication.

4. A certificate by the engineer or surveyor responsible for the survey and final map, giving the date of the survey and stating that the survey was made by him or under his direction, and that the survey is true and complete as shown. The certificate shall also state that the monuments are of the character and occupy the positions indicated, or that they will be set in such positions

and at such time as is agreed upon under the provisions of NRS 278.400.

5. A certificate by the county surveyor if a subdivision lies within an unincorporated area, and if a subdivision lies within a city, a certificate by the city engineer or by the county surveyor when for that purpose appointed by the governing body of the city stating that he has examined the final map, that the subdivision as shown thereon is substantially the same as it appeared on the tentative map, and any approved alterations thereof, that all provisions of NRS 278.010 to 278.630, inclusive, and of any local ordinance applicable at the time of approval of the tentative map have been complied with, and that he is satisfied that the map is technically correct [.] and that the monuments as shown are of the character and occupy the positions indicated or that the monuments have not been set and that a proper performance bond has been deposited guaranteeing their setting on or before a day certain. The certificate shall be dated and signed by the county surveyor or city surveyor, or by an authorized deputy.

6. A certificate by the health division of the department of health, welfare and rehabilitation showing that the health division approved the final map concerning sewage disposal, water pollution, water quality and, subject to confirmation by the state engineer, water quantity.

Sec. 14. NRS 278.450 is hereby amended to read as follows:

278.450 The county recorder shall collect a fee of [$5] $50 or $25 plus 25 cents per lot, whichever is greater, for the recordation of any final map. The fee shall be deposited in the general fund of the county where it is collected.

Sec. 15. NRS 278.460 is hereby amended to read as follows:

278.460 Nothing contained in NRS 278.010 to 278.630, inclusive, prevents the recording under the provisions of NRS 278.010 to 278.630, inclusive, and any applicable local ordinances of a final map of any land not defined as a subdivision, nor do NRS 278.010 to 278.630, inclusive, prohibit the filing of a map in accordance with the provisions of any statute requiring the filing of registered land surveyor's [or registered civil engineer's] records of surveys.

Sec. 16. NRS 278.465 is hereby amended to read as follows:

278.465 1. [Any person or persons having a record title or interest in land that has been subdivided as provided in NRS 278.010 to 278.630, inclusive, may have the plat or any portion thereof, or any street therein contained, as shown in the final map thereof which has been filed in accordance with NRS 278.010 to 278.630, inclusive, altered or changed, upon application to the planning commission.

2.] Abandonment or vacation of any portion of the plat or of any street contained therein is governed by the provisions of NRS 278.470 and 278.480.

[3.] 2. Abandonment of a subdivision map or reversion of any subdivision to acreage is governed by the provisions of NRS 278.490.

Sec. 17. NRS 278.490 is hereby amended to read as follows:

278.490 1. Any person, firm or corporation desiring to revert any subdivision or part thereof to acreage or to abandon any subdivision map or portion thereof shall cause a final map of the reversion or abandonment to be recorded in the office of the county recorder.

2. The final map shall contain the certificate set forth in subsection 1 of NRS 278.420, and shall be presented to the governing body for approval. If the map includes the abandonment of any public streets, the provisions of NRS 278.480 must be followed prior to the recordation of the map.

3. Except for the provisions of this section and any provision or ordinance relating to the payment of fees in conjunction with filing or recordation or checking of a final map, no other provision of NRS 278.010 to 278.630, inclusive, shall apply to a map made solely for the purpose of abandonment of a former map or for reversion of any subdivision to acreage.

4. Upon the recording of a final map of such reversion or abandonment, the county recorder shall make a written notation of the fact on each sheet of the previously recorded final map affected by the later recording.

Sec. 18. NRS 278.500 is hereby amended to read as follows:

278.500 1. If the subdivider is not required by the provisions of NRS 278.010 to 278.630, inclusive, to prepare and record a final map, then before proceeding with the sale of any part of the subdivision, he shall file, in the office of the county recorder, a record of survey map conforming, in respect to design [,] and conditions to the [approved] tentative map or maps [.] approved or conditionally approved by the governing body.

2. In this event, the governing body may require only such street grading and surfacing and drainage provisions reasonably necessary for lot access and local neighborhood traffic and drainage needs.

3. The construction of any of these improvements may be accomplished as provided in accordance with the provisions of NRS 278.010 to 278.630, inclusive.

4. The following certificates shall appear on a record of survey map:

(a) A certificate for execution by the clerk of each approving governing body stating that the body approved the map for subdivision purposes in accordance with the approval or conditional approval of the tentative map.

(b) A certificate by the [engineer or] surveyor responsible for the survey giving the date of the survey and stating that the survey was made by him or under his direction and setting forth the name

of the owner who authorized him to make the survey, and that the survey is true and complete as shown. This certificate shall also state that the monuments are of the character and occupy the positions indicated or that they will be set in such positions [and at such time as is agreed upon] on or before a day certain, under the provisions of NRS 278.010 to 278.630, inclusive. This certificate shall also state that the monuments are or will be sufficient to enable the survey to be retraced.

(c) A certificate by the county surveyor or the city surveyor stating that he has examined the map for conformance with NRS 278.010 to 278.630, inclusive, and with any applicable local ordinance and that the monuments as shown are of the character and occupy the positions indicated or that a proper performance bond has been deposited, indicating the amount. The certificate shall state that the map is technically correct.

5. If the monuments have not been set prior to recording, the amount of the required performance bond shall be set by the county surveyor or city surveyor.

6. Dedications shall not be accepted on a record of survey map.

7. Easements shall not be created on a record of survey map. If an easement is shown on the map, it shall be shown with its recording information.

8. No record of survey as defined in NRS 278.010 to 278.630, inclusive, shall be accepted by the county recorder unless all provisions of NRS 278.010 to 278.630, inclusive, and of any local ordinance have been satisfied. The county recorder shall accept or refuse it for recordation within 10 days of its delivery.

Sec. 19. NRS 278.510 is hereby amended to read as follows:

278.510 1. The record of survey shall be a map, legibly drawn in black waterproof india ink on tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession, the size and border of which shall conform to the requirements for final maps.

2. The record of survey shall show:

(a) All monuments found, set, reset, replaced or removed, describing their kind, size and location, and giving other data relating thereto.

(b) Bearing or witness monuments, basis of bearings, bearing and length of lines , north indicator and scale of map.

(c) Name and legal designation of tract or grant in which the survey is located and ties to adjoining tracts.

(d) Memorandum of oaths.

(e) Signature of surveyor.

(f) Date of survey.

(g) Name of person or persons for whom the survey was made.

(h) Any other data necessary for the intelligent interpretation of the various items and locations of the points, lines and area shown.

Sec. 20. NRS 278.520 is hereby amended to read as follows:

278.520 A record of survey is not required of any survey:

1. When it has been made by a public officer in his official capacity, has been filed by him as a permanent record of his office, and is available for public inspections.

2. When it is of a preliminary nature.

3. When a map is in preparation for recording or [shall have] has been recorded under the provisions of NRS 278.010 to 278.630, inclusive, pertaining to subdivision maps.

4. When none of the evidence described in NRS 278.530 is discovered.

Sec. 21. NRS 278.530 is hereby amended to read as follows:

278.530 Within 90 days after the establishment of points or lines, the registered land surveyor [or registered civil engineer] shall file with the county recorder of the county in which the survey was made a record of such survey relating to land boundaries or property lines, which discloses:

1. Material evidence, which in whole or in part does not appear on any map [or record] previously recorded or filed in the office

of the county recorder [, county clerk, municipal or county surveying department] or in the records of the Bureau of Land Management.

2. A material discrepancy with such record.

3. Evidence that, by reasonable analysis, might result in alternate positions of lines or points.

4. The establishment of one or more lines not shown on any such map, the positions of which are not ascertainable from an inspection of such map without trigonometric calculations.

Sec. 22. NRS 278.560 is hereby amended to read as follows:

278.560 1. Monuments set shall be sufficient in number and durability and efficiently placed so as not to be readily disturbed to assure, together with monuments already existing, the perpetuation of facile reestablishment of any point or line of the survey.

2. Any monument set by a registered land surveyor [or registered civil engineer] to mark or reference a point on a property or land-line shall be permanently and visibly marked or tagged with the certificate number of the surveyor [or civil engineer] setting it, each number to be preceded by the letters "R.L.S." [or "R.E.," respectively, as the case may be,] or, if the monument is set by the county surveyor, city surveyor or a public officer, it shall be marked with his official title.

SUMMARY--Requires recordation of land sale contracts. Fiscal Note: No. (BDR 10-554)

AN ACT relating to land sales; requiring the recordation of land sale contracts; providing for a reduction in the contract sales price on failure to record; providing penalties; and providing other matters properly relating thereto.

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

Section 1. Chapter 119 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. The legislature finds that:

(a) A rapidly developing practice of land sales activity in this state is based in large part on unrecorded land sale contracts or other unrecorded conveyances of interest in real property.

(b) Many vendors are actively engaged in discouraging the recording of such conveyances.

(c) The incidence of such unrecorded conveyances severely handicaps county assessors in the performance of their duties under chapter 361 of NRS, in determining the true taxable values lying within their counties.

(d) The presence of such a practice adversely affects the welfare of the people of this state.

2. It is unlawful for any developer to fail to record, within 72 hours of the receipt of any consideration therefor, any contract or other document evidencing a sale made on or after July 1, 1973.

3. Any contract or other document evidencing a sale made before July 1, 1973, must be recorded on or before September 1, 1973, in order to avoid the reduction in contract sale price provided in section 3 of this act, but no criminal penalty attaches to a failure so to record.

Sec. 3. Delay in recording a contract or other document evidencing a sale, in addition to invoking the penalty provided, in section 2 of this act, shall result in a reduction in the contract sale price as follows:

1. If the contract or other document is not recorded within 60 days after the receipt of any consideration thereon, the contract sale price shall be reduced by 25 percent.

2. Thereafter, on the anniversary of the penalty provided in subsection 1, there shall be a further reduction of 25 percent for each year the contract or other document remains unrecorded.

3. On the third anniversary of such penalty, the remaining amount of the contract sale price shall be disallowed, if the contract or other document remains unrecorded.

Payments made by any purchaser in excess of the amount recognized in this section as the permitted contract sale price shall be restored immediately by the developer or the principal agent, and may be recovered by the purchaser in an action at law.

SUMMARY--Makes certain changes in licensing and regulation of subdivisions under land sales law. Fiscal Note: No. (BDR 10-568)

AN ACT relating to land sales; providing certain changes in the licensing and regulation of subdivision sales; and providing other matters properly relating thereto.

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

Section 1. NRS 119.110 is hereby amended to read as follows:

119.110 "Subdivision" means any land or tract of land in another state or country or in this state from which a sale is attempted, which is divided or proposed to be divided into 50 or more lots, parcels, units or interests, for the purpose of sale as part of a common promotional plan and where any subdivision is offered by a single developer, or a group of developers acting in concert, and such land is contiguous or is known, designated or advertised as a common unit or by a common name such land shall be presumed, without regard to the number of lots covered by each individual offering, to be part of a common promotional plan.

Sec. 2. NRS 119.120 is hereby amended to read as follows:

119.120 1. Unless the method of disposition is adopted for the purpose of the evasion of the provisions of this chapter or the provisions of the Interstate Land Sales Full Disclosure Act,

15 U.S.C. §§ 1701 to 1720, inclusive, upon notification to the division by the person electing to be exempt under this subsection, this chapter shall not apply to the making of any offer or disposition of any subdivision or lot, parcel, unit or interest therein:

(a) By a purchaser of any subdivision lot, parcel or unit thereof for his own account in a single or isolated transaction;

(b) If each lot, parcel or unit being offered or disposed of in any subdivision is 5 acres or more in size;

(c) To any person who is engaged in the business of the construction of residential, commercial or industrial buildings for disposition;

(d) By any person licensed in the State of Nevada to construct residential buildings and where such land being offered or disposed of is to include a residential building when disposition is completed;

(e) Pursuant to the order of any court of this state;

(f) By any government or government agency;

(g) To any offer or disposition of any evidence of indebtedness secured by way of any mortgage or deed of trust of real estate;

(h) To securities or units of interest issued by an investment trust regulated under the laws of this state; or

(i) To cemetery lots.

2. Unless the method of disposition is adopted for the purpose of the evasion of the provisions of this chapter or the provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701 to 1720, inclusive, this chapter shall not apply to the sale or lease of real estate which is free and clear of all liens, encumbrances and adverse claims if each and every purchaser or his or her spouse has personally inspected the lot which he purchased and if the developer executes a written affirmation to that effect to be made a matter of record in accordance with rules and regulations of the administrator of the division. As used in this subsection, the terms "liens," "encumbrances" and "adverse claims" are not intended to refer to purchase money encumbrances nor property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed nor to taxes and assessments which, under applicable state or local law, constitute liens on the property before they are due and payable.

3. The division may from time to time, pursuant to rules and regulations issued by it, exempt from any of the provisions of this chapter any subdivision, if it finds that the enforcement of this chapter with respect to such subdivision or lots, parcels, units or interests is not necessary in the public interest and for the protection of purchasers by reason of the small amount involved or the limited character of the offering, or because

such property has been registered and approved pursuant to the laws of any other state.

4. Any subdivision which has been registered under the Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701 to 1720, inclusive, shall be exempt from all of the provisions of this chapter, except NRS 119.130, subsection 1 of NRS 119.180 and NRS 119.190, upon filing with the division:

(a) A copy of an effective statement of record filed with the Secretary of Housing and Urban Development.

(b) A filing fee of $100.

Sec. 3. NRS 119.140 is hereby amended to read as follows:

119.140 Any person or broker proposing to offer or sell any subdivision or lot, parcel, unit or interest therein in this state shall first submit to the division:

1. The name and address of the owner.

2. The name and address of the subdivider.

3. The legal description and area of lands.

4. A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

5. A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

6. A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone and sewerage facilities.

7. A true statement of the use or uses for which the proposed subdivision will be offered.

8. A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.

9. A true statement of the maximum depth of fill used, or proposed to be used on each lot, and a true statement on the soil conditions in the subdivision supported by engineering reports showing the soil has been, or will be, prepared in accordance with the recommendations of a registered civil engineer.

10. A true statement of the amount of indebtedness which is a lien upon the subdivision or any part thereof, and which was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

11. A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area or assessment district, within the boundaries of which the subdivision, or any part thereof, is located, and which is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to such

subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

12. A true statement of any adverse treatment of the subdivision or lot, parcel, unit or interest by a licensing agency in another state or country.

13. Such other information as the owner, his agent or subdivider may desire to present.

[13.] 14. A completed license application in such form as the division may require.

[14.] 15. A filing fee of [$100.] $500 plus $5.00 for each lot, parcel or unit of the whole, proposed for sale.

Sec. 4. NRS 119.160 is hereby amended to read as follows:

119.160 1. The administrator of the division shall make an examination of any subdivision, and shall, unless there are grounds for denial, issue to the subdivider a public report authorizing the sale or lease, or the offer for sale or lease, in this state of the lots or parcels in the subdivision. The report shall contain the data obtained in accordance with NRS 119.140 and which the administrator determines are necessary to implement the purposes of this chapter. The administrator may publish the report.

2. The grounds for denial are:

(a) Failure to comply with any of the provisions of this chapter or the rules and regulations of the division pertaining thereto.

(b) The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.

(c) Inability to deliver title or other interest contracted for.

(d) Inability to demonstrate that adequate financial arrangements have been made for all offsite improvements included in the offering.

(e) Inability to demonstrate that adequate financial arrangements have been made for any community, recreational or other facilities included in the offering.

(f) Failure to make a showing that the parcels can be used for the purpose for which they are offered.

(g) Failure to provide in the contract or other writing the use or uses for which the parcels are offered, together with any covenants or conditions relative thereto.

(h) Agreements or bylaws to provide for management or other services pertaining to common facilities in the offering, which fail to comply with the regulations of the division.

(i) Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering.

(j) Production of false information.

3. If the administrator of the division finds that grounds for denial exist, he shall issue an order so stating to the owner or subdivider no later than 30 days after receipt of the information required to be filed by NRS 119.140.

4. If it appears to the administrator of the division that a statement of record, or any amendment thereto, is on its face incomplete or inaccurate in any material respect, the administrator shall so advise the developer within a reasonable time after the filing of the statement or the amendment, but prior to the date the statement or amendment would otherwise be effective. Such notification shall serve to suspend the effective date of the statement or the amendment until 30 days after the developer files such additional information as the administrator shall require. Any developer, upon receipt of such notice, may request a hearing, and such hearing shall be held within 20 days of receipt of such request by the administrator.

Sec. 5. NRS 119.180 is hereby amended to read as follows:

119.180 1. No subdivision or lot, parcel or unit in any subdivision shall be sold:

(a) Until the division has approved a written plan or the methods proposed to be employed for the procurement of prospective customers, which plan or methods shall describe with particularity:

(1) The form and content of advertising and contracts to be used;

(2) The nature of the offer of gifts or other free benefits to be extended to prospective customers;

(3) The nature of promotional group meetings; and

(4) Such other reasonable details as may be required by the division.

(b) Except through a broker, and prior to any offering or disposition, pursuant to any license granted under this chapter, the name of such broker shall be placed on file with the division. A registered representative of the developer may be utilized in offering or selling subdivision property, but such real estate broker shall be responsible for the selling activities of the registered representative so utilized. The registered representative and the developer are both required to comply with the same standards of business ethics as are required of licensed real estate brokers and salesmen except where different standards are prescribed by the division pursuant to a plan or methods under paragraph (a) of this subsection. Each registered representative of the developer engaged in offering subdivision

property for sale shall, under such regulations as the division may promulgate, register with the division and pay a nonreturnable fee of $25 with each application for registration. Such registered personnel shall be known as registered representatives of the licensee and may not use the term "licensed." Real estate brokers and salesmen licensed in the State of Nevada may function as registered representatives without registering as such.

2. The information required to be provided by NRS 119.140 shall be given to each purchaser by the broker or registered representative prior to the execution of any contract for the sale of any such property. The broker shall obtain from the purchaser a signed receipt for a copy of such information and, if a contract for disposition is entered into, the receipt shall be kept in the broker's files for a period of [7 years] 3 years or 1 year after final payment has been made on any contract for the sale of property, whichever is the longer, and shall be subject to inspection by the division.

3. Any contract or agreement for the sale of any subdivision or any lot, parcel, unit or interest in any subdivision, not exempted under the provisions of NRS 119.120, where such information has not been given to the purchaser more than 3 days in advance of his signing such contract or agreement, may be revoked by the purchaser within 3 days after he signed or after receipt

by him of such information, whichever is the later, and the contract or agreement shall so provide, except that the contract or agreement may stipulate that the foregoing revocation authority shall not apply in the case of a purchaser who:

(a) Has received the information and inspected the subdivision in advance of signing the contract or agreement; and

(b) Acknowledges by his signature that he has made such inspection and has read and understood the information.

4. Any such revocation shall be in writing in form prescribed by the division and shall be communicated to the broker within the time limited by this section and all moneys paid by the purchaser under such revoked contract or agreement shall be returned to him immediately by the broker, without any deductions.

Sec. 6. NRS 119.220 is hereby amended to read as follows:

119.220 1. Where any part of the statement of record, when such part became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein, any person acquiring a lot in the subdivision covered by such statement of record from the developer or his agent during such period the statement remained uncorrected (unless it is proved that at the time of such acquisition he knew of such untruth or omission) may sue the developer in any court of competent jurisdiction.

2. Any developer or agent, who sells , [or] leases or offers any interest in a lot in a subdivision:

(a) In violation of this chapter; or

(b) By means of a property report which contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein,

may be sued by the purchaser of such lot.

3. The suit authorized under subsection 1 or 2 may be to recover such damages as represent the difference between the amount paid for the lot and the reasonable cost of any improvements thereto, and the lesser of:

(a) The value thereof as of the time such suit was brought; or

(b) The price at which such lot has been disposed of in a bona fide market transaction before suit; or

(c) The price at which such lot has been disposed of after suit in a bona fide market transaction but before judgment.

4. Every person who becomes liable to make any payment under this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment.

5. In no case shall the amount recoverable under this section exceed the sum of the purchase price of the lot, the reasonable cost of improvements, reasonable court costs , reasonable appraisal fees and reasonable attorney's fees.

SUMMARY--Designates regional planning districts in the state.
Fiscal Note: No. (BDR 22-567)

AN ACT relating to planning; designating regional districts in the state to serve the combined needs of comprehensive planning, resource development and state and federal agency administration.

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 the provisions set forth as sections 2 to 4, inclusive, of this act.

Sec. 2. In aid of the statewide planning being undertaken by the governor's executive office of planning and coordination, there are hereby designated the following regional districts to serve the combined needs of comprehensive planning, resource development and state and federal agency administration in the State of Nevada:

1. Regional district No. 1, composed of Churchill, Storey, Lyon and Douglas counties and Carson City.

2. Regional district No. 2, composed of Mineral, Nye and Esmeralda counties.

3. Regional district No. 3, composed of Clark County.

4. Regional district No. 4, composed of Eureka, White Pine and Lincoln counties.

5. Regional district No. 5, composed of Elko County.

6. Regional district No. 6, composed of Humboldt, Pershing and Lander counties.

7. Regional district No. 7, composed of Washoe County.

Sec. 3. 1. The designation of districts by section 1 of this act is intended to provide the geographical framework for state and regional land use planning.

2. Among the objectives to be served by such a geographic framework are:

(a) Providing a focus of state resources available for development in consistently defined local areas.

(b) Minimizing overlap, duplication and competition in state planning and programming activities.

(c) Providing a common geographic base for the coordination of federal and state development programs.

Sec. 4. The designation of districts by section 1 of this act does not limit the power of cities and counties to form regional planning commissions pursuant to NRS 278.140 or the exercise of any power by any regional planning commission so formed.

SUMMARY--Makes provision for planned unit residential development in cities and counties. Fiscal Note: No. (BDR 22-553)

AN ACT relating to land development; enabling cities and counties to provide by ordinance for planned unit residential development within their jurisdictions and grant applications for such in proper cases; and providing other matters properly relating thereto.

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

Section 1. Title 22 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 45, inclusive, of this act.

Sec. 2. This chapter may be cited as the Planned Unit Development Law.

Sec. 3. In order that the public health, safety, morals and general welfare be furthered in an era of increasing urbanization and of growing demand for housing of all types and design; and in order to encourage a more efficient use of land, public services or private services in lieu thereof; to reflect changes in the technology of land development so that resulting economies may be made available to those who need homes; to insure that increased flexibility of substantive regulations over land development authorized in this chapter be administered in such a way as to

encourage the disposition of proposals for land development without undue delay, the provisions of this chapter are created for the use of cities and counties in the adoption of the necessary ordinances.

Sec. 4. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 5 to 8, inclusive, of this act, have the meanings ascribed to them in such sections.

Sec. 5. "Common open space" means a parcel or parcels of land or an area of water or a combination of land and water within the site designated for a planned unit residential development which is designed and intended for the use or enjoyment of the residents of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of such residents.

Sec. 6. "Landowner" means the legal or beneficial owner or owners of all the land proposed to be included in a planned unit residential development. The holder of an option or contract of purchase, a lessee having a remaining term of not less than 30 years, or another person having an enforcible proprietary interest in such land is a landowner for the purposes of this chapter.

Sec. 7. "Plan" means the provisions for development of a planned unit residential 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. 8. "Planned unit residential development" means an area of land controlled by a landowner, which is to be developed as a single entity for a number of dwelling units, the plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one residential district created, from time to time, under the provisions of any zoning ordinance enacted pursuant to law.

Sec. 9. The powers granted under the provisions of this chapter may be exercised by any city or county which enacts an ordinance, if such ordinance:

1. Refers to this chapter.

2. Includes a statement of objectives for planned unit residential development, pursuant to the provisions of section 10 of this act.

3. Designates the local agency which shall exercise the powers of the city or county.

4. Sets forth the standards for a planned unit residential development consistent with the provisions of this chapter.

5. Sets forth the procedures pertaining to the application for hearing on and tentative and final approval of a planned unit residential development, which shall be consistent with the provisions of this chapter.

Sec. 10. Any ordinance enacted pursuant to the provisions of this chapter shall include within its provisions a written statement of the goals of the city or county with respect to land use for residential purposes, density of population, direction of growth, location and functions of streets and other public facilities, and common open space for recreation or visual benefit, or both, and such other factors as the city or county may find relevant in determining whether or not a planned unit residential development shall be authorized. This statement shall be referred to as a statement of objectives for planned unit residential developments.

Sec. 11. 1. Each ordinance enacted pursuant to the provisions of this chapter shall set forth the standards and conditions by which a proposed planned unit residential development shall be evaluated.

2. The city or county may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in the ordinance, if:

(a) Such rules and regulations are not inconsistent with the standards and conditions.

(b) Such rules and regulations are made a matter of public record.

3. Any amendment or change of such rules and regulations shall not apply to any plan for which an application for tentative approval has been made prior to the placing of public record any such amendment or change.

4. Such standards and conditions and all supplementary rules and regulations established for a particular planned residential development authorized pursuant to such ordinance shall not be inconsistent with the provisions of sections 12 to 17, inclusive, of this act.

Sec. 12. 1. An ordinance enacted pursuant to the provisions of this chapter shall set forth the uses permitted in a planned unit residential development, which uses may be limited to:

(a) Dwelling units which are not detached, semidetached or multistoried structures or any combinations thereof.

(b) Any nonresidential use to the extent such nonresidential use is designed and intended to serve the residents of the planned unit residential development.

2. An ordinance may establish regulations setting forth the timing of development among the various types of dwelling and

may specify whether or not some or all nonresidential uses are to be built before, after or at the same time as the residential uses.

Sec. 13. 1. An ordinance enacted pursuant to the provisions of this chapter shall establish standards governing the density or intensity of land use in a planned unit residential development.

2. Such standards shall 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 residential development. The standards may vary the density or intensity of land use otherwise applicable to the land within the planned unit residential 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 residential development.

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

3. In the case of a planned unit residential development which is proposed to be developed over a period of years, such standards may, to encourage the flexibility of housing 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 residential 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 some section or sections of development whether or not it be earlier or later in the development than with regard to the others. 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 such reservation shall, as far as practicable, defer the precise location of such 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. 14. The standards for a planned unit residential development established by an ordinance enacted pursuant to the provisions of this chapter shall require that any common open space resulting from the application of standards for density or intensity of land use be set aside for the use and benefit of the residents in such development and shall include provisions by which the amount and location of any common open space shall be determined and its improvement and maintenance for common

open space use be secured, subject to the provisions of sections 15 to 17, inclusive, of this act.

Sec. 15. The ordinance may provide that the city or county may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the ordinance shall not require, as a condition of the approval of a planned unit residential development, that land proposed to be set aside for common open space be dedicated or made available to public use. The ordinance may require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space, and that such organization shall not be dissolved nor shall it dispose of any common open space by sale or otherwise, without first offering to dedicate such common open space to the city or county.

Sec. 16. 1. If the organization established to own and maintain common open space, or any successor organization, at any time after the establishment of a planned unit residential development, fails to maintain the common open space in a reasonable order and condition in accordance with the plan, the city or county may serve written notice upon such organization or upon the residents of the planned unit residential development, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Such notice shall

include a demand that such deficiencies of maintenance be cured within 30 days of the receipt of such notice and shall state the date and place of a hearing thereon, which shall be within 14 days of the receipt of such notice.

2. At such hearing the city or county may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof are not cured within the 30-day period, or any extension thereof, the city or county, in order to preserve the taxable values of the properties within the planned unit residential development and to prevent the common open space from becoming a public nuisance, may enter upon such common open space and maintain it for a period of 1 year.

3. Such entry and maintenance shall not vest in the public any right to use the common open space except when such right is voluntarily dedicated to the public by the owners.

4. Before the expiration of the period of maintenance set forth in subsection 2, the city or county shall, upon its own initiative or upon the request of the organization previously responsible for the maintenance of the common open space, call a public hearing upon notice to such organization or to the residents of the planned unit residential development, to be held by the city or county. At this

hearing such organization or the residents of the planned unit residential development shall show cause why such maintenance by the city or county shall not, at the election of the city or county, continue for a succeeding year.

5. If the city or county determines that such organization is ready and able to maintain the common open space in a reasonable condition, the city or county shall cease its maintenance at the end of such year.

6. If the city or county determines such organization is not ready and able to maintain the common open space in a reasonable condition, the city or county may, in its discretion, continue the maintenance of the common open space during the next succeeding year, subject to a similar hearing and determination in each year thereafter.

7. The decision of the city or county in any such case referred to in this section constitutes a final administrative decision subject to review in accordance with the provisions of law.

Sec. 17. 1. The cost of such maintenance undertaken by the city or county shall be assessed ratably against the properties within the planned unit residential development that have a right of enjoyment of the common open space, and shall become a tax lien on such properties.

2. The city or county, at the time of entering upon such common open space for the purpose of maintenance, shall file a notice of such lien in the appropriate recorder's office upon the properties affected by such lien within the planned unit residential development.

Sec. 18. No ordinance enacted pursuant to the provisions of this chapter may authorize a planned unit residential development that contains less that 5 dwelling units.

Sec. 19. 1. The authority granted a city or county by law to establish standards for the location, width, course and surfacing of public streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment, applies to such improvements within a planned unit residential development.

2. The standards applicable to a planned unit residential development may be different from or modifications of the standards and requirements otherwise required of subdivisions which are authorized under an ordinance enacted pursuant to the provisions of law, if the planned unit residential development ordinance sets forth the limits and extent of any modifications or changes in such standards and requirements, in order that a landowner may know the limits and

extent of permissible modifications from the standards otherwise applicable to subdivisions.

3. The limits of such modification or change established in an ordinance enacted pursuant to this chapter, as well as the degree of modification or change within such limits authorized in a particular case by the city or county, shall take into account the standards and requirements established in any ordinance otherwise enacted pursuant to law, which may not be appropriate or necessary for land development of a type or design contemplated by this chapter.

Sec. 20. 1. An ordinance enacted pursuant to this chapter shall set forth the standards and criteria by which the design, bulk and location of buildings shall be evaluated, and all standards and all criteria for any feature of a planned unit residential development shall be set forth in such ordinance with sufficient certainty to provide work criteria by which specific proposals for a planned unit residential development can be evaluated.

2. Standards in such ordinance shall 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. 21. 1. The enforcement and modification of the provisions of the plan as finally approved, whether or not these are recorded

by plat, covenant, easement or otherwise, are subject to the provisions contained in sections 22 to 24, inclusive, of this act.

2. Such enforcement and modification shall be to further the mutual interest of the residents of the planned unit residential development and of the public in the preservation of the integrity of the plan as finally approved. The enforcement and modification provisions are drawn also to insure that modifications, if any, in the plan will not impair the reasonable reliance of the residents upon the provisions of the plan nor result in changes that would adversely affect the public interest.

Sec. 22. The provisions of the plan relating to:

1. The use of land and the use, bulk and location of buildings and structures;

2. The quantity and location of common open space; and

3. The intensity of use or the density of residential units,

Must shall run in favor of the city or county and shall be enforcible in law or in equity by the city or county, without limitation on any powers of regulation otherwise granted the city or county by law.

Sec. 23. 1. All provisions of the plan shall run in favor of the residents of the planned unit residential development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan and to that extent such provisions,

whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by the residents acting individually, jointly or through an organization designated in the plan to act on their behalf.

2. No provision of the plan exists in favor of residents on the planned unit residential development except as to those portions of the plan which have been finally approved and have been recorded.

Sec. 24. All those provisions of the plan authorized to be enforced by the city or county under section 22 of this act 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 at law or in equity as provided in section 23 of this act.

2. 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 called and held in accordance with the appropriate provisions of this chapter, that

it is consistent with the efficient development and preservation of the entire planned unit residential development, does not adversely affect either the enjoyment of land abutting upon or across a street from the planned unit residential development or the public interest, and is not granted solely to confer a private benefit upon any person.

Sec. 25. Residents of the planned unit residential development may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove or release their rights to enforce the provisions of the plan, but no such action may affect the right of the city or county to enforce the provisions of the plan in accordance with the provisions of section 24 of this act.

Sec. 26. In order to provide an expeditious method for processing a plan for a planned unit residential 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 dis-

approval of a planned unit residential development and its continuing administration shall be consistent with the provisions set out in sections 27 to 32, inclusive, of this act.

Sec. 27. An application for tentative approval of the plan for a planned unit residential development shall be filed by or on behalf of the landowner.

Sec. 28. The application for tentative approval shall be filed by the landowner in such form, upon the payment of the fee and with such official of the city or county as shall be designated in the ordinance enacted pursuant to this chapter.

Sec. 29. All planning, zoning and subdivision matters relating to the platting, use and development of the planned unit residential development and subsequent modifications of the regulations relating thereto to the extent such modification is vested in the city or county, shall be determined and established by the city or county.

Sec. 30. The ordinance shall require only 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 feasibility of proposals for disposition of sanitary waste and storm water.

6. 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.

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

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

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

Sec. 31. The application for tentative approval of a planned unit residential development shall include a written statement by the landowner setting forth the reasons why a planned unit residential development would be in the public interest and would be

consistent with the municipal statement of objectives on planned unit residential development.

Sec. 32. The application for and tentative and final approval of a plan for a planned unit residential development prescribed in this chapter shall be in lieu of all other procedures or approvals otherwise required by law.

Sec. 33. 1. Within 30 days after the filing of an application pursuant to sections 27 to 32, inclusive, of this act, a public hearing on the application shall be held by the city or county, public notice of which shall be given in the manner prescribed by law for hearings on amendments to a zoning ordinance. The hearing body may administer oaths and compel the attendance of witnesses. All testimony by witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.

2. A transcript of the hearing shall be prepared by the city or county, copies of which shall be made available at cost to any party to the proceedings, and all exhibits accepted in evidence shall be identified and duly preserved, or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record. Where there is a local planning staff, the ordinance shall require that a report on the proposed planned unit residential development by the staff shall

be prepared and filed as a public record not less than 5 days before the public hearing.

3. The city or county may continue the hearing from time to time and may refer the matter to the planning staff for a further report, a copy of which shall be filed as a public record without delay. In any event, however, the public hearing or hearings shall be concluded within 30 days after the date of the first public hearing unless the landowner consents in writing to an extension of the time within which the hearings shall be concluded.

Sec. 34. 1. The city or county shall, within 20 days following the conclusion of the public hearing provided for in section 33 of this act, by written resolution either:

(a) Grant tentative approval of the plan as submitted;

(b) Grant tentative approval subject to specified conditions not included in the plan as submitted; or

(c) Deny tentative approval to the plan.

Failure of the city or county to act within such period constitutes a grant of tentative approval of the plan as submitted. If tentative approval is granted, other than by lapse of time, with regard to the plan as submitted or with regard to the plan with conditions, the city or county shall, as part of its resolution, specify the drawings, specifications and form of performance bond that shall accompany an application for final approval.

2. If tentative approval is granted subject to conditions, the landowner shall within 10 days after receiving a copy of the written resolution of the city or county notify the city or county of his acceptance of or his refusal to accept all of the conditions.

3. If the landowner refuses to accept all the conditions, tentative approval of the plan is automatically rescinded.

4. In the event the landowner does not, within such period, notify the city or county of his acceptance of or his refusal to accept all the conditions, tentative approval of the plan, with all of the conditions, will stand as granted.

5. This section does not prevent the city or county and the landowner from mutually agreeing to a change in such conditions, and the city or county may, at the request of the landowner, extend the time during which the landowner is required to notify the city or county of his acceptance or refusal to accept the conditions.

Sec. 35. The grant or denial of tentative approval by written resolution shall include not only conclusions but also findings of fact related to the specific proposal, and shall set forth the reasons for the grant, with or without conditions, or for the denial, and such resolution shall set forth with particularity in what respects the plan would or would not be in the public

interest, including but not limited to findings of fact and conclusions of law on the following:

1. In what respects the plan is or is not consistent with the statement of objectives of a planned unit residential development.

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 such departures are or are not deemed to be in the public interest.

3. The purpose, location and amount of the common open space in the planned unit residential 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.

4. The physical design of the plan and the manner in which such 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.

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

6. 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 and of the residents of the planned unit residential development in the integrity of the plan.

Sec. 36. If a plan is granted tentative approval, with or without conditions, the city or county shall set forth, in the written resolution, the time within which an application for final approval of the plan shall be filed or, in the case of a plan which provides for development over a period of years, the periods of time within which application for final approval of each part thereof, shall be filed. Except upon the written consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall be not less than 2 months and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than 3 months.

Sec. 37. 1. Within 5 days from the adoption of the written resolution provided in sections 34 to 36, inclusive, of this act, the resolution shall be certified by the city clerk or county clerk and filed in his office. A certified copy shall be mailed to the landowner. Where tentative approval has been granted, the notation of this fact shall be placed on the zoning map.

2. Tentative approval of a plan shall not qualify a plat of the planned unit residential development for recording nor 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, shall 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. Such 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 resolution granting tentative approval.

3. The tentative approval shall be revoked and all that portion of the area included in the plan for which final approval has not been given shall be subject to those local ordinances applicable thereto as they may be amended from time to time, 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 within the required time.

Clerk Notation of the action taken shall be made on the zoning map.

Sec. 38. 1. An application for final approval may be for all the land included in a plan or to the extent set forth in the tentative approval for a section thereof. Such application shall be made to the city or county within the time specified by the resolution granting tentative approval.

2. The application shall include such drawings, specifications, covenants, easements, conditions and form of performance bond as were set forth in the resolution at the time of the tentative approval.

3. A public hearing on an application for final approval of the plan, or any part thereof, is not required if the plan, or any part thereof, submitted for final approval is in substantial compliance with the plan which has been given tentative approval.

Sec. 39. The plan submitted for final approval is in substantial compliance with the plan previously given tentative approval if any modification by the landowner of the plan as tentatively approved does not:

1. Vary the proposed gross residential density or intensity of use by more than 5 percent;

2. Involve a reduction of the area set aside for common open space nor the substantial relocation of such area;

3. Increase by more than 5 percent the floor area proposed for nonresidential use; or

4. Increase by more than 5 percent the total ground areas covered by buildings or involve a substantial change in the height of buildings.

A public hearing shall not be held to consider modifications in the location and design of streets or facilities for water and for disposal of storm water and sanitary sewage.

Sec. 40. 1. A public hearing shall not be held on an application for final approval of a plan when such plan, as submitted for final approval, is in substantial compliance with the plan as tentatively approved. The burden is upon the landowner to show the city or county good cause for any variation between the plan as tentatively approved and the plan as submitted for final approval.

2. If a public hearing is not required for final approval and application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, as required by the resolution of tentative approval, the city or county shall, within 20 days of such filing, grant such plan final approval. If the plan as submitted contains variations from the plan given tentative approval, but remains in substantial compliance with the plan as submitted for tentative approval, the city or county may, after a meeting with the landowner, refuse to grant final approval and shall, within 20 days from the filing of the application for final approval, so advise the landowner by written

notice, setting forth the reasons for the refusal, relating them to one or another of what it considers to be departures from the public interest.

3. If the city or county refuses to grant final approval, the landowner may:

(a) File his application for final approval without the variations objected to by the city or county, on or before the last day of the time within which he was authorized by the resolution granting tentative approval to file for final approval, or within 30 days from the date he received notice of such refusal, whichever date is later; or

(b) Treat the refusal as a denial of final approval and so notify the city or county.

Sec. 41. 1. If the plan, as submitted for final approval, is not in substantial compliance with the plan as given tentative approval, the city or county shall, within 20 days of the date of the filing of the application for final approval, notify the landowner in writing, setting forth the particular ways in which the plan is not in substantial compliance.

2. The landowner may:

(a) Treat such notification as a denial of final approval;

(b) Refile his plan in a form which is in substantial compliance with the plan as tentatively approved; or

(c) File a written request with the city or county that it hold a public hearing on his application for final approval.

If the landowner elects the alternatives set out in paragraphs (b) or (c) above, he may refile his plan or file a request for a public hearing, as the case may be, on or before the last day of the time within which he was authorized by the resolution granting tentative approval to file for final approval, or 30 days from the date he receives notice of such refusal, whichever is the later.

3. Any such public hearing shall be held within 30 days after request for the hearing is made by the landowner, and notice thereof shall be given and hearings shall be conducted in the manner prescribed in section 33 of this act.

4. Within 20 days after the conclusion of the hearing, the city or county shall, by resolution, either grant final approval to the plan or deny final approval to the plan. The grant or denial of final approval of the plan shall, in cases arising under this section, be in the form and contain the findings required for a resolution on an application for tentative approval set forth in section 35 of this act.

Sec. 42. If the city or county fails to act either by grant or denial of final approval of the plan within the time prescribed, the landowner may, after 30 days' written notice to the city or

county, file a complaint in the district court in and for the appropriate county. Upon showing that the city or county has failed to act, either within the time prescribed or subsequent to the receipt of the written notice provided for in this section, and upon showing that the landowner has complied with the procedures set forth in sections 38 to 41, inclusive, of this act, the plan shall be deemed to have been finally approved and the court shall, upon a summary proceeding, enter an order directing the recording of the plan as submitted for final approval without the approval of the city or county. A plan so recorded shall have the same force and effect as though the plan had been given final approval by the city or county.

Sec. 43. 1. A plan, or any part thereof, which has been given final approval by the city or county, shall be certified without delay by the city or county and shall be filed of record in the office of the appropriate county recorder before any development shall take place in accordance therewith.

2. Upon the filing of record of the plan, the zoning and subdivision regulations otherwise applicable to the land included in the plan shall cease to be of any further force and effect.

3. Pending completion of such planned unit residential development, or of that part thereof that has been finally approved, no modification of the provisions of such plan, or any part thereof

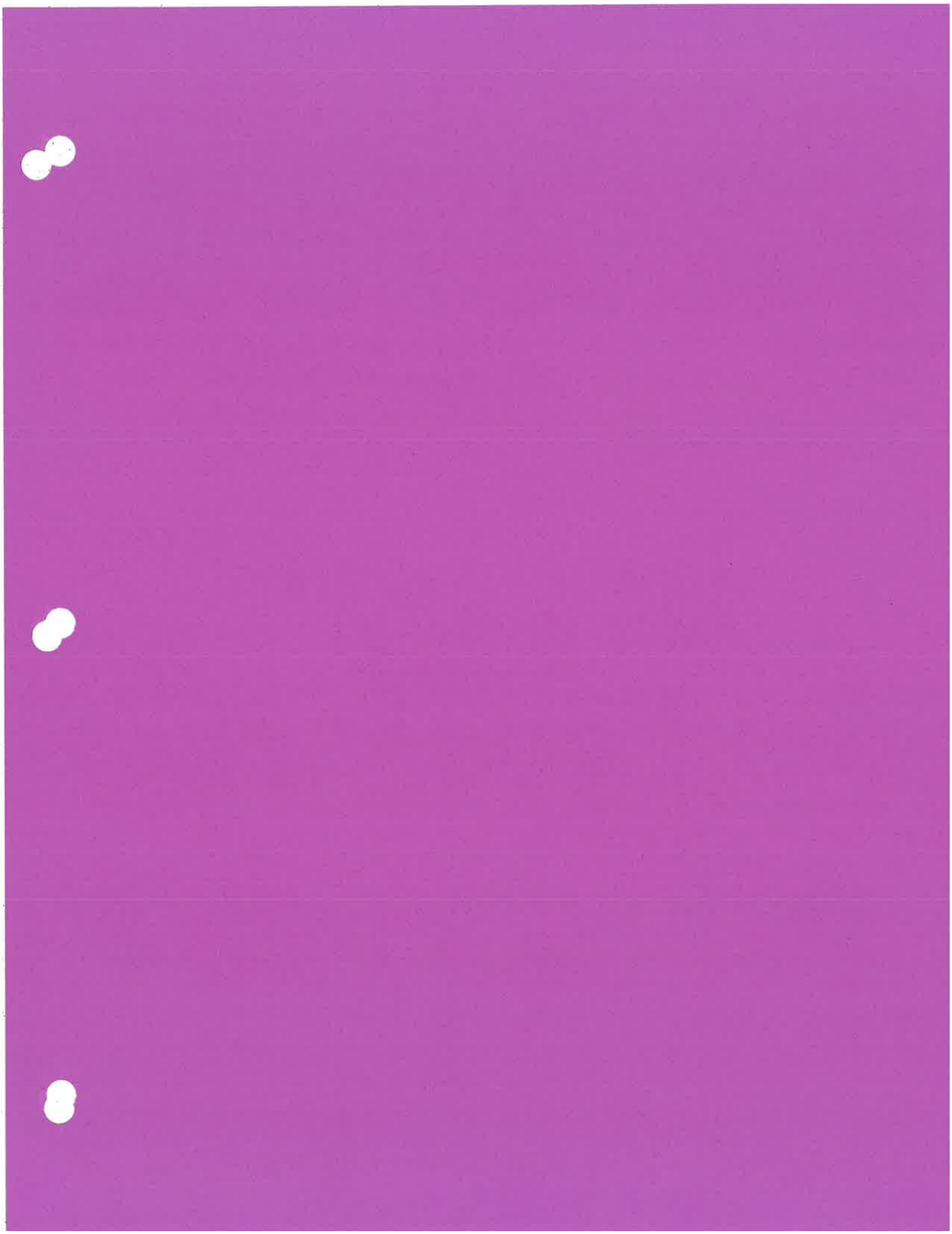
as finally approved, shall be made, nor shall it be impaired by any act of the city or county except with the consent of the landowner.

Sec. 44. No further development shall take place on the property included in the plan until after the property is resubdivided and is reclassified by an enactment of an amendment to the zoning ordinance if:

1. The plan, or a section thereof, is given approval and, thereafter, the landowner abandons such plan or the section thereof as finally approved and gives written notification thereof to the city or county; or

2. The landowner fails to commence and carry out the planned unit residential development within a reasonable period of time after the final approval has been granted.

Sec. 45. Any decision of the city or county under this chapter granting or denying tentative or final approval of the plan or authorizing or refusing to authorize a modification in a plan is a final administrative decision and is subject to judicial review in properly presented cases.



ORDINANCE NO. 1582

AN ORDINANCE TO AMEND TITLE XI, CHAPTER 1, SECTION 6, SUBSECTION (C) OF THE 1582
MUNICIPAL CODE OF THE CITY OF LAS VEGAS, NEVADA, 1960 EDITION, BY ADDING THERETO A NEW PARAGRAPH DESIGNATED PARAGRAPH 7 TO PROVIDE FOR CONDOMINIUMS; TO AMEND SECTION 6 OF SAID TITLE AND CHAPTER BY DELETING SUBSECTION (R) THEREOF; TO AMEND SECTION 11 OF SAID TITLE AND CHAPTER BY ADDING THERETO 11.B TO CREATE A ZONING DISTRICT FOR RESIDENTIAL PLANNED DEVELOPMENTS AND TO ADOPT THE DESIGN CRITERIA BY RESOLUTION; PROVIDING OTHER MATTERS PROPERLY RELATING THERETO; PROVIDING PENALTIES FOR THE VIOLATION HEREOF; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE BOARD OF COMMISSIONERS OF THE CITY OF LAS VEGAS, NEVADA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Title XI, Chapter 1, Section 6, Subsection (C) of the Municipal Code of the City of Las Vegas, Nevada, 1960 Edition, is hereby amended by adding thereto a new paragraph designated Paragraph 7 to read as follows:

11-1-6 (C) 7. In the case of condominiums, if a portion of the land is to be held in joint ownership by the occupants with individual ownership of lots, the lots do not have to front on dedicated right-of-way provided that the land held under joint ownership does front on dedicated right-of-way and further provided that an easement of access is recorded providing access to each lot. If all of the land is to be held in joint ownership and individual ownership in fee simple will involve only air space, the individual ownership of air space will not require an easement of access, provided the land under joint ownership abuts dedicated right-of-way.

SECTION 2. Title XI, Chapter 1, Section 6, Subsection (R) of said Municipal Code is hereby deleted.

SECTION 3. Title XI, Chapter 1, Section 11 of said Municipal Code is hereby amended by adding thereto 11.B to read as follows:

11-1-11.B R-PD-RESIDENTIAL PLANNED DEVELOPMENT

(A) Purpose: The purpose of a Planned Unit Development is to allow a maximum flexibility for imaginative and innovative residential design and land utilization in accordance with the General Plan. It is intended to promote an enhancement of residential amenities by means of an efficient consolidation and utilization of open space, separation of pedestrian and vehicular traffic and a homogeneity of use patterns.

(B) Uses Permitted:

A development may consist of attached or detached single family units, townhouses, cluster units, condominiums, garden apartments, or any combination thereof.

(C) Density:

The number of dwelling units permitted per gross acre shall be determined by the General Land Use Plan. The number of dwelling units per gross acre shall be placed after the zoning symbol R-PD; for example, a development for 6 units per gross acre shall be designated as R-PD6.

(D) Minimum Site Area Requested:

Five (5) acres, except the City Commission may waive the minimum site area.

(E) Submission Requirements:

Generally, a pre-submission conference shall be required with the developer, or his authorized representative, and staff of the Planning Department to discuss density requirements and preliminary site planning. Plans necessary for submission with an application are as follows:

1. Five (5) sets of complete development plans showing the proposed uses for the property including dimensions and location of all proposed structures, parking spaces, common areas, private drives, public streets and the exterior boundaries. If the development is to be constructed in phases, each phase shall be delineated on the site plan. Each set of plans shall include floor plans and elevations of buildings.
2. Drainage information shall consist of either a contour map or sufficient information indicating the general flow pattern or percentage of slope.
3. One copy of the Conditions, Covenants and Restrictions (CC&R's).

(F) Approval:

Plans shall be approved by the Planning Commission and the Board of City Commissioners. Upon completion of the construction, in accordance with the approved plan, no changes of any type shall be permitted unless

first approved by the City Commission.

The Planning Commission and the Board of Commissioners in their approval may attach whatever conditions they deem necessary to insure the proper amenities of residential usage and to assure that the proposed development will be compatible with surrounding, existing and proposed land uses.

(G) Development Standards:

All developments shall be in accordance with the design standards adopted by the City Commission as evidenced by a resolution of record and copies of said resolution shall be available in the Planning Department. The design standards in the resolution may be amended when deemed necessary by the City Commission.

(H) Subdivision Procedure:

A Planned Unit Development shall follow the standard subdivision procedure. The tentative map shall include the public and private street design and dimension, lot design and dimension, location of driveways, buildings, walls, fences, walkways, open space areas, parking areas, drainage information, street names and location of utilities. The final map shall indicate the use, location and dimension of all proposed structures, streets, easements, driveways, walkways, parking areas, recreational facilities, open spaces and landscaped areas.

SECTION 4. Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not more than $500.00 and/or imprisonment in the city jail for not more than six (6) months, or any combination of such fine and imprisonment. Every day of such violation shall constitute a separate offense.

SECTION 5. All ordinances, or parts of ordinances, sections, subsections, phrases, clauses, sentences or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1960 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED AND APPROVED this 5th day of July, 1972.

APPROVED:

ATTEST:

Edwina M. Cole, City Clerk

ORAN K. GRAGSON, MAYOR

RESOLUTION SETTING FORTH DESIGN STANDARDS FOR RESIDENTIAL PLANNED DEVELOPMENTS UNDER THE R-PD ZONING DISTRICT OF THE ZONING ORDINANCE OF THE CITY OF LAS VEGAS AND, MORE SPECIFICALLY, REFERRING TO TITLE XI, CHAPTER 1, SECTION 11.B

Buildings:

1. Whenever common walls are proposed they shall be two-hour fire resistant.

2. In the case of a proposed condominium subdivision of an existing multi-family building, the City shall have the right to deny such subdivision unless the units are provided with two-hour fire resistant common walls, and separate utility service maintained by the Homeowners Association.

Drainage:

Drainage on the internal private and public streets shall be as required by the Department of Public Works. All common driveways shall drain to either the storm sewer or a street section.

Fire Hydrants:

Fire hydrants shall be provided as required by the Fire Department.

Fire Lanes:

Where access is not provided by means of a private street, an easement a minimum of 12 feet in width free of all vehicular impediments shall be provided for fire lanes as required by the Fire Department. Fire lanes may be grassed.

Lighting - Private Streets:

1. Common Drives: Safety lights shall be required and shall be a minimum of 40' on center with space similar to Kendall Catalogue 3663, vandal proof and tamper proof 100-watt, Lightmate wall bracket with Herculex diffuser or equal.

2. Vehicular Access Street: Shall be a minimum of 175 watt mercury vapor depending upon street design and may be Westinghouse Pinto type 2 design or equal; polycarbonate lenses shall be used in place of glass. All designs, spacing of luminaires, etc., shall be approved by the Public Works Department.

Lighting - Public Street:

Lighting on all public streets shall conform to the approved City standards.

Maintenance Covenants:

Whenever any property or facility such as parking lots, storage areas, swimming pools, or other areas, are owned jointly, a proper maintenance and use agreement shall be recorded as a covenant with the property.

Parking:

Generally, a minimum of three (3) parking spaces shall be provided for each dwelling unit; however, depending upon location and character of the neighborhood, required parking may be reduced. Parking on interior and contiguous boundary public streets may be included as a portion of the required parking.

Setbacks:

1. Setback of buildings and other sight restrictions at intersection with public and/or private streets shall have the approval of the Traffic Engineer. Generally, a setback of 20' from a public or private street shall be provided.

2. No building shall be located closer than 10' from any exterior boundary street.

Sewers:

Sanitary sewers shall be installed and maintained as required by the Department of Public Works. Sanitary sewers to be maintained by the City and not located in public streets shall be located in easements and shall be constructed in accordance with the requirements of the Public Works Department.

Streets - Private:

1. Common Drives: A private street which serves as access to parking areas and is connected to a vehicular access street or a public street. A cross section shall be required showing the common drive to be 30' wide from back of curb with roll-type or "L" type curb and gutter and alley-type openings. The alley-type openings shall be required where common drives intersect a vehicular access street or a public street. Under certain circumstances, an inverted section with a 4' concrete invert may be required. Under this alternate, the roll-type or the "L" type curb would not be required unless there is a grassed area or any area requiring periodic watering contiguous to the common drive, in which case a roll-type or "L" type curb shall be required. No sidewalks shall be required nor easement unless utilities are to be dedicated to the City. A common drive may be reduced to 26' in width when it provides parking access on one side only and a 4' clearance is provided between the curb and any structure on the opposite side.

   A common drive shall not be accepted by the City for maintenance nor shall the City assume responsibility for servicing it unless it is re-constructed to conform to the City's standards.

2. Vehicular Access: A private street connecting to a public street and usually connecting more than one common drive. A vehicular access street shall be a minimum of 40' from back of curb and constructed with an "L" type curb and gutter. No sidewalks shall be required; however, a 3' easement shall be provided on both sides behind the curb. All driveways and other access from a vehicular access street shall conform to the curb cut ordinance. A 20' minimum radius turn around shall be provided at the termination of a vehicular access street.

   A vehicular access street may be accepted for dedication and City maintenance provided it is constructed to the specified requirements.

3. Sidewalks shall not be required on the private streets but shall be required in the common areas.

4. No private street may directly connect two public streets unless the density and street design are such that the traffic will not overload the street.

5. All private streets shall be constructed as required by the Department of Public Works. The construction of all streets will be inspected by the Department of Public Works.

Streets - Public:

1. All public streets shall conform to the approved design standards as set forth by the Department of Public Works.

Street Name and Numbering:

1. All private streets shall be named and numbered as required by the Planning Department.

2. All street name signs shall be according to City standards, except that approved decorative signs may be used. A sign comparable to street name signs bearing the words "private street" shall be mounted directly below the street name sign.

Utilities:

1. Whenever more than one dwelling unit is contained within a building and ownership of the separate dwelling units will be in fee simple or in any ownership other than joint ownership, separate services such as water, power, and sanitary sewer shall be provided to each dwelling unit.

2. Whenever possible, underground utilities will normally be considered a requirement in connection with planned unit developments.

PASSED, ADOPTED AND APPROVED this 5th day of July, 1972, by the Mayor and Board of City Commissioners.

APPROVED:

Oran K. Gragson
ORAN K. GRAGSON, MAYOR

ATTEST:

Edwina M. Cole
Edwina M. Cole, City Clerk

(THIS RESOLUTION ADOPTED AS A PART OF ORDINANCE No. 1582)

The above and foregoing ordinance was first proposed and read by title to the Board of Commissioners on the 7th day of June, 1972, and referred to the following committee composed of Commissioners Thornley and Franklin for recommendation; thereafter the said committee reported favorably on said ordinance on the 5th day of July, 1972, which was a regular meeting of said Board; that at said regular meeting the proposed ordinance was read by title to the Board of Commissioners as first introduced and adopted by the following vote:

VOTING "AYE": Commissioners Franklin, Coblentz, Thornley and Mayor Gragson

VOTING "NAY": None ABSENT: Commissioner Morelli (excused)

APPROVED:

Oran K. Gragson
ORAN K. GRAGSON, MAYOR

ATTEST:

Edwina M. Cole
Edwina M. Cole, City Clerk

ROR022700

24109

RECEIVED
JUL 20 9 47 AM '72
CITY CLERK

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA, COUNTY OF CLARK } ss.

ROBERT E. HUNTER, being first duly sworn,

deposes and says: That he is COMPOSING ROOM FOREMAN of the LAS VEGAS SUN, a daily newspaper of general circulation, printed and published at Las Vegas, in the County of Clark, State of Nevada, and that the attached was continuously published in said newspaper for a period of 8 days

from July 8, 1972 to July 15, 1972

inclusive, being the issues of said newspaper for the following dates, to-wit:

July 8, 15, 1972

That said newspaper was regularly issued and circulated on each of the dates above named.

Signed R E Hunter

Subscribed and sworn to before me this 17th day of July, 1972

Ruth V. Deskin

Notary Public in and for Clark County, Nevada

My Commission Expires

RUTH V. DESKIN
Notary Public—State of Nevada
COUNTY OF CLARK
My Commission Expires April 14, 1973

ROR022701

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12628

ORDINANCE NO. 1342

AN ORDINANCE TO AMEND TITLE XI, CHAPTER 1, SECTION 6, SUBSECTION (C) OF THE MUNICIPAL CODE OF THE CITY OF LAS VEGAS, NEVADA, 1960 EDITION, BY ADDING THERETO A NEW PARAGRAPH DESIGNATED PARAGRAPH 7 TO PROVIDE FOR CONDOMINIUMS; TO AMEND SECTION 6 OF SAID TITLE AND CHAPTER BY DELETING SUBSECTION (R) THEREOF; TO AMEND SECTION 11 OF SAID TITLE AND CHAPTER BY ADDING THERETO 11.B TO CREATE A ZONING DISTRICT FOR RESIDENTIAL PLANNED DEVELOPMENTS AND TO ADOPT THE DESIGN CRITERIA BY RESOLUTION; PROVIDING OTHER MATTERS PROPERLY RELATING THERETO; PROVIDING PENALTIES FOR THE VIOLATION HEREOF; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE BOARD OF COMMISSIONERS OF THE CITY OF LAS VEGAS, NEVADA, DOES ORDAIN AS FOLLOWS:

SECTION 1: Title XI, Chapter 1, Section 6, Subsection (C) of the Municipal Code of the City of Las Vegas, Nevada, 1960 Edition, is hereby amended by adding thereto a new paragraph designated Paragraph 7 to read as follows:

11-1-6 (C) 7. In the case of condominiums, if a portion of the land is to be held in joint ownership by the occupants with individual ownership of lots, the lots do not have to front on dedicated right-of-way provided that the land held under joint ownership does front on dedicated right-of-way and further provided that an easement of access is recorded providing access to each lot. If all of the land is to be held in joint ownership and individual ownership in fee simple will involve only air space, the individual ownership of air space will not require an easement of access, provided the land under joint ownership abuts dedicated right-of-way.

SECTION 2. Title XI, Chapter 1, Section 6, Subsection (R) of said Municipal Code is hereby deleted.

SECTION 3. Title XI, Chapter 1, Section 11 of said Municipal Code is hereby amended by adding thereto 11.B to read as follows:

11-1-11.B R-PD-RESIDENTIAL PLANNED DEVELOPMENT

(A) Purpose: The purpose of a Planned Unit Development is to allow a maximum flexibility, for imaginative and innovative residential design and land utilization in accordance with the General Plan. It is intended to promote an enhancement of residential amenities by means of an efficient consolidation and utilization of open space, separation of pedestrian and vehicular traffic and a homogeneity of use patterns.

(B) Uses Permitted:

A development may consist of attached or detached single family units, townhouses, cluster units, condominiums, garden apartments, or any combination thereof.

(C) Density:

The number of dwelling units permitted per gross acre shall be determined by the General Land Use Plan. The number of dwelling units per gross acre shall be placed after the zoning symbol R-PD; for example, a development for 6 units per gross acre shall be designated as R-PD6.

(D) Minimum Site Area Requested:

Five (5) acres, except the City Commission may waive the minimum site area.

(E) Submission Requirements:

Generally, a pre-submission conference shall be required with the developer, or his authorized representative, and staff of the Planning Department to discuss density requirements and preliminary site planning. Plans necessary for submission with an application are as follows:

1. Five (5) sets of complete development plans showing the proposed uses for the property including dimensions and location of all proposed structures, parking spaces, common areas, private drives, public streets and the exterior boundaries. If the development is to be constructed in phases, each phase shall be delineated on the site plan. Each set of plans shall include floor plans and elevations of buildings.
2. Drainage information shall consist of either a contour map or sufficient information indicating the general flow pattern or percentage of slope.
3. One copy of the Conditions, Covenants and Restrictions (CC&R's).

(F) Approval:

Plans shall be approved by the Planning Commission and the Board of City Commissioners. Upon completion of the construction, in accordance with the approved plan, no changes of any type shall be permitted unless first approved by the City Commission.

The Planning Commission and the Board of Commissioners in their approval may attach whatever conditions they deem necessary to insure the greater amenities of residential usage and to assure that the proposed development will be compatible with surrounding, existing and proposed land uses.

(G) Development Standards:

All developments shall be in accordance with the design standards adopted by the City Commission as evidenced by a resolution of record and copies of said resolution shall be available in the Planning Department. The design standards in the resolution may be amended when deemed necessary by the City Commission.

(H) Subdivision Procedure:

A Planned Unit Development shall follow the standard subdivision procedure. The tentative map shall include the public and private street design and dimension, lot design and dimension, location of driveways, buildings, walls, fences, walkways, open space areas, parking areas, drainage information, street names and location of utilities. The final map shall indicate the use, location and dimension of all proposed structures, streets, easements, driveways, walkways, parking areas, recreational facilities, open spaces and landscaped areas.

SECTION 4: Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not more than $500.00 and/or imprisonment in the city jail for not more than six (6) months, or any combination of such fine and imprisonment. Every day of such violation shall constitute a separate offense.

SECTION 5: All ordinances, or parts of ordinances, sections, subsections, phrases, clauses, sentences or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1960 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED AND APPROVED this 5th day of July, 1972.

APPROVED:

/s/ Oran K. Gragson
ORAN K. GRAGSON, MAYOR

ATTEST:

/s/ Edwina M. Cole
Edwina M. Cole, City Clerk

(SEAL)

The above and foregoing ordinance was first proposed and read by title to the Board of Commissioners on the 7th day of June, 1972, and referred to the following committee composed of Commissioners Thorniey and Franklin for recommendation; thereafter the said committee reported favorably on said ordinance on the 5th day of July, 1972, which was a regular meeting of said Board; that at said regular meeting the proposed ordinance was read by title to the Board of Commissioners as first introduced and adopted by the following vote:

VOTING "AYE": Commissioners Franklin, Caplenz, Thorniey and Mayor Gragson

VOTING "NAY": None ABSENT: Commissioner Morsill (excused)

APPROVED:

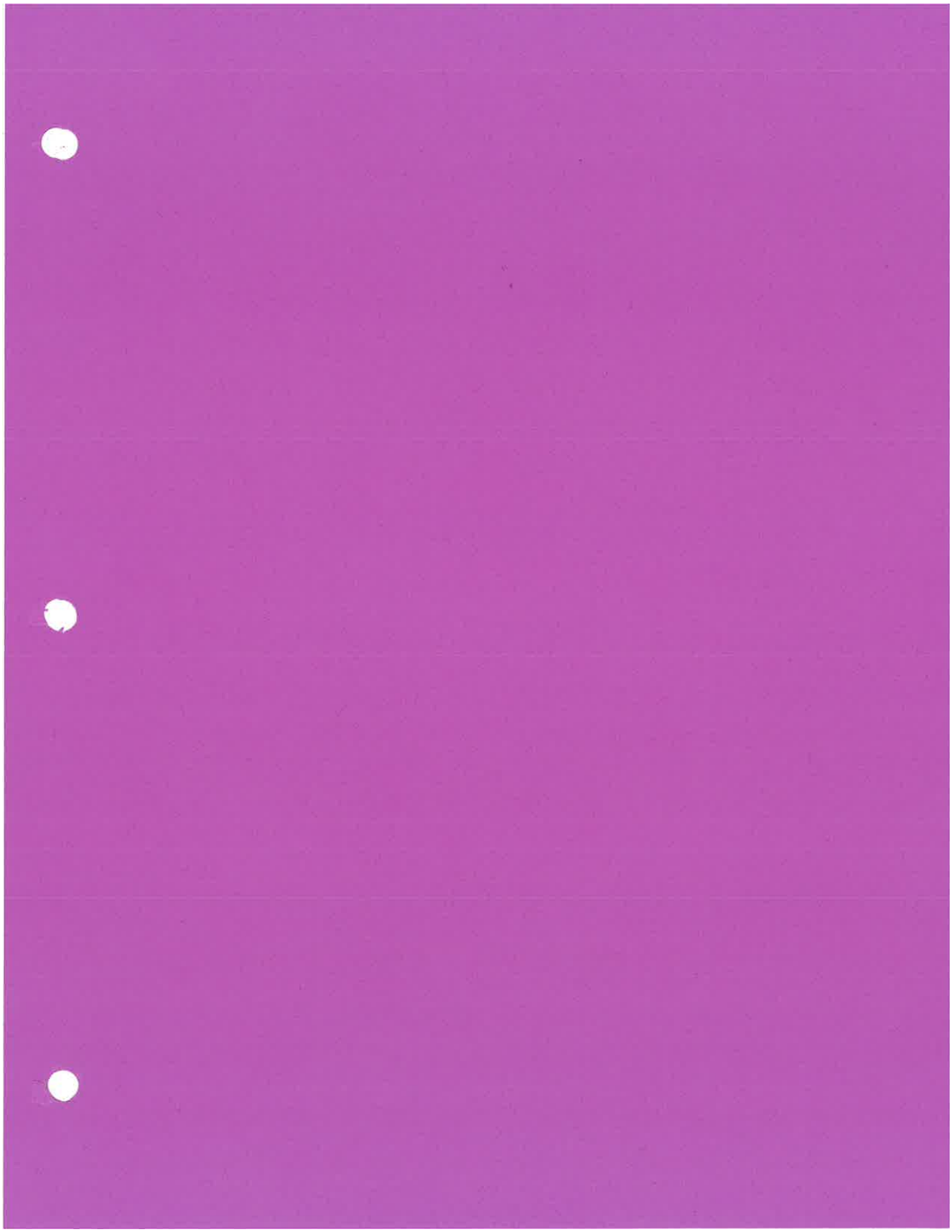
/s/ Oran K. Gragson
ORAN K. GRAGSON, MAYOR

ATTEST:

/s/ Edwina M. Cole
Edwina M. Cole, City Clerk

(SEAL)

Pub. July 8, 15, 1972



5. Sets forth the procedures pertaining to the application for hearing on and tentative and final approval of a planned unit residential development, which shall be consistent with the provisions of this chapter.

SEC. 10. Any ordinance enacted pursuant to the provisions of this chapter shall include within its provisions a written statement of the goals of the city or county with respect to land use for residential purposes, density of population, direction of growth, location and functions of streets and other public facilities, and common open space for recreation or visual benefit, or both, and such other factors as the city or county may find relevant in determining whether or not a planned unit residential development shall be authorized. This statement shall be referred to as a statement of objectives for planned unit residential developments.

SEC. 11. 1. Each ordinance enacted pursuant to the provisions of this chapter shall set forth the standards and conditions by which a proposed planned unit residential development shall be evaluated.

2. The city or county may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in the ordinance, if:

(a) Such rules and regulations are not inconsistent with the standards and conditions.

(b) Such rules and regulations are made a matter of public record.

3. Any amendment or change of such rules and regulations shall not apply to any plan for which an application for tentative approval has been made prior to the placing of public record any such amendment or change.

4. Such standards and conditions and all supplementary rules and regulations established for a particular planned residential development authorized pursuant to such ordinance shall not be inconsistent with the provisions of sections 12 to 17, inclusive, of this act.

SEC. 12. 1. An ordinance enacted pursuant to the provisions of this chapter shall set forth the uses permitted in a planned unit residential development, which uses may be limited to:

(a) Dwelling units which are not detached, semidetached or multistoried structures or any combinations thereof.

(b) Any nonresidential use to the extent such nonresidential use is designed and intended to serve the residents of the planned unit residential development.

2. An ordinance may establish regulations setting forth the timing of development among the various types of dwelling and may specify whether or not some or all nonresidential uses are to be built before, after or at the same time as the residential uses.

SEC. 13. 1. An ordinance enacted pursuant to the provisions of this chapter shall establish standards governing the density or intensity of land use in a planned unit residential development.

2. Such standards shall 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 residential development. The standards may vary the density or intensity of land use otherwise applicable to the land within the planned unit residential 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 residential development.

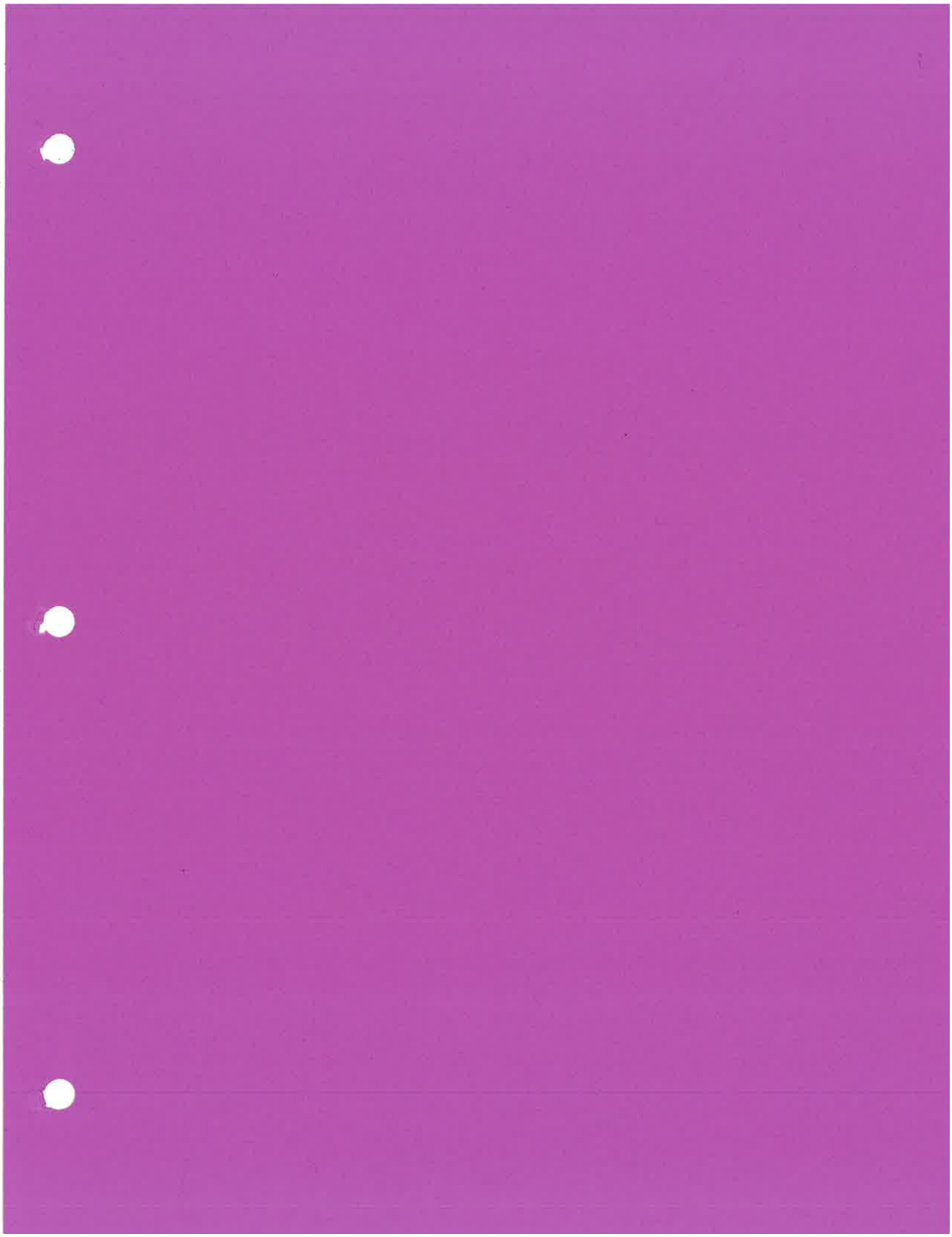
(c) The location, design and type of dwelling units.

3. In the case of a planned unit residential development which is proposed to be developed over a period of years, such standards may, to encourage the flexibility of housing 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 residential 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 some section or sections of development whether or not it be earlier or later in the development than with regard to the others. 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 such reservation shall, as far as practicable, defer the precise location of such 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. 14. The standards for a planned unit residential development established by an ordinance enacted pursuant to the provisions of this chapter shall require that any common open space resulting from the application of standards for density or intensity of land use be set aside for the use and benefit of the residents in such development and shall include provisions by which the amount and location of any common open space shall be determined and its improvement and maintenance for common open space use be secured, subject to the provisions of sections 15 to 17, inclusive, of this act.

SEC. 15. The ordinance may provide that the city or county may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the ordinance shall not require, as a condition of the approval of a planned unit residential development, that land proposed to be set aside for common open space be dedicated or made available to public use. The ordinance may require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space, and that such organization shall not be dissolved nor shall it dispose of any common open space by sale or otherwise, without first offering to dedicate such common open space to the city or county.

SEC. 16. 1. If the organization established to own and maintain common open space, or any successor organization, at any time after the establishment of a planned unit residential development, fails to maintain the common open space in a reasonable order and condition in accordance with the plan, the city or county may serve written notice upon such organization or upon the residents of the planned unit residential development, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Such notice



enate Bill No. 126–Senators Young, Hecht, Swobe, Wilson and Raggio

CHAPTER 408

AN ACT relating to land development; enabling cities and counties to provide by ordinance for planned unit residential development within their jurisdictions and grant applications for such in proper cases; and providing other matters properly relating thereto.

[Approved April 19, 1973]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Title 22 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 59, inclusive, of this act.

SEC. 2. This chapter may be cited as the Planned Unit Development Law.

SEC. 3. In order that the public health, safety, morals and general welfare be furthered in an era of increasing urbanization and of growing demand for housing of all types and design; and in order to encourage a more efficient use of land, public services or private services in lieu thereof; to reflect changes in the technology of land development so that resulting economies may be made available to those who need homes; to insure that increased flexibility of substantive regulations over land development authorized in this chapter be administered in such a way as to encourage the disposition of proposals for land development without undue delay, the provisions of this chapter are created for the use of cities and counties in the adoption of the necessary ordinances.

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↓1973 Statutes of Nevada, Page 566 (Chapter 408, SB 126)↓

welfare be furthered in an era of increasing urbanization and of growing demand for housing of all types and design; and in order to encourage a more efficient use of land, public services or private services in lieu thereof; to reflect changes in the technology of land development so that resulting economies may be made available to those who need homes; to insure that increased flexibility of substantive regulations over land development authorized in this chapter be administered in such a way as to encourage the disposition of proposals for land development without undue delay, the provisions of this chapter are created for the use of cities and counties in the adoption of the necessary ordinances.

SEC. 4. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 5 to 8, inclusive, of this act, have the meanings ascribed to them in such sections.

SEC. 5. "Common open space" means a parcel or parcels of land or an area of water or a combination of land and water within the site designated for a planned unit residential development which is designed and intended for the use or enjoyment of the residents of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of such residents.

SEC. 6. "Landowner" means the legal or beneficial owner or owners of all the land proposed to be included in a planned unit residential development. The holder of an option or contract of purchase, a lessee having a remaining term of not less than 30 years, or another person having an enforcible proprietary interest in such land is a landowner for the purposes of this chapter.

SEC. 7. "Plan" means the provisions for development of a planned unit residential 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. 8. "Planned unit residential development" means an area of land controlled by a landowner, which is to be developed as a single entity for a number of dwelling units, the plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one residential district created, from time to time, under the provisions of any zoning ordinance enacted pursuant to law.

SEC. 9. The powers granted under the provisions of this chapter may be exercised by any city or county which enacts an ordinance, if such ordinance:

1. Refers to this chapter.
2. Includes a statement of objectives for planned unit residential development, pursuant to the provisions of section 10 of this act.
3. Designates the local agency which shall exercise the powers of the city or county.
4. Sets forth the standards for a planned unit residential development consistent with the provisions of this chapter.

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↓1973 Statutes of Nevada, Page 567 (Chapter 408, SB 126)↓

5. Sets forth the procedures pertaining to the application for hearing on and tentative and final approval of a planned unit residential development, which shall be consistent with the provisions of this chapter.

SEC. 10. Any ordinance enacted pursuant to the provisions of this chapter shall include within its provisions a written statement of the goals of the city or county with respect to land use for residential purposes, density of population, direction of growth, location and functions of streets and other public facilities, and common open space for recreation or visual benefit, or both, and such other factors as the city or county may find relevant in determining whether or not a planned unit residential development shall be authorized. This statement shall be referred to as a statement of objectives for planned unit residential developments.

SEC. 11. 1. Each ordinance enacted pursuant to the provisions of this chapter shall set forth the standards and conditions by which a proposed planned unit residential development shall be evaluated.

2. The city or county may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in the ordinance, if:

(a) Such rules and regulations are not inconsistent with the standards and conditions.
(b) Such rules and regulations are made a matter of public record.

3. Any amendment or change of such rules and regulations shall not apply to any plan for which an application for tentative approval has been made prior to the placing of public record any such amendment or change.

4. Such standards and conditions and all supplementary rules and regulations established for a particular planned residential development authorized pursuant to such ordinance shall not be inconsistent with the provisions of sections 12 to 17, inclusive, of this act.

SEC. 12. 1. An ordinance enacted pursuant to the provisions of this chapter shall set forth the uses permitted in a planned unit residential development, which uses may be limited to:

(a) Dwelling units which are not detached, semidetached or multistoried structures or any combinations thereof.

(b) Any nonresidential use to the extent such nonresidential use is designed and intended to serve the residents of the planned unit residential development.

2. An ordinance may establish regulations setting forth the timing of development among the various types of dwelling and may specify whether or not some or all nonresidential uses are to be built before, after or at the same time as the residential uses.

SEC. 13. 1. An ordinance enacted pursuant to the provisions of this chapter shall establish standards governing the density or intensity of land use in a planned unit residential development.

2. Such standards shall 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 appropriated for a planned unit residential development. The standards may vary the density or intensity of land use otherwise applicable to the land within the planned unit residential development in consideration of:

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↓1973 Statutes of Nevada, Page 568 (Chapter 408, SB 126)↓

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

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

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

3. In the case of a planned unit residential development which is proposed to be developed over a period of years, such standards may, to encourage the flexibility of housing 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 residential 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 some section or sections of development whether or not it be earlier or later in the development than with regard to the others. 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 by 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 such reservation shall, as far as practicable, defer the precise location of such 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. 14. The standards for a planned unit residential development established by an ordinance enacted pursuant to the provisions of this chapter shall require that any common open space resulting from the application of standards for density or intensity of land use be set aside for the use and benefit of the residents in such development and shall include provisions by which the amount and location of any common open space shall be determined and its improvement and maintenance for common open space use be secured, subject to the provisions of sections 15 to 17, inclusive, of this act.

SEC. 15. The ordinance may provide that the city or county may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the ordinance shall not require, as a condition of the approval of a planned unit residential development, that land proposed to be set aside for common open space be dedicated or made available to public use. The ordinance may require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space, and that such organization shall not be dissolved nor shall it dispose of any common open space by sale or otherwise, without first offering to dedicate such common open space to the city or county.

SEC. 16. 1. If the organization established to own and maintain common open space, or any successor organization, at any time after the establishment of a planned unit residential development, fails to maintain the common open space in a reasonable order and condition in accordance with the plan, the city or county may serve written notice upon such organization or upon the residents of the planned unit residential development, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Such notice shall include a demand that such deficiencies of maintenance be cured within 30 days of the receipt of such notice and shall state the date and place of a hearing thereon, which shall be within 14 days of the receipt of such notice.

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↓1973 Statutes of Nevada, Page 569 (Chapter 408, SB 126)↓

shall include a demand that such deficiencies of maintenance be cured within 30 days of the receipt of such notice and shall state the date and place of a hearing thereon, which shall be within 14 days of the receipt of such notice.

2. At such hearing the city or county may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof are not cured within the 30-day period, or any extension thereof, the city or county, in order to preserve the taxable values of the properties within the planned unit residential development and to prevent the common open space from becoming a public nuisance, may enter upon such common open space and maintain it for a period of 1 year.

3. Such entry and maintenance shall not vest in the public any right to use the common open space except when such right is voluntarily dedicated to the public by the owners.

4. Before the expiration of the period of maintenance set forth in subsection 2, the city or county shall, upon its own initiative or upon the request of the organization previously responsible for the maintenance of the common open space, call a public hearing upon notice to such organization or to the residents of the planned unit residential development, to be held by the city or county. At this hearing such organization or the residents of the planned unit residential development shall show cause why such maintenance by the city or county shall not, at the election of the city or county, continue for a succeeding year.

5. If the city or county determines that such organization is ready and able to maintain the common open space in a reasonable condition, the city or county shall cease its maintenance at the end of such year.

6. If the city or county determines such organization is not ready and able to maintain the common open space in a reasonable condition, the city or county may, in its discretion, continue the maintenance of the common open space during the next succeeding year, subject to a similar hearing and determination in each year thereafter.

7. The decision of the city or county in any such case referred to in this section constitutes a final administrative decision subject to review in accordance with the provisions of law.

SEC. 17. 1. The cost of such maintenance undertaken by the city or county shall be assessed ratably against the properties within the planned unit residential development that have a right of enjoyment of the common open space, and shall become a tax lien on such properties.

2. The city or county, at the time of entering upon such common open space for the purpose of maintenance, shall file a notice of such lien in the appropriate recorder's office upon the properties affected by such lien within the planned unit residential development.

SEC. 18. No ordinance enacted pursuant to the provisions of this chapter may authorized a planned unit residential development that contains less than 5 dwelling units.

SEC. 19. 1. The authority granted a city or county by law to establish standards for the location, width, course and surfacing of public streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment, applies to such improvements within a planned unit residential development.

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↓1973 Statutes of Nevada, Page 570 (Chapter 408, SB 126)↓

sidewalks, street lights, parks, playgrounds, school grounds, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment, applies to such improvements within a planned unit residential development.

2. The standards applicable to a planned unit residential development may be different from or modifications of the standards and requirements otherwise required of subdivisions which are authorized under an ordinance enacted pursuant to the provisions of law, if the planned unit residential development ordinance sets forth the limits and extent of any modifications or changes in such standards and requirements, in order that a landowner may know the limits and extent of permissible modifications from the standards otherwise applicable to subdivisions.

3. The limits of such modification or change established in an ordinance enacted pursuant to this chapter, as well as the degree of modification or change within such limits authorized in a particular case by the city or county, shall take into account the standards and requirements established in any ordinance otherwise enacted pursuant to law, which may not be appropriate or necessary for land development of a type or design contemplated by this chapter.

SEC. 20. 1. An ordinance enacted pursuant to this chapter shall set forth the standards and criteria by which the design, bulk and location of buildings shall be evaluated, and all standards and all criteria for any feature of a planned unit residential development shall be set forth in such ordinance with sufficient certainty to provide work criteria by which specific proposals for a planned unit residential development can be evaluated.

2. Standards in such ordinance shall 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. 21. 1. The enforcement and modification of the provisions of the plan as finally approved, whether or not these are recorded by plat, covenant, easement or otherwise, are subject to the provisions contained in sections 22 to 24, inclusive, of this act.

2. Such enforcement and modification shall be to further the mutual interest of the residents of the planned unit residential development and of the public in the preservation of the integrity of the plan as finally approved. The enforcement and modification provisions are drawn also to insure that modifications, if any, in the plan will not impair the reasonable reliance of the residents upon the provisions of the plan nor result in changes that would adversely affect the public interest.

SEC. 22. The provisions of the plan relating to:

1. The use of land and the use, bulk and location of buildings and structures;
2. The quantity and location of common open space; and
3. The intensity of use or the density of residential units,

shall run in favor of the city or county and shall be enforcible in law or in equity by the city or county, without limitation on any powers of regulation otherwise granted the city or county by law.

SEC. 23. 1. All provisions of the plan shall run in favor of the residents of the planned unit residential development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan and to that extent such provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by the residents acting individually, jointly or through an organization designated in the plan to act on their behalf.

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↓1973 Statutes of Nevada, Page 571 (Chapter 408, SB 126)↓

expressly provided in the plan and in accordance with the terms of the plan and to that extent such provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by the residents acting individually, jointly or through an organization designated in the plan to act on their behalf.

2. No provision of the plan exists in favor of residents on the planned unit residential development except as to those portions of the plan which have been finally approved and have been recorded.

SEC. 24. All those provisions of the plan authorized to be enforced by the city or county under section 22 of this act 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 at law or in equity as provided in section 23 of this act.

2. 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 called and held in accordance with the appropriate provisions of this chapter, that it is

consistent with the efficient development and preservation of the entire planned unit residential development, does not adversely affect either the enjoyment of land abutting upon or across a street from the planned unit residential development or the public interest, and is not granted solely to confer a private benefit upon any person.

SEC. 25. Residents of the planned unit residential development may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove or release their rights to enforce the provisions of the plan, but no such action may affect the right of the city or county to enforce the provisions of the plan in accordance with the provisions of section 24 of this act.

SEC. 26. In order to provide an expeditious method for processing a plan for a planned unit residential 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 residential development and its continuing administration shall be consistent with the provisions set out in sections 27 to 59, inclusive, of this act.

SEC. 27. An application for tentative approval of the plan for a planned unit residential development shall be filed by or on behalf of the landowner.

SEC. 28. The application for tentative approval shall be filed by the landowner in such form, upon the payment of the fee and with such official of the city or county as shall be designated in the ordinance enacted pursuant to this chapter.

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↓1973 Statutes of Nevada, Page 572 (Chapter 408, SB 126)↓

SEC. 29. All planning, zoning and subdivision matters relating to the platting, use and development of the planned unit residential development and subsequent modifications of the regulations relating thereto to the extent such modification is vested in the city or county, shall be determined and established by the city or county.

SEC. 30. The ordinance shall require only 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 feasibility of proposals for disposition of sanitary waste and storm water.
6. 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.
7. The provisions for parking of vehicles and the location and width of proposed streets and public ways.
8. The required modifications in the municipal land use regulations otherwise applicable to the subject property.
9. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the planned unit residential development are intended to be filed.

SEC. 31. The application for tentative approval of a planned unit residential development shall include a written statement by the landowner setting forth the reasons why a planned unit residential development would be in the public interest and would be consistent with the municipal statement of objectives on planned unit residential development.

SEC. 32. 1. After the filing of an application pursuant to sections 27 to 31, inclusive, of this act, a public hearing on the application shall be held by the city or county, public notice of which shall be given in the manner prescribed by law for hearings on amendments to a zoning ordinance.

2. The city or county may continue the hearing from time to time and may refer the matter to the planning staff for a further report, a copy of which shall be filed as a public record without delay. In any event, however, the public hearing or hearings shall be concluded within 60 days after the date of the first public hearing unless the landowner consents in writing to an extension of the time within which the hearings shall be concluded.

SEC. 33. 1. The city or county shall, following the conclusion of the public hearing provided for in section 32 of this act, by minute action:

(a) Grant tentative approval of the plan as submitted;
(b) Grant tentative approval subject to specified conditions not included in the plan as submitted; or
(c) Deny tentative approval to the plan.

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↓1973 Statutes of Nevada, Page 573 (Chapter 408, SB 126)↓

If tentative approval is granted, with regard to the plan as submitted or with regard to the plan with conditions, the city or county shall, as part of its action, specify the drawings, specifications and form of performance bond that shall accompany an application for final approval.

2. If tentative approval is granted subject to conditions, the landowner shall within 10 days after receiving a copy of the written resolution of the city or county notify the city or county of his acceptance of or his refusal to accept all of the conditions.
3. If the landowner refuses to accept all the conditions, tentative approval of the plan is automatically rescinded.
4. In the event the landowner does not, within such period, notify the city or county of his acceptance of or his refusal to accept all the conditions, tentative approval of the plan, with all of the conditions, will stand as granted.
5. This section does not prevent the city or county and the landowner from mutually agreeing to a change in such conditions, and the city or county may, at the request of the landowner, extend the time during which the landowner is required to notify the city or county of his acceptance or refusal to accept the conditions.

SEC. 34. The grant or denial of tentative approval by minute action shall set forth the reasons for the grant, with or without conditions, or for the denial, and the minutes shall set forth with particularity in what respects the plan would or would not be in the public interest, including but not limited to findings of fact and conclusions of law on the following:

1. In what respects the plan is or is not consistent with the statement of objectives of a planned unit residential development.
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 such departures are or are not deemed to be in the public interest.

3. The purpose, location and amount of the common open space in the planned unit residential 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.

4. The physical design of the plan and the manner in which such 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.

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

6. 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 and of the residents of the planned unit residential development in the integrity of the plan.

SEC. 35. If a plan is granted tentative approval, with or without conditions, the city or county shall set forth, in the minute action, the time within which an application for final approval of the plan shall be filed or, in the case of a plan which provides for development over a period of years, the periods of time within which application for final approval of each part thereof shall be filed.

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↓1973 Statutes of Nevada, Page 574 (Chapter 408, SB 126)↓

filed or, in the case of a plan which provides for development over a period of years, the periods of time within which application for final approval of each part thereof shall be filed.

SEC. 36. 1. A copy of the minutes shall be mailed to the landowner. Where tentative approval has been granted, the notation of this fact shall be placed on the zoning map.

2. Tentative approval of a plan shall not qualify a plat of the planned unit residential development for recording nor 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, shall 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. Such 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 shall be revoked and all that portion of the area included in the plan for which final approval has not been given shall be subject to those local ordinances applicable thereto as they may be amended from time to time, 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 within the required time.

Notation of the action taken shall be made on the zoning map.

SEC. 37. 1. An application for final approval may be for all the land included in a plan or to the extent set forth in the tentative approval for a section thereof. Such application shall be made to the city or county within the time specified by the minutes granting tentative approval.

2. The application shall include such drawings, specifications, covenants, easements, conditions and form of performance bond as were set forth in the minutes at the time of the tentative approval.

3. A public hearing on an application for final approval of the plan, or any part thereof, is not required if the plan, or any part thereof, submitted for final approval is in substantial compliance with the plan which has been given tentative approval.

SEC. 38. The plan submitted for final approval is in substantial compliance with the plan previously given tentative approval if any modification by the landowner of the plan as tentatively approved does not:

1. Vary the proposed gross residential density or intensity of use;
2. Involve a reduction of the area set aside for common open space nor the substantial relocation of such area;
3. Increases the floor area proposed for nonresidential use; or
4. Increase the total ground areas covered by buildings or involve a substantial change in the height of buildings.

A public hearing shall not be held to consider modifications in the location and design of streets or facilities for water and for disposal of storm water and sanitary sewage.

SEC. 39. 1. A public hearing shall not be held on an application for final approval of a plan when such plan, as submitted for final approval, is in substantial compliance with the plan as tentatively approved.

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↓1973 Statutes of Nevada, Page 575 (Chapter 408, SB 126)↓

final approval of a plan when such plan, as submitted for final approval, is in substantial compliance with the plan as tentatively approved. The burden is upon the landowner to show the city or county good cause for any variation between the plan as tentatively approved and the plan as submitted for final approval.

2. If a public hearing is not required for final approval and application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, as required by the minutes of tentative approval, the city or county shall grant such plan final approval. If the plan as submitted contains variations from the plan given tentative approval, but remains in substantial compliance with the plan as submitted for tentative approval, the city or county may, after a meeting with the landowner, refuse to grant final approval and shall, within 30 days from the filing of the application for final approval, so advise the landowner by written notice, setting forth the reasons for the refusal, relating them to one or another of what it considers to be departures from the public interest.

3. If the city or county refuses to grant final approval, the landowner may:

(a) File his application for final approval without the variations objected to by the city or county, on or before the last day of the time within which he was authorized by the minutes granting tentative approval to file for final approval, or within 30 days from the date he received notice of such refusal, whichever date is later; or

(b) Treat the refusal as a denial of final approval and so notify the city or county.

SEC. 40. 1. If the plan, as submitted for final approval, is not in substantial compliance with the plan as given tentative approval, the city or county shall, within 30 days of the date of the filing of the application for final approval, notify the landowner in writing, setting forth the particular ways in which the plan is not in substantial compliance.

2. The landowner may:

(a) Treat such notification as a denial of final approval;
(b) Refile his plan in a form which is in substantial compliance with the plan as tentatively approved; or
(c) File a written request with the city or county that it hold a public hearing on his application for final approval.

If the landowner elects the alternatives set out in paragraphs (b) or (c) above, he may refile his plan or file a request for a public hearing, as the case may be, on or before the last day of the time within which he was authorized by the minutes granting tentative approval to file for final approval, or 30 days from the date he receives notice of such refusal, whichever is the later.

3. Any such public hearing shall be held within 30 days after request for the hearing is made by the landowner, and notice thereof shall be given and hearings shall be conducted in the manner prescribed in section 32 of this act.

4. Within 20 days after the conclusion of the hearing, the city or county shall, by minute action, either grant final approval to the plan or deny final approval to the plan. The grant or denial of final approval of the plan shall, in cases arising under this section, contain the matters required with respect to an application for tentative approval by section 34 of this act.

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↓1973 Statutes of Nevada, Page 576 (Chapter 408, SB 126)↓

required with respect to an application for tentative approval by section 34 of this act.

SEC. 41. If the city or county fails to act either by grant or denial of final approval of the plan within the time prescribed, the landowner may, after 30 days' written notice to the city or county, file a complaint in the district court in and for the appropriate county.

SEC. 42. 1. A plan, or any part thereof, which has been given final approval by the city or county, shall be certified without delay by the city or county and shall be filed of record in the office of the appropriate county recorder before any development shall take place in accordance therewith.

2. Upon the filing of record of the plan, the zoning and subdivision regulations otherwise applicable to the land included in the plan shall cease to be of any further force and effect.

3. Pending completion of such planned unit residential development, or of that part thereof that has been finally approved, no modification of the provisions of such plan, or any part thereof as finally approved, shall be made, nor shall it be impaired by any act of the city or county except with the consent of the landowner.

SEC. 43. No further development shall take place on the property included in the plan until after the property is resubdivided and is reclassified by an enactment of an amendment to the zoning ordinance if:

1. The plan, or a section thereof, is given approval and, thereafter, the landowner abandons such plan or the section thereof as finally approved and gives written notification thereof to the city or county; or

2. The landowner fails to commence and carry out the planned unit residential development within a reasonable period of time after the final approval has been granted.

SEC. 44. Any decision of the city or county under this chapter granting or denying tentative or final approval of the plan or authorizing or refusing to authorize a modification in a plan is a final administrative decision and is subject to judicial review in properly presented cases.

SEC. 45. 1. An ordinance enacted pursuant to this chapter may contain the minimum design standards set forth in sections 46 to 59, inclusive, of this act.

2. Where reference is made in any of these standards to a department which does not exist in the city or county concerned, the ordinance may provide for the discharge of the duty or exercise of the power by another agency of the city or county or by the governing body.

SEC. 46. A planned unit development may consist of attached or detached single family units, townhouses, cluster units, condominiums, garden apartments or any combination thereof.

SEC. 47. The minimum site area is 5 acres, except that the governing body may waive this minimum when proper planning justification is shown.

SEC. 48. Within the buildings, whenever common walls are proposed they shall be 2-hour fire resistant.

SEC. 49. Drainage on the internal private and public streets shall be as required by the public works department. All common driveways shall drain to either storm sewers or a street section.

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↓1973 Statutes of Nevada, Page 577 (Chapter 408, SB 126)↓

SEC. 50. Fire hydrants shall be provided and installed as required by the fire department.

SEC. 51. Where access is not provided by means of a private street, an easement at least 12 feet in width free of all vehicular impediments shall be provided for fire lanes as required by the fire department. Fire lanes may be grass areas.

SEC. 52. Exterior lighting within the development shall be provided as follows:

1. On private common drives, safety lights are required and shall be placed no more than 40 feet apart on center with fixtures similar to Kendall # 3663, vandal proof and tamper proof 100 watt, Lightmate wall bracket with Herculex diffuser or equal.

2. On private vehicular access streets, each light shall be a minimum of 175 watt mercury vapor, depending upon street design, and may be Westinghouse Pinto type 2 design or equal. Polycarbonate lenses shall be used in place of glass. All designs, including spacing of luminaires shall be approved by the public works department.

3. The lighting on all public streets shall conform to the standards approved by the governing body for regular use elsewhere in the city or county.

SEC. 53. Whenever any property or facility such as parking lots, storage areas, swimming pools or other areas, is owned jointly, a proper maintenance and use agreement shall be recorded as a covenant with the property.

SEC. 54. A minimum of three parking spaces shall be provided for each dwelling unit, except that required parking may be reduced by the governing body upon showing of proper justification. Parking on interior and contiguous boundary public streets may be included as a portion of the required parking.

SEC. 55. 1. Setback of buildings and other sight restrictions at the intersection of public or private streets shall have the approval of the traffic department. A setback of 20 feet from a public or private street shall be provided.

2. No building may be located closer than 10 feet to any exterior boundary street.

SEC. 56. Sanitary sewers shall be installed and maintained as required by the public works department. Sanitary sewers to be maintained by the governing body and not located in public streets shall be located in easements and shall be constructed in

accordance with the requirements of the public works department.

SEC. 57. 1. The streets within the development may be private or public.

2. A private street which serves as access to parking areas and is connected to a vehicular access street or a public street is a common drive. A cross section is required showing the common drive to be 30 feet wide from back of curb to back of curb with roll-type or "L" type curb and gutter and alley-type openings. The alley-type openings are required where common drives intersect a vehicular access street or a public street. No sidewalks are required and no easements are required unless utilities are to be dedicated to the governing body. A common drive may be reduced to 26 feet in width when it provides parking access on one side only and a 4 foot clearance is provided between the curb and any structures on the opposite side.

.....

↓1973 Statutes of Nevada, Page 578 (Chapter 408, SB 126)↓

reduced to 26 feet in width when it provides parking access on one side only and a 4 foot clearance is provided between the curb and any structures on the opposite side. A common drive shall not be accepted by the governing body for maintenance and the governing body shall not assume responsibility for servicing it unless it meets or is reconstructed to conform to the standards set by the governing body.

3. A private street connecting to a public street and usually connecting more than one common drive is a vehicular access street. A vehicular access street shall be a minimum of 40 feet from back of curb to back of curb and constructed with an "L" type curb and gutter. No sidewalks are required, but a 3 foot easement shall be provided on both sides behind the curb. All driveways and other accesses shall conform to curb cut standards. A turnaround whose minimum radius is 20 feet shall be provided at the terminus of a vehicular access street. A vehicular access street may be accepted for dedication and maintenance if it is constructed to the specified requirements.

4. Sidewalks are not required on the private streets but are required in the common areas.

5. No private street may directly connect two public streets unless the density and street design are such that the traffic will not overload the street.

6. All private streets shall be constructed as required by the public works department. The construction of all streets shall be inspected by the public works department.

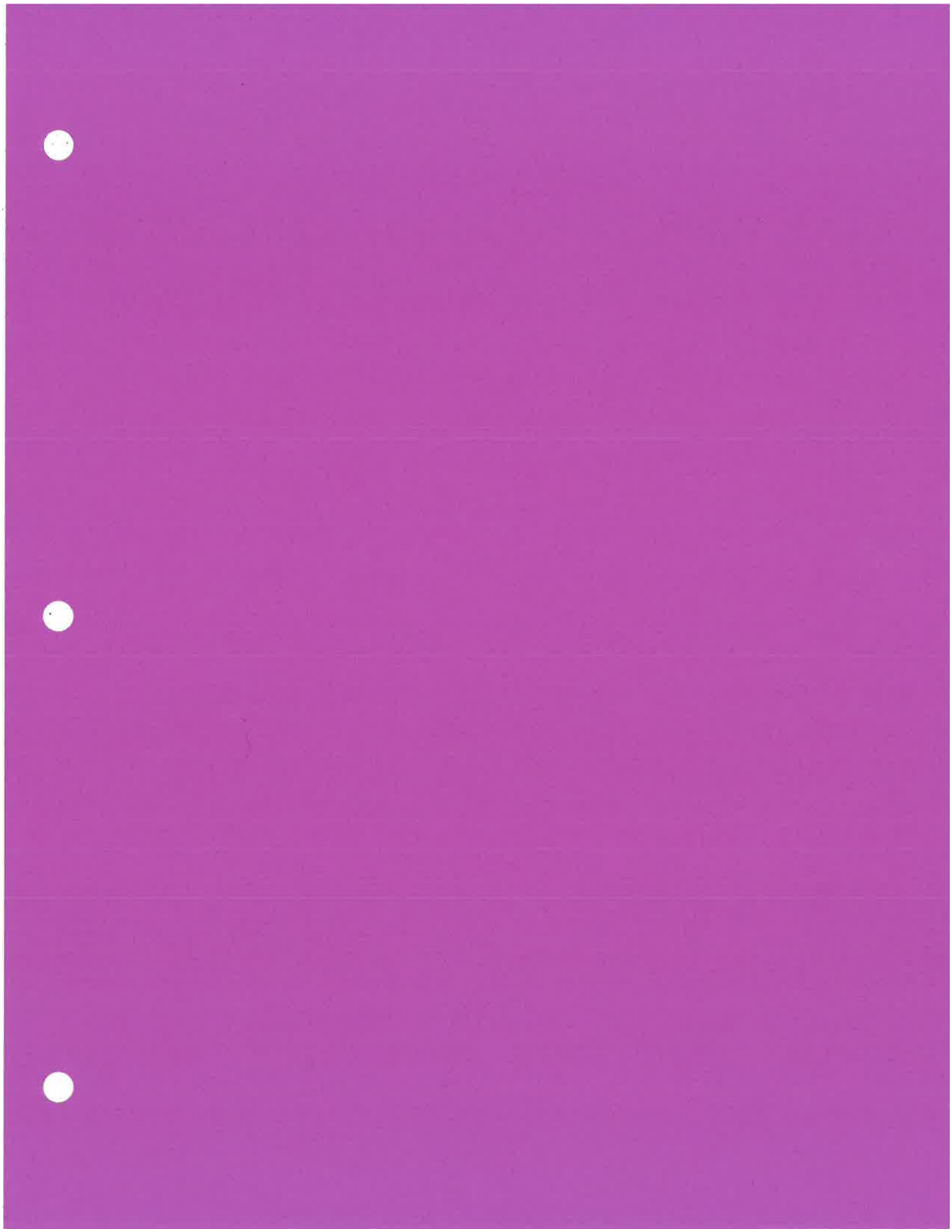
7. All public streets shall conform to the design standards approved by the governing body.

SEC. 58. All private streets shall be named and numbered as required by the governing body. A sign comparable to street name signs bearing the words "private street" shall be mounted directly below the street name sign.

SEC. 59. 1. Whenever more than one dwelling unit is contained within a building and ownership of the separate dwelling units will be in fee simple or in any ownership other than joint ownership, separate services such as water, power, and sanitary sewer shall be provided to each dwelling unit.

2. Whenever possible, underground utilities shall be required in connection with planned unit developments. The governing body shall decide in each instance.

3. The electric service box, when located in the front of a building, must be recessed flush with the wall with the meter enclosed by means of an accessible box.



3. The Nevada highway patrol, upon written application, shall issue a permit [for the operation of] *to mount* a flashing amber light [for the following:] *on:*

(a) Public utility vehicles.

(b) Tow trucks.

(c) Vehicles engaged in activities which create a public hazard upon the streets or highways.

(d) Vehicles of coroners and their deputies.

(e) Vehicles of Civil Air Patrol rescue units.

(f) Vehicles of authorized sheriffs' jeep squadrons.

[2.] *4.* Such permits expire on June 30 of each calendar year.

[3.] *5.* The Nevada highway patrol shall charge and collect the following fees for the issuance of a permit for the operation of a flashing amber light:

(a) Permit for a single vehicle..... $2

(b) Blanket permit for more than 5 but less than 15 vehicles..... 12

(c) Blanket permit for 15 vehicles or more..... 24

[4. Subsection 3 does] *6. Subsections 1 and 2 do* not apply to an agency of any state or political subdivision thereof, or to an agency of the United States Government.

[5.] *7.* All fees collected by the Nevada highway patrol pursuant to this section [shall] *must* be deposited with the state treasurer for credit to the motor vehicle fund.

SEC. 2. NRS 484.581 is hereby repealed.

Assembly Bill No. 61—Committee on Government Affairs

CHAPTER 53

AN ACT relating to planned unit developments; authorizing industrial and commercial planned unit developments; and providing other matters properly relating thereto.

[Approved March 24, 1981]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 278A of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. "Planned unit development" means an area of land controlled by a landowner, which is to be developed as a single entity for one or more planned unit residential developments, one or more public, quasi-public, commercial or industrial areas, or both, within proportions of nonresidential uses to residential uses specified in the zoning ordinance.

2. Unless otherwise stated, "planned unit development" includes the term "planned unit residential development".

SEC. 2. NRS 278A.020 is hereby amended to read as follows:

278A.020 [In order that] *The legislature finds that the provisions of this chapter are necessary to further* the public health, safety, morals

and general welfare [be furthered] in an era of increasing urbanization and of growing demand for housing of all types and design; [and in order] *to provide for necessary commercial and industrial facilities conveniently located to that housing;* to encourage a more efficient use of land, public services or private services in lieu thereof; to reflect changes in the technology of land development so that resulting economies may be made available to those who need homes; to insure that increased flexibility of substantive regulations over land development authorized in this chapter be administered in such a way as to encourage the disposition of proposals for land development without undue delay, [the provisions of this chapter] *and* are created for the use of cities and counties in the adoption of the necessary ordinances.

SEC. 3. NRS 278A.040 is hereby amended to read as follows:

278A.040 "Common open space" means a parcel or parcels of land or an area of water or a combination of land and water within the site designated for a planned unit [residential] development which is designed and intended for the use or enjoyment of the residents *or owners* of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of [such residents.] *the residents or owners of the development.*

SEC. 4. NRS 278A.050 is hereby amended to read as follows:

278A.050 "Landowner" means the legal or beneficial owner or owners of all the land proposed to be included in a planned unit [residential] development. The holder of an option or contract of purchase, a lessee having a remaining term of not less than 30 years, or another person having an enforceable proprietary interest in [such] *the* land is a landowner for the purposes of this chapter.

SEC. 5. NRS 278A.060 is hereby amended to read as follows:

278A.060 "Plan" means the provisions for development of a planned unit [residential] 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. 6. NRS 278A.090 is hereby amended to read as follows:

278A.090 [1.] Each ordinance enacted pursuant to the provisions of this chapter [shall] *must* set forth the standards and conditions by which a proposed planned unit [residential] development [shall be] *is* evaluated.

[2. The city or county may prescribe, from time to time, regulations to supplement the standards and conditions set forth in the ordinance, if the regulations are made a matter of public record.

3. Any amendment or change of the regulations does not apply to any plan for which an application for tentative approval is made prior to the placing of public record any such amendment or change.]

SEC. 7. NRS 278A.100 is hereby amended to read as follows:

278A.100 An ordinance enacted pursuant to the provisions of this chapter [shall] *must* set forth the uses permitted in a planned unit [residential] development.

SEC. 8. NRS 278A.110 is hereby amended to read as follows:

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

2. The standards [shall] *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 [residential] development. The standards may vary the density or intensity of land use otherwise applicable to the land within the planned unit [residential] 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 [residential] development.

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

(d) The criteria for approval of a tenative map of a subdivision.

3. In the case of a planned unit [residential] development which is proposed to be developed over a period of years, [such] *the* standards may, to encourage the flexibility of [housing] 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 [residential] 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 some section or sections of development whether or not it be earlier or later in the development than with regard to the others. 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 [such reservation shall,] *the reservation must,* as far as practicable, defer the precise location of [such] *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. 9. NRS 278A.120 is hereby amended to read as follows:

278A.120 The standards for a planned unit [residential] development established by an ordinance enacted pursuant to the provisions of this chapter [shall] *must* require that any common open space resulting from the application of standards for density or intensity of land use be set aside for the use and benefit of the residents [in such] *or owners of the* development and [shall] *must* include provisions by which the amount and location of any common open space [shall be] *is* determined and its improvement and maintenance *secured.* [for common open space use be secured, subject to the provisions of NRS 278A.130 to 278A.190, inclusive.]

SEC. 10. NRS 278A.130 is hereby amended to read as follows:

278A.130 1. The ordinance [shall] *must* provide that the city or county may [, at any time and from time to time,] accept the dedication of land or any interest therein for public use and maintenance, but the ordinance [shall] *must* not require, as a condition of the approval

of a planned unit [residential] development, that land proposed to be set aside for common open space be dedicated or made available to public use. The ordinance may require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space, and that [such] *the* organization [shall] *may* not be dissolved [nor shall it] *or* dispose of any common open space by sale or otherwise, without first offering to dedicate [such] *the* common open space to the city or [county, which offer shall] *county. That offer must* be accepted or rejected within 120 days.

2. The ordinance may authorize [such] *the* organization to make reasonable assessments to meet its necessary expenditures for maintaining the common open space in reasonable order and condition in accordance with the plan. The assessments [shall] *must* be made ratably against the properties within the planned unit [residential] development that have a right of enjoyment of the common open space. The ordinance may provide for agreement between the organization and the property owners providing:

(a) A reasonable method for notice and levy of the assessment; and

(b) For the subordination of the liens securing [such] *the* assessment to other liens either generally or specifically described.

SEC. 11. NRS 278A.140 is hereby amended to read as follows:

278A.140 An organization established [pursuant to NRS 278A.130] for the ownership and maintenance of common open space which receives payments from owners of property within the planned unit [residential] development for [such] *the* maintenance shall:

1. Immediately deposit [such] *the* payments in a separate trust account maintained by it with some bank or recognized depositary in this state.

2. Keep records of all [such] payments deposited therein and all disbursements therefrom.

SEC. 12. NRS 278A.150 is hereby amended to read as follows:

278A.150 1. Any reasonable assessment upon any property within the planned unit [residential] development [levied pursuant to NRS 278A.130 shall be] *is* a debt of the owner thereof at the time the assessment is made. The amount of the assessment plus interest, costs including attorney fees and penalties [shall be] *is* a lien upon the property assessed when the organization causes to be recorded with the county recorder of the county wherein the development is located a notice of assessment which [shall state:] *states:*

(a) The amount of the assessment and interest, costs and penalties;

(b) A description of the property against which [the same] *it* has been assessed; and

(c) The name of the record owner of the property.

[Such notice shall] *The notice must* be signed by an authorized representative of the organization or as otherwise agreed. Upon payment or other satisfaction of the assessment and charges, the organization shall cause to be recorded a further notice stating the satisfaction and the release of the lien.

2. [Such lien shall be] *The lien is* prior to property taxes and assessments recorded subsequent to the recordation of the notice of assessment except where the agreement provides for its subordination

to other liens and encumbrances. Unless sooner satisfied and released or its enforcement initiated, [as provided in NRS 278A.160,] the lien [shall expire and be of no further force or effect] *expires* 2 years from the date of recordation of the notice of assessment, but the 2-year period may be extended by the organization for not more than 2 additional years by recording a written extension thereof.

3. [Such] *The* lien may be enforced by sale by the organization, its agent or attorney after failure of the owner to pay [such] *the* assessment in accordance with its terms. [Such sale shall] *The sale must* be conducted in accordance with the provisions of Covenants Nos. 6, 7 and 8 of NRS 107.030 and 107.090 insofar as they are consistent with the provisions of NRS 278A.160, or in any other manner *so consistent and* permitted by law. Unless otherwise provided by agreement the organization, if it is a corporation, cooperative association, partnership or natural person, may [bid in] *purchase* the property at foreclosure sale and hold, lease, mortgage and convey it.

SEC. 13. NRS 278A.160 is hereby amended to read as follows:

278A.160 1. The power of sale conferred in NRS 278A.150 [shall] *may* not be exercised until:

(a) The organization, its agent or attorney has first executed and caused to be recorded with the recorder of the county [wherein] *in which* the property is located a notice of default and election to sell the property or cause its sale to satisfy the assessment lien; and

(b) The property owner or his successor in interest has failed to pay the amount of the lien including costs, fees and expenses incident to its enforcement for a period of 60 days. [computed as prescribed in subsection 2.]

2. The 60-day period [provided in subsection 1 shall commence] *commences* on the first day following the day upon which the notice of default and election to sell is recorded [as herein provided] and a copy of the notice is mailed by certified [or registered] mail with postage prepaid to the property owner or to his successor in interest at his address if [such] *the* address is known, otherwise to the address of the property. The notice [shall] *must* describe the deficiency in payment.

3. The organization, its agent or attorney shall, after expiration of the 60-day period and [prior to] *before* selling the property, give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that a copy of the notice of sale [shall] *must* be mailed on or before the first publication or posting [required by NRS 21.130] by certified [or registered] mail with postage prepaid to the property owner or to his successor in interest at his address if [such] *that* address is known, otherwise to the address of the property. The sale itself may be made at the office of the organization if the notice so provided, whether the property is located within the same county as the office of the organization or not.

4. Every sale made under the provisions of NRS 278A.150 vests in the purchaser the title of the property owner without equity or right of redemption.

SEC. 14. NRS 278A.180 is hereby amended to read as follows:

278A.180 1. If the organization established to own and maintain