

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Assembly Committee on Commerce and Labor

This measure may be considered for action during today's work session.

ASSEMBLY BILL 213

Revises provisions governing residential zoning. (BDR 22-250)

Sponsored By: Assemblywoman Jauregui
Date Heard: March 29, 2023
Fiscal Notes: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE

Assembly Bill 213 requires a governing body to publish on its Internet website a list of applications that concern any matter relating to land use planning in areas zoned for residential housing. The measure also provides that in a county whose population is 700,000 or more, a rural neighborhood plan must show general plans that consider the character and density of rural neighborhoods. A governing body is authorized to offer increased residential density for multi-family or multi-story residential development as one measure for maintaining and developing affordable housing. The bill provides that certain deadlines relating to land use planning that apply to counties also apply to cities. In addition, on or before July 1, 2024, the governing body of each county and city must enact certain ordinances relating to affordable housing projects.

Amendments: Assemblywoman Jauregui proposes the following amendments (attached):

1. Amend subsection 1 of Section 1 of the bill to provide that a governing body must publish on its Internet website relating to land use planning for residential housing and defines "application."
2. Amend subsection 5 of Section 3 to provide that a governing body or its designee may establish a preliminary application process to help an applicant submit a complete application but must not use any kind of a preliminary application process to circumvent the provisions of this section. Any preliminary application process must ensure a substantive meeting between an applicant and a governing body or its designee within 15 working days of an applicant's request.
3. Delete Section 4 of the bill, which requires a rural neighborhood's plan required by certain counties to consider, rather than preserve, the character and density of rural neighborhoods.
4. Amend subsection 1 of Section 5 to add "or multi-story" to subsection 1(i) and to delete subsection 1(m).
5. Amend subsection 3 of Section 5 to change "on or before January 15 of each year" to "on or before July 15 of each year."
6. Amend subsections 3(b), 3(c), and 3(d) of Section 5 to delete the additional contents of the annual report that the governing body is required to submit to the Housing Division of the Department of Business and Industry relating to affordable housing.
7. Amend the subsection 4 of Section 5 to change "on or before February 15 of each year" to "on or before August 15 of each year."
8. Delete Section 6 of the bill, which requires zoning districts be designed to ensure the consideration, rather than the protection, of existing neighborhoods and communities including rural preservation neighborhoods.

9. Delete Section 8 of the bill, which provides that if a reviewing agency fails to file certain written comments within 15 days after receipt of the tentative map, it must be deemed that the reviewing agency recommends unconditionally the approval of the tentative map.
10. Delete Section 11 of the bill, which provides that certain regulations of the State Fire Marshal do not apply in certain cities and counties.
11. Amend Section 12 of the bill to revise the criteria for an expedited process for the consideration and approval of projects for affordable housing in the county or city.
12. Add a new section to the bill requiring a governing body to submit a plan to the Housing Division and the Advisory Committee on Housing on or before July 15, 2024, and on each subsequent July 15, the information required by *Nevada Revised Statutes* 278.160(1)(c) for the preceding year, including a plan for maintaining the developing affordable housing and market rate housing to meet the housing needs of the community for a period of at least five year and define "market rate housing." On or before September 15 of each year, the Housing Division must compile the reports and post the compilation on its Internet website.
13. Amend the effective date of Section 1 of the bill, which becomes effective on January 1, 2024.

Proposed Amendment to AB 213

4/13/23 11:30 a.m.

Blue bold italics represent additions proposed by bill as introduced; red bracketed strikethrough represents deletions proposed by bill as introduced; green bold underlining represents material proposed for addition by amendment; purple double strikethrough represents material proposed for deletion by amendment.

Sec. 1

Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A governing body shall publish on its Internet website a list of all applications ~~that concern any matter relating to land use planning in areas zoned~~ for residential housing pursuant to NRS 278.010 to 278.630, inclusive.

2. The list must be updated at least monthly and include, without limitation:

- (a) The date an application was initially filed;*
- (b) The number of days an application has been pending;*
- (c) The number of times an application was issued a notice for incompleteness; ~~and~~*
- (d) The number of applications rejected for being incomplete; and*
- (e) Any other information relevant to Section 13.*

For purposes of this section, the term “application” includes any preliminary application established pursuant to Section 3(5), but does not include an application for building permit.

Sec. 3. NRS 278.02327 is hereby amended to read as follows:

278.02327 1. Any application submitted to a governing body or its designee that concerns any matter relating to land use planning pursuant to NRS 278.010 to 278.630, inclusive, *and section 1 of this act*, or any ordinance, resolution or regulation adopted pursuant thereto, may not be accepted by the governing body or its designee if the application is incomplete.

2. The governing body or its designee shall, within 3 working days after receiving an application of the type described in subsection 1:

- (a) Review the application for completeness;
 - (b) Accept the application if the governing body or its designee finds that the application is complete or return the application if the governing body or its designee finds that the application is incomplete; and
 - (c) If the governing body or its designee returns the application:
 - (1) Provide to the applicant a *specific* description of the additional information required;
- and

(2) ~~[If requested by the applicant, provide]~~ *Provide* to the applicant a copy of the relevant provision of the ordinance, resolution or regulation which specifically requires the additional information or an explanation of why the additional information is necessary.

3. If a governing body or its designee fails to comply with the provisions of subsection 2, the application shall be deemed to be complete.

4. Once an applicant submits a corrected application in response to a notice of incompleteness provided pursuant to subsection 2, the governing body or its designee shall review and respond to the corrected application within 3 working days.

5. A governing body or its designee may establish a preliminary application process to help an applicant submit a complete application but shall not use any kind of a preliminary application

process to circumvent the provisions of this section. Any preliminary application process must ensure a substantive meeting between an applicant and a governing body or its designee within 15 working days of an applicant's request.

6. As used in this section, "designee" means any division, department or agency of a governing body with jurisdiction over land use planning, improvement planning, permitting, inspection, zoning, roadways, utilities, public health, water, sewer, drainage, traffic control and public works.

Sec. 4

Delete all proposed amendments from AB 213, i.e. NRS 278.160 remains unchanged.

Sec. 5. NRS 278.235 is hereby amended to read as follows:

278.235 1. If the governing body of a city or county is required to include the housing element in its master plan pursuant to NRS 278.150, the governing body, in carrying out the plan for maintaining and developing affordable housing to meet the housing needs of the community, which is required to be included in the housing element pursuant to subparagraph (8) of paragraph (c) of subsection 1 of NRS 278.160, shall adopt at least six of the following measures:

(a) Reducing or subsidizing in whole or in part impact fees, fees for the issuance of building permits collected pursuant to NRS 278.580 and fees imposed for the purpose for which an enterprise fund was created.

(b) Selling land owned by the city or county, as applicable, to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value of the land, and requiring that any such savings, subsidy or reduction in price be passed on to the purchaser of housing in such a development. Nothing in this paragraph authorizes a city or county to obtain land pursuant to the power of eminent domain for the purposes set forth in this paragraph.

(c) Donating land owned by the city or county to a nonprofit organization to be used for affordable housing.

(d) Leasing land by the city or county to be used for affordable housing.

(e) Requesting to purchase land owned by the Federal Government at a discounted price for the creation of affordable housing pursuant to the provisions of section 7(b) of the Southern Nevada Public Land Management Act of 1998, Public Law 105-263.

(f) Establishing a trust fund for affordable housing that must be used for the acquisition, construction or rehabilitation of affordable housing.

(g) Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing.

(h) Providing money, support or density bonuses for affordable housing developments that are financed, wholly or in part, with low-income housing tax credits, private activity bonds or money from a governmental entity for affordable housing, including, without limitation, money received pursuant to 12 U.S.C. § 1701q and 42 U.S.C. § 8013.

(i) Providing financial incentives or density bonuses to promote appropriate transit-oriented or multi-story housing developments that would include an affordable housing component.

(j) Offering density bonuses or other incentives to encourage the development of affordable housing.

(k) Providing direct financial assistance to qualified applicants for the purchase or rental of affordable housing.

(l) Providing money for supportive services necessary to enable persons with supportive housing needs to reside in affordable housing in accordance with a need for supportive housing identified in the 5-year consolidated plan adopted by the United States Department of Housing and Urban Development for the city or county pursuant to 42 U.S.C. § 12705 and described in 24 C.F.R. Part 91.

~~(m) Offering increased residential density for multi-family or multi-story residential development.~~

2. A governing body may reduce or subsidize impact fees, fees for the issuance of building permits or fees imposed for the purpose for which an enterprise fund was created to assist in maintaining or developing a project for affordable housing, pursuant to paragraph (a) of subsection 1, only if:

(a) When the incomes of all the residents of the project for affordable housing are averaged, the housing would be affordable on average for a family with a total gross income that does not exceed 60 percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.

(b) The governing body has adopted an ordinance that establishes the criteria that a project for affordable housing must satisfy to receive assistance in maintaining or developing the project for affordable housing. Such criteria must be designed to put into effect all relevant elements of the master plan adopted by the governing body pursuant to NRS 278.150.

(c) The project for affordable housing satisfies the criteria set forth in the ordinance adopted pursuant to paragraph (b).

(d) The governing body makes a determination that reducing or subsidizing such fees will not impair adversely the ability of the governing body to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from such fees was pledged.

(e) The governing body holds a public hearing concerning the effect of the reduction or subsidization of such fees on the economic viability of the general fund of the city or county, as applicable, and, if applicable, the economic viability of any affected enterprise fund.

3. On or before ~~January~~ **July** 15 of each year, the governing body shall submit to the Housing Division of the Department of Business and Industry a report, in the form prescribed by the Housing Division, of how the measures adopted pursuant to subsection 1 assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year. The report must include ~~and:~~

~~—(a) An analysis of the need for affordable housing within the city or county that exists at the end of the reporting period;~~

~~—(b) The number and status of parcels of land that have been identified within the city or county for affordable housing projects;~~

~~—(c) A summary of all residential dwelling units approved for development in the city or county in the preceding year; and~~

~~—(d) An estimate of the number of residential dwelling units expected to be necessary to accommodate the projected growth of the city or county in each of the next 5 years and a plan to provide appropriate zoning for such projected growth, including, without limitation, a list of parcels that may be appropriate for rezoning and a list of other parcels that may be developed into residential dwelling units.~~

→The governing body shall cooperate with the Housing Division to ensure that the information contained in the report is appropriate for inclusion in, and can be effectively incorporated into, the statewide low-income housing database created pursuant to NRS 319.143.

4. On or before ~~February~~ **August** 15 of each year, the Housing Division shall compile the reports submitted pursuant to subsection 3 and post the compilation on the Internet website of the Housing Division.

Sec. 6

Delete all proposed amendments from AB 213, i.e. NRS 278.250 remains unchanged.

Sec. 8

Delete all proposed amendments from AB 213, i.e. NRS 278.335 remains unchanged.

Sec. 11

Delete all proposed amendments from AB 213 – i.e. 477.030 remains unchanged.

Sec. 12

1. On or before July 1, 2024, the governing body of each county and city shall enact by ordinance:

(a) An expedited process for the consideration and approval of projects for affordable housing in the county or city, as applicable. Such expedited process must ~~be at least 50 percent faster than~~ prioritize, to the extent reasonably practical, the processing of such projects over all other projects and allow deviation from the current process for the consideration and approval of projects for affordable housing. Allowed deviations shall include, but are not limited to, administrative approval by a person authorized by the governing body for any applications relating to affordable housing projects.

(b) Incentives for the development of projects for affordable housing in the county or city, as applicable, that encourage the use of the expedited process required pursuant to paragraph (a).

2. As used in this section, “affordable housing” has the meaning ascribed to it NRS 278.0105.

Sec. 16

Sections 2 through 15 and 17 of ~~¶~~ this act becomes effective on July 1, 2023. Section 1 of this act becomes effective on January 1, 2024.

Sec. 17 (NEW)

1. On or before July 15, 2024, and on each subsequent July 15, a governing body shall submit to the Housing Division of the Department of Business and Industry and the Advisory Committee on Housing the information required by NRS 278.160(1)(c) for the preceding year, including a plan for maintaining and developing affordable housing and market rate housing to meet the housing needs of the community for a period of at least 5 years. For purposes of this section, the term “market rate housing” means housing for a household with a monthly gross income in excess of the monthly gross income for affordable housing.
2. On or before September 15 of each year, the Housing Division shall compile the reports submitted pursuant to subsection 1 and post the compilation on the Internet website of the Housing Division.