

Background Paper 87-2

PUBLIC NOTIFICATION REQUIREMENTS FOR
LAND PLANNING AND LAND PLANNING
RELATED ACTIVITIES

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PUBLIC NOTIFICATION REQUIREMENTS FOR LAND PLANNING
AND LAND PLANNING RELATED ACTIVITIES

I

INTRODUCTION

Proper or adequate public notice for land use and land development proposals is an issue which states, counties and cities have been attempting to deal with for years. Problems relating to this issue range from determining who should receive notice to the costs involved in providing notice.

Nevada Law

Several sections in the Nevada Revised Statutes (NRS) deal specifically with public notice requirements for planning and planning related activities. These sections include:

278.210 Adoption of master plan and amendments by the commission: Notice; hearing; resolution; attested copies.

1. Before adopting the master plan or any part of it, or any substantial amendment thereof, the [local planning] commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given at least by one publication in a newspaper of general circulation in the city or county, or in the case of a regional planning commission, by one publication in a newspaper in each county within the regional district, at least 10 days before the date of the hearing.

278.220 Adoption of master plan by governing body: Notice; hearing; procedure for changes in plan.

* * *

3. Before adopting any plan or part thereof, the governing body shall hold at least one public hearing thereon, notice of the time and place of which shall be published at least once in a newspaper of general circulation in the city or counties at least 10 days before the day of hearing.

278.260 Zoning districts, regulations and restrictions: Changes; notice and hearing. The governing body shall provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established and enforced, and from time to time amended. However, a zoning regulation, restriction or boundary shall not become effective until after a public hearing at which parties in interest and citizens shall have an opportunity to be heard. At least 10 days' notice of the time and place of the hearing shall be published in an official newspaper, or a newspaper of general circulation, in the city, county, or region.

278.315 Granting of variances, special use permits and other special exceptions by board of adjustment or planning commission: Hearing; notice; appeal.

* * *

2. A hearing to consider an application for the granting of a variance, special use permit or special exception must be held before the board [of adjustment] or [planning] commission within 65 days after the filing of the application. A notice setting forth the time, place and purpose of the hearing must be sent by mail at least 10 days before the hearing to the applicant, to each owner of real property located within 300 feet of the property in question, and to any advisory board which has been established for the affected area by the governing body.

The current statutory requirements pertaining to public notification of public hearings on planning and planning related matters listed above became law and have been amended as follows:

<u>Nevada Revised Statute</u>	<u>Law First Enacted</u>	<u>Law Amended</u>
NRS 278.210	1931	----
NRS 278.220	1931	1941 and 1947
NRS 278.260	1931	1973 and 1977
NRS 278.315	1969	1983

II

COMPARISON OF STATE LAW FOR THE STATES OF ARIZONA, CALIFORNIA, IDAHO AND OREGON

Standard Notification Requirements

Copies of the current sections of state law in the States of Arizona, California, Idaho and Oregon which delineate public notice requirements for land use decisions are included as Appendix A.

Typically, the following types of land use considerations necessitate some form of public notice.

Land Use Consideration

Conditional or Special Use Permit - A conditional or special use permit is a mechanism in a state law or local zoning ordinance which provides a means by which a property owner may utilize his land for a development otherwise prohibited under the zoning ordinance. The land use may be allowed with conditions under specific provisions of the zoning ordinance when it is not in conflict with the general plan.

Type of Notice

Individual notice mailed to property owners within a fixed radius of the property which is subject of the use permit (e.g., 300 feet in Nevada).

Land Use Consideration

Variance - A variance is a modification of the requirements of the zoning ordinance specifically relating to lot size and shape and other physical characteristics which may affect the shape of a structure or the placement of a structure on a lot. A variance is not a right or privilege but may be granted upon a showing of undue hardship because of the physical character of a lot.

Zoning - Zoning is the regulation of the use of land for purposes ranging from agricultural to industrial. Zoning is primarily established for the purpose of implementing the general plan. Zoning is also intended to ensure that the development of land is commensurate with the character and physical limitations of the land and to provide for the timely, orderly and efficient arrangement of transportation and public facilities and services.

General Plan - A general plan is a document adopted by a city, county or region. The plan usually includes all land within the jurisdiction of the governing board. The plan may include maps, charts and policy statements. The plan may consist of various components such as: land use population, economic development, natural resources, public facilities, transportation, housing, community design and any other elements deemed appropriate by the responsible governing board. The general plan is intended to provide the jurisdiction with a method to direct growth and development.

Planned Unit Development - In Nevada, a planned unit development (PUD) is defined as 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.

Type of Notice

Individual notice mailed to property owners within a fixed radius of the property which is subject of the variance (e.g., 300 feet in Nevada).

Publication in a newspaper of general circulation; posting the property; and individual notice as a local option.

Publication in a newspaper of general circulation in the city, county or region.

Publication in a newspaper of general circulation and individual notice mailed to property owners as a local option.

Other types of planning and planning related activities which do not require public notice are:

Land Use Consideration

Type of Notice

Subdivision of Land - In Nevada, subdivision means any land, vacant or improved, which is divided or proposed to be divided into five or more lots for the purpose of any transfer, development or any proposed transfer or development.

No public hearing or notice required by state law.

Parcel Map - In Nevada, a parcel map is a document which provides for the division of land into four or less lots.

No public hearing or notice required by state law.

The two charts (Figure 1 and Figure 2) which follow compare state laws pertaining to public notice by type of land use activity.

FIGURE 1

GENERAL PLAN ADOPTION OR AMENDMENT - ADOPTION OF ZONING OR ZONING CHANGE

<u>State</u>	<u>Type of Planning Activity</u>	<u>Time of Notice Prior to Hearing</u>	<u>Notification Requirement</u>
Arizona	General Plan Adoption or Amendment	15 days	Publication in newspaper of general circulation in the county seat. In addition, in a newspaper in the area to be affected if other than county seat.
	Zoning Adoption or Amendment	15 days	Publication in newspaper of general circulation in county seat and post area included in the change.
California	General Plan Adoption or Amendment	10 days	Publication in newspaper of general circulation or, if none exists, notice shall be posted in three public places within the jurisdiction of the agency considering the plan adoption or amendment.
	Zoning Adoption or Amendment	10 days	Notice mailed to property owners within 300 feet of real property subject of the hearing.
Idaho	General Plan Adoption or Amendment	15 days	Publication in an official newspaper or newspaper of general circulation within the jurisdiction. Commission shall also make available notice to other papers, radio and T.V. stations serving the jurisdiction as a public service announcement.
	Zoning Adoption or Amendment	15 days	Same as general plan. In addition, notice mailed to property owners within 300 feet of property. If not exceed 200 feet, adequate notice at discretion of jurisdiction.
Nevada	General Plan Adoption or Amendment	10 days	Publication in newspaper of general circulation in city or county or, in case of RPC, by publication in newspaper in each county within regional district.
	Zoning Adoption or Amendment	10 days	Publication in newspaper of general circulation in city, county or region or in official newspaper.

FIGURE 2

SPECIAL EXCEPTION
USE PERMIT/VARIANCE

<u>State</u>	<u>Planning Activity</u>	<u>Time of Notice Prior to Hearing</u>	<u>Notification Requirement</u>			
			<u>News- paper</u>	<u>Mail</u>	<u>Posting</u>	<u>Other</u>
Arizona	Use Permit/Variance	No specific lan- guage in state law	No specific language in law ¹			
California	Use Permit/Variance	10 days	Yes	Yes 300' radius	Yes	Optional
Idaho	Use Permit/Variance	15 days	Yes	Yes 300' radius	Yes	Optional If mail- ing exceeds 200 notices
Nevada	Use Permit/Variance	10 days	No	Yes 300' radius	No	No
Oregon	Use Permit/Variance	No specific lan- guage in law	No specific language in law ²			

Specific language for requirements listed is contained in Appendix A.

See: Arizona, Chapter 11-822 through Chapter 11-829; California, Chapter 2.7, §§ 65090 through 65856; Idaho, Chapter 67-6509 through 67-6516; Nevada, §§ 278.210 through 278.315; and Oregon, Chapter 215.050 through 215.508.

¹According to William Farrell, City Attorney, City of Scottsdale, most cities in Arizona are charter cities and, as such, develop their own regulations for planning and planning related activities.

²According to James Croteau, Senior Planner, City of Eugene, because of home rule in the State of Oregon, cities and counties develop their own regulations for planning and planning related activities.

III

LOCAL REGULATIONS

Clark County, Nevada

County and city public notice requirements for planning and planning related activities meet or exceed state law in the major metropolitan areas in Nevada. For example, Clark County Code, Title 29.66.012, "Hearings and decisions" (for conditional use permits and variances) reads as follows:

29.66.012 Hearings and decisions. (A) Upon receipt in the proper form of any application, the planning commission shall hold a public hearing thereon. Notice of time and place of hearing, a description of the property involved, and the purpose of hearing shall be sent to each owner of property within a minimum distance of three hundred feet of the exterior boundary of the lot or parcel of land described in such application. If it is deemed advisable, the planning commission shall cause the notice to be published once in a newspaper of general circulation in the county not less than ten days nor more than thirty days prior to the meeting. For the purpose of this section "property owner" means that owner shown upon the latest assessment rolls of the county.

Washoe County, Nevada

Washoe County Code, section 110.212 (for variance) reads as follows:

110.212 Notice and hearing.

1. The hearing shall be held within 65 days of the date of filing of the application.

2. Notice by mail of the time, place and purpose shall be given not less than 10 days prior to the date of the hearing to the following:

(a) The applicant.

(b) The owners of real property within 300 feet of the exterior boundaries of the property described in the application pursuant to section 110.211. Such owners of real property shall be those owners indicated by the latest county assessor's ownership maps and the requirement of notice is complied with when the administrator mails the maps to the last-known addresses of such real property owners as indicated by the latest county assessor's records. Of the above real property owners to be noticed, six shall be noticed by certified mail. If there are not six real property owners within 300 feet of the exterior boundaries of the property described in the application, then notice by certified mail shall be sent to additional real property

owners nearest the exterior boundaries of the real property in the application, bringing the total to six real property owners being noticed by certified mail.

(c) The building and safety division of the department of public works, county engineer and the district health department.

3. Notice may be given to owners of real property in addition to those owners provided for in subsection 2 either by mail as provided in subsection 2 or by at least one publication in a newspaper of general circulation in Washoe County not less than 10 days prior to the date of such hearing, or both, when the administrator deems such notice to be necessary to protect the public interest.

Notification for special use permits (Washoe County Code section 110.218) contains identical language. Mr. Russell Nash, III, who is the deputy district attorney for the Washoe County Planning Commission, indicated that it is the policy of the staff of the Washoe County Planning Department to exceed even the Washoe County Code requirements for notification. This is sometimes accomplished by providing written notification to property owners beyond the 300-foot radius. In addition, the planning staff may contact the news media prior to the consideration of a major land development proposal.

Contra Costa County, California

It also appears that local regulations in the adjacent Western States follow the same pattern. Section 26-2.2004 of the County Code of Contra Costa County, California, reads as follows:

26-2.2004 Variance, conditional use and special permits - Notice requirements.

(a) Mail - Addresses. Except as provided by Article 26-2.21, the planning department shall schedule a hearing before the appropriate division, and mail notice thereof pursuant to Government Code Section 65905. The mail notice shall be given, by postage prepaid first-class United States mail, to all owners of real property within three hundred feet of the subject land, using addresses from the last equalized assessment roll, or from such other records (as the assessor's or tax collector's) as contain more recent addresses in the opinion of the planning director.

Copies of public notice requirements for various planning and planning related activities for Clark and Washoe counties in Nevada; Contra Costa County, California; and the Cities of Las Vegas, North Las Vegas and Sparks, Nevada, are contained in Appendix B.

IV

SUMMARY AND CONCLUSIONS

It would appear from the research conducted that notification requirements in most state laws are rather general and fairly uniform. It seems that local ordinances are more stringent, but that individual planning agencies are expected to use some judgment when it appears that the requirements for public notice in state law and local ordinances fall short of meeting the public need.

None of the states included in this report have existing laws which require public notice for the subdivision of land into a conventional lot and block subdivision. Public notice may be required, however, when the subdivision is included as a portion of a major land development project which requires rezoning of property or a special use permit.

Alternatives to the traditional legal advertisement method of serving public notice for planning and planning related activities in counties and cities have been adopted in a few jurisdictions. Examples include:

1. A block or bordered advertisement in a newspaper of general circulation;
2. Printing of agendas in a newspaper of general circulation;
3. Furnishing the news media with information on the planning activity for public service announcement purposes;
4. Posting of notice. Some counties and cities in other states utilize different colors which serve to identify the specific planning matter which is being considered.
5. Written notice to neighborhood groups who are on file with the respective planning body for a county or city.

Planners and attorneys for some of the counties and cities in Nevada, and the adjacent Western States, seem to agree that there is no single method or combination of methods to give public notices which is without fault. For example, posted notices are sometimes affected by the weather or may be removed deliberately. Newspaper notices are sometimes overlooked, and not everyone reads the paper. Written personal notice may not be addressed properly to the affected parties and can also be very expensive depending upon the size of the area which is subject of the specific notice. Planners and attorneys generally feel that some discretion should be given to the agency responsible for serving notice since it is in the best position to ensure that public interest is being served properly.

V. APPENDICES

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APPENDIX A

COPIES OF CURRENT SECTIONS OF STATE LAW IN THE STATES OF
ARIZONA, CALIFORNIA, IDAHO AND OREGON WHICH DELINEATE
PUBLIC NOTICE REQUIREMENTS FOR LAND USE DECISIONS

A R I Z O N A

Ch. 6 PLANNING; ZONING; BUILDING CODES § 11-822

Library References

Counties ~~§~~ 7, 18.
Zoning ~~§~~ 30.

C.J.S. Counties §§ 14, 41.
C.J.S. Zoning § 30.

Notes of Decisions

I. Zoning

County board of supervisors lacked specific power to regulate gasoline storage, except through its zoning power or on basis of circumstances found by a court to constitute a public nuisance. Op. Atty. Gen. No. 65-34-L.

§ 11-821.01. Duty to zone certain area for canneries, fertilizer plants, refineries, commercial feed lots, meat packing plants, tallow works, and other like businesses

The county planning and zoning commission shall designate and zone appropriate areas of reasonable size in which there may be established with reasonable permanency canneries, fertilizer plants, refineries, commercial feed lots, meat packing plants, tallow works, and other like businesses, and the county board of supervisors shall by ordinance adopt at least one of any such plans as may be submitted by the commission to the board for the location of such businesses.

Added Laws 1963, Ch. 94, § 1.

Law Review Commentaries

Public regulation of private land use.
Milton R. Schroeder, Law & Soc. Order,
1973, p. 747.

§ 11-822. Adoption of county plan by commission; notice; hearing

The commission may adopt the county plan as a whole, or by successive actions adopt separate parts of the plan corresponding with functional divisions of the subject matter, and from time to time, subject to the limitations of this chapter, amend, extend or add to the county plan. Before adoption of the plan or any part, amendment, extension or addition, the commission shall hold at least one public hearing thereon, after giving at least fifteen days notice thereof by one publication in a newspaper of general circulation in the county seat. In addition, the notice shall be published in a newspaper of general circulation in the area to be affected, or adjacent thereto, if the area affected is other than the county seat. Adoption of the plan or any part thereof shall be by resolution, and shall require the affirmative votes of a majority of the members.

As amended Laws 1956, Ch. 111, § 1, eff. July 14, 1956.

Ch. 6 PLANNING; ZONING; BUILDING CODES § 11-823

The purpose of various notice and hearing provisions of Zoning Act, this section and §§ 11-801 and 11-823, is to allow interested parties an opportunity to be heard, and if such opportunity is given as required by law, either on date for which notice has been given, or, if necessary, on such later date as is duly set for continued hearing, then it is of no moment that zoning commission or county board of supervisors might indulge in further deliberations for a reasonable time before proceeding to formal adoption of an ordinance. *Id.*

The failure to comply with notice and hearing conditions of the Zoning Act, this section and §§ 11-801 to 11-823, left the zoning commission and county board of supervisors without jurisdiction to adopt zoning ordinances and hence such ordinances were void. *Id.*

2. Validity of ordinances

County board of supervisors, in adopting zoning plan, acted in a legislative capacity, and, therefore, zoning ordinance was cloaked with a presumption of validity. *Rubi v. 49'er Country Club Estates, Inc.* (1968) 7 Ariz.App. 408, 440 P.2d 44.

3. Hearing

Courts have not recognized due process right to be heard during political-legislative decision-making, except where legislature has provided such right as in adoption of county zoning plans. *Gillard v. Estrella Dells I Imp. Dist.* (App.1975) 25 Ariz.App. 141, 541 P. 2d 932.

§ 11-823. Submission of county plan to board; hearing; notice

After adoption of the county plan or any section thereof by the commission the plan shall be submitted to the board for its consideration and official action. The board shall hold at least one public hearing at which residents of the county shall be heard concerning the matters contained in the plan. At least fifteen days notice of the hearing shall be given by one publication in a newspaper of general circulation in the county seat. The board shall consider protests and objections to the plan and may change or alter any portion of the county plan including the zoning regulations. However, before any change is made, that portion of the plan proposed to be changed shall be re-referred to the commission for their recommendation, which may be accepted or rejected by the board.

As amended Laws 1956, Ch. 111, § 2, eff. July 14, 1956.

Historical Note

Source:

§ 9, Ch. 58, L. '49; 17-1909, C. '39, Supp. '52.

This section, as originally enacted in Arizona Revised Statutes, read as follows:

"After adoption of the county plan or any section thereof by the commission the plan shall be submitted to the board for its consideration and official action. The board shall hold at least one public hearing at which residents of the county shall be heard concerning the matters contained in the plan. At least fifteen

days notice of the hearing shall be given by publication in a newspaper of general circulation in the county seat. The board shall consider protests and objections to the plan and may change or alter any portion of the county plan including the zoning regulations. However, before any change is made, that portion of the plan proposed to be changed shall be re-referred to the commission for their recommendation, which may be accepted or rejected by the board."

Law Review Commentaries

Public regulation of private land use.
Milton R. Schroeder, *Law & Soc. Order*, 1973, p. 747.

§ 11-824

COUNTIES

Title 11

§ 11-824. Adoption of county plan by board

The board may adopt the county plan as a whole, or by successive actions adopt separate parts of the plan. Upon adoption, the plan, or any part thereof, shall be the official guide for the development of the area of jurisdiction. Any change, amendment, extension or addition of the county plan may be made only in accordance with the provisions of this chapter.

Historical Note

Source:

§ 10, Ch. 58, L. '49; 17-1910, C. '39, Supp. '52.

Law Review Commentaries

Public regulation of private land use.
Milton R. Schroeder, Law & Soc. Order,
1973, p. 747.

Library References

Counties ⇨ 7, 18.
Zoning ⇨ 138.

C.J.S. Counties §§ 14, 41.
C.J.S. Zoning §§ 1, 31.

Notes of Decisions

1. In general

Zoning ordinances, being in derogation of common-law property rights, will be strictly construed and any ambiguity or uncertainty decided in favor of property owners. *Hart v. Bayless Inv. & Trading Co.* (1960) 86 Ariz. 379, 346 P.2d 1101.

§§ 11-825 to 11-828. Repealed by Laws 1974, Ch. 107, § 1, eff. Aug. 9, 1974

Historical Note

The repealed sections, derived from Laws 1949, Ch. 58, §§ 11 to 14; Code 1939, Supp. 1952, §§ 17-1911 to 17-1914; Laws 1972, Ch. 146, § 17, authorized the initiation of zoning by local option.

Notes of Decisions Under Repealed Sections

SECTION 11-825

1. In general

Mandatory formation of planning and zoning commission under § 11-802 does not conflict with local option zoning provisions of § 11-825 et seq. Op. Atty. Gen. No. 71-20.

2. Annexation

When land owned by county is annexed to a city, land automatically carries over its county zoning classification. *Maricopa County Bd. of Sup'rs v. Bell 51st Investors* (1972) 108 Ariz. 261, 495 P.2d 1315.

§ 11-829. Amendment of ordinance or change of zoning district boundaries

A. A person desiring an amendment or change in the zoning ordinance changing the zoning district boundaries within an area previously zoned, shall file a petition in favor of the change and shall also

Ch. 6 PLANNING; ZONING; BUILDING CODES § 11-829

file the written consents of at least fifty-one per cent of the owners by number and area of all other properties any part of which is within three hundred feet of the proposed change. If the petition is for a change of classification, there shall not be counted, either in numbers or area, the owners of land of the same classification as sought by the petitioners.

B. Upon receipt of the petition the board shall submit it to the commission for a report. Prior to reporting to the board, the commission shall hold at least one public hearing thereon after giving at least fifteen days notice thereof by one publication in a newspaper of general circulation in the county seat and by posting of the area included in the proposed change.

C. Upon receipt of the commission's recommendation the board shall hold a public hearing thereon at least fifteen days notice of which shall be given by one publication in a newspaper of general circulation in the county seat and by posting the area included in the proposed change. After holding the hearing the board may adopt the amendment, but if twenty per cent of the owners of property by area and number within the zoning area file a protest to the proposed change, the change shall not be made except by the unanimous vote of all members of the board.

D. The planning commission may on its own motion propose an amendment to the zoning ordinance and may, after holding a public hearing as required by this chapter, transmit the proposal to the board which shall thereupon proceed as set forth in this chapter for any other amendment.

As amended Laws 1956, Ch. 111, § 4, eff. July 14, 1956.

Historical Note

Source:

§ 15, Ch. 58, L. '49; 17-1915, C. '39, Supp. '52.

This section, as originally enacted in Arizona Revised Statutes, read as follows:

"A. A person desiring an amendment or change in the zoning ordinance changing the zoning district boundaries within an area previously zoned, shall file a petition in favor of the change and shall also file the written consents of at least fifty-one per cent of the owners by number and area of all other properties any part of which is within three hundred feet of the proposed change. If the petition is for a change of classification, there shall not be counted, either in numbers or area, the owners of land of the same classification as sought by the petitioners.

"B. Upon receipt of the petition the board shall submit it to the commission for a report. Prior to reporting to the board, the commission shall hold at least one public hearing thereon after giving at least fifteen days notice thereof by publication in a newspaper of general circulation in the county seat and by posting of the area included in the proposed change.

"C. Upon receipt of the commission's recommendation the board shall hold a public hearing thereon at least fifteen days notice of which shall be given by publication in a newspaper of general circulation in the county seat and by posting the area included in the proposed change. After holding the hearing the board may adopt the amendment, but if twenty per cent of the owners of property by area and number within the zoning area file a protest to

Projects for maintenance, rehabilitation, and reconstruction shall not be included in the regional transportation improvement program.

The regional transportation improvement programs shall be consistent with guidelines established by the commission pursuant to Section 14532 and may not exceed, for local assistance projects, by more than 25 percent, the estimate of funds for those projects provided by the commission pursuant to Section 14525, except as provided in Section 14527. The regional transportation improvement program may be used to meet federal planning requirements where appropriate.

(Amended by Stats. 1981, Ch. 541. Effective September 17, 1981.)

County transportation
director

65084. In order to insure coordinated planning, development, and operation of transportation systems of all types and modes, the board of supervisors of each county may appoint a county director of transportation, and specify the extent of the responsibilities of such officer.

(Added by Stats. 1972, Ch. 1253. Effective July 1, 1973.)

Designation of county
employee as director

65085. The board of supervisors may designate any county officer who is properly qualified to serve as the county director of transportation.

(Added by Stats. 1972, Ch. 1253. Effective July 1, 1973.)

Chapter 2.7. Public Hearings

(Chapter 2.7 added by Stats. 1984, Ch. 1009.)

Notice of hearing

65090. (a) When a provision of this title requires notice of a public hearing to be given pursuant to this section, notice shall be published pursuant to Section 6061 in at least one newspaper of general circulation within the jurisdiction of the local agency which is conducting the proceeding at least 10 days prior to the hearing, or if there is no such newspaper of general circulation, the notice shall be posted at least 10 days prior to the hearing in at least three public places within the jurisdiction of the local agency.

(b) The notice shall include the information specified in Section 65094.

(c) In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.

(Added by Stats. 1984, Ch. 1009.)

Notification procedures

65091. (a) When a provision of this title requires notice of a public hearing to be given pursuant to this section, notice shall be given in all of the following ways:

(1) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant.

(2) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.

(3) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. In lieu of utilizing the assessment roll, the local agency may utilize records of the county assessor or tax collector which contain more recent information than the assessment roll. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph or paragraph (1) is greater than 1,000, a local agency, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the proceeding is conducted at least 10 days prior to the hearing.

(4) If the notice is mailed or delivered pursuant to paragraph (3), the notice shall also either be:

(A) Published pursuant to Section 6061 in at least one newspaper of general circulation within the local agency which is conducting the proceeding at least 10 days prior to the hearing.

(B) Posted at least 10 days prior to the hearing in at least three public places within the boundaries of the local agency, including one public place in the area directly affected by the proceeding.

(b) The notice shall include the information specified in Section 65094.

(c) In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.

(Added by Stats. 1984, Ch. 1009. Amended by Stats. 1985, Ch. 1199.)

Request for notification

65092. When a provision of this title requires notice of a public hearing to be given pursuant to Section 65090 or 65091, the notice shall also be mailed or delivered at least 10 days prior to the hearing to any person who has filed a written request for notice with either the clerk of the governing body or *** with any other person designated by the governing body to receive these requests. The local agency may charge a fee which is reasonably related to the costs of providing this service and the local agency may require each request to be annually renewed.

(Added by Stats. 1984, Ch. 1009. Amended by Stats. 1985, Ch. 1199.)

**Failure to receive
notice**

65093. The failure of any person or entity to receive notice given pursuant to this title, or pursuant to the procedures established by a chartered city, shall not constitute grounds for any court to invalidate the actions of a local agency for which the notice was given.

(Added by Stats. 1984, Ch. 1009.)

**Definition:
"Notice of public
hearing"**

65094. As used in this title, "notice of a public hearing" means a notice that includes the date, time, and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

(Added by Stats. 1984, Ch. 1009.)

Hearing continuation

65095. Any public hearing conducted under this title may be continued from time to time.

(Added by Stats. 1984, Ch. 1009.)

Chapter 3. Local Planning

Article 1. Local Planning

(Article 1 [commencing with Section 65100] repealed and added by Stats. 1984, Ch. 690.)

**Creation of planning
agency**

65100. There is in each city and county a planning agency with the powers necessary to carry out the purposes of this title. The legislative body of each city and county shall by ordinance assign the functions of the planning agency to a planning department, one or more planning commissions, administrative bodies or hearing officers, the legislative body itself, or any combination thereof, as it deems appropriate and necessary. In the absence of an assignment, the legislative body shall carry out all the functions of the planning agency.

**Commission notice and
hearing**

65353. When the city or county has a planning commission authorized by local ordinance or resolution to review and recommend action on a proposed general plan or proposed amendments to the general plan, the commission shall hold at least one public hearing before approving a recommendation on the adoption or amendment of a general plan. Notice of the hearing shall be given pursuant to Section 65090.

(Repealed and added by Stats. 1984, Ch. 1009.)

Commission approval

65354. The planning commission shall make a written recommendation on the adoption or amendment of a general plan. A recommendation for approval shall be made by the affirmative vote of not less than a majority of the total membership of the commission. The planning commission shall send its recommendation to the legislative body.

(Repealed and added by Stats. 1984, Ch. 1009.)

**Appeal procedure
required**

65354.5. (a) A city or county with a planning agency, other than the legislative body itself, which has the authority to consider and recommend the approval, conditional approval, or disapproval of a proposed amendment to a general plan, shall establish procedures for any interested party to file a written request for a hearing by the legislative body with its clerk within five days after the planning agency acts on the proposed amendment. Notice of the hearing shall be given pursuant to Section 65090.

(b) The legislative body may establish a fee to cover the cost of establishing the procedures and conducting the hearing pursuant to subdivision (a). The legislative body shall impose the fee pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5.

(Added by Stats. 1985, Ch. 1006.)

**Legislative body
notice and hearing**

65355. Prior to adopting or amending a general plan, the legislative body shall hold at least one public hearing. Notice of the hearing shall be given pursuant to Section 65090.

(Repealed and added by Stats. 1984, Ch. 1009.)

Referral of changes

65356. The legislative body shall adopt or amend a general plan by resolution, which resolution shall be adopted by the affirmative vote of not less than a majority of the total membership of the legislative body. The legislative body may approve, modify, or disapprove the recommendation of the planning commission, if any. However, any substantial modification proposed by the legislative body not previously considered by the commission during its hearings, shall first be referred to the

reasonable time, the legislative body may, by written notice, require the planning commission to render its report within 40 days. Upon receipt of the written notice the planning commission, if it has not done so, shall conduct the public hearing as required by Section 65854. Failure to so report to the legislative body within the above time period shall be deemed to be approval of the proposed zoning ordinance or amendment to a zoning ordinance.

(Amended by Stats. 1972, Ch. 384.)

Notice and hearing by
planning commission

65854. The planning commission shall hold a public hearing on the proposed zoning ordinance or amendment to a zoning ordinance. Notice of the hearing shall be given pursuant to Section 65090 and, if the proposed ordinance or amendment to a zoning ordinance affects the permitted uses of real property, notice shall also be given pursuant to Section 65091.

(Amended by Stats. 1975, Ch. 249 [effective July 9, 1975]; Stats. 1984, Ch. 1009.)

(Section 65854.5 repealed by Stats. 1984, Ch. 1009.)

Planning commission
recommendation to
legislative body

65855. After the hearing, the planning commission shall render its decision in the form of a written recommendation to the legislative body. Such recommendation shall include the reasons for the recommendation, the relationship of the proposed ordinance or amendment to applicable general and specific plans, and shall be transmitted to the legislative body in such form and manner as may be specified by the legislative body.

(Amended by Stats. 1972, Ch. 639. Effective August 9, 1972.)

Notice and hearing
by legislative body

65856. (a) Upon receipt of the recommendation of the planning commission, the legislative body shall hold a public hearing. However, if the matter under consideration is an amendment to a zoning ordinance to change property from one zone to another, and the planning commission has recommended against the adoption of such amendment, the legislative body shall not be required to take any further action on the amendment unless otherwise provided by ordinance or unless an interested party requests a hearing by filing a written request with the clerk of the legislative body within five days after the planning commission files its recommendations with the legislative body.

(b) Notice of the hearing shall be given pursuant to Section 65090:

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grade separations. The component may also include port, harbor, aviation, and other related transportation facilities.

(h) Recreation — An analysis showing a system of recreation areas, including parks, parkways, trailways, river bank greenbelts, beaches, playgrounds, and other recreation areas and programs.

(i) Special Areas or Sites — An analysis of areas, sites, or structures of historical, archeological, architectural, ecological, wildlife, or scenic significance.

(j) Housing — An analysis of housing conditions and needs; plans for improvement of housing standards; and plans for the provision of safe, sanitary, and adequate housing.

(k) Community Design — An analysis of needs for governing landscaping, building design, tree planting, signs, and suggested patterns and standards for community design, development, and beautification.

(l) Implementation — An analysis to determine actions, programs, budgets, ordinances, or other methods including scheduling of public expenditures to provide for the timely execution of the various components of the plan.

Nothing herein shall preclude the consideration of additional planning components or subject matter. [I.C., § 67-6508, as added by 1975, ch. 188, § 2, p. 515.]

Comprehensive Plan.

This section expressly makes the adoption of a comprehensive plan a condition precedent

to the validity of a zoning ordinance. *Dawson Enterprises, Inc. v. Blaine County*, 98 Idaho 506, 567 P.2d 1257 (1977).

DECISIONS UNDER PRIOR LAW

Comprehensive Plan.

Under the former section governing comprehensive plans, the adoption of a separate comprehensive plan was not a "condition precedent" to the validity of a zoning ordinance. *Dawson Enterprises, Inc. v. Blaine County*, 98 Idaho 506, 567 P.2d 1257 (1977).

Where county zoning ordinances extensively defined permissible uses in each zone, there was in essence a general comprehensive plan sufficient to meet the requirement of the former section. *Dawson Enterprises, Inc. v. Blaine County*, 98 Idaho 506, 567 P.2d 1257 (1977).

67-6509. Recommendation and adoption, amendment, and repeal of the plan. — (a) The planning or planning and zoning commission, prior to recommending the plan, amendment, or repeal of the plan to the governing board, shall conduct at least one (1) public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the plan to be discussed shall be published in the official newspaper or paper of general circulation within the jurisdiction. The commission shall also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement. Following the commission hearing, if the commission makes a material change in the plan, further notice and hearing shall be provided before the commission forwards the plan with its recommendation to the governing board. A record of the hearings, findings made, and actions taken shall be maintained.

(b) The governing board, prior to adoption, amendment, or repeal of the plan, shall conduct at least one (1) public hearing using the same notice and hearing procedures as the commission. The governing board shall not hold a public hearing, give notice of a proposed hearing, nor take action upon the plan, amendments, or repeal until recommendations have been received from the commission. Following the hearing of the governing board, if the governing board makes a material change in the plan, further notice and hearing shall be provided before the governing board adopts the plan.

(c) No plan shall be effective unless adopted by resolution or ordinance by the governing board. An ordinance enacting a plan or part of a plan may be adopted, amended, or repealed by reference as provided for in sections 31-715 and 50-901, Idaho Code, three (3) copies of which shall be on file with the city clerk or county clerk.

(d) Any person may petition the commission or, in absence of a commission, the governing board, for a plan amendment at any time. The commission may recommend amendments to the plan to the governing board not more frequently than every six (6) months to correct errors in the original plan or to recognize substantial changes in the actual conditions in the area. The commission may recommend amendments to other ordinances authorized by this chapter to the governing board at any time. [I.C., § 67-6509, as added by 1975, ch. 188, § 2, p. 515.]

Sec. to sec. ref. This section is referred to in §§ 67-6504, 67-6511 — 67-6515, 67-6517, 67-6518, 67-6520, 67-6524 — 67-6526.

67-6510. Existing comprehensive plans. — A governing board using any plan in existence on the effective date of this chapter shall conduct a review of that plan and shall make necessary amendments in accordance with this chapter prior to January 1, 1977, providing for recommendation, notice and hearing pursuant to section 67-6509, Idaho Code. [I.C., § 67-6510, as added by 1975, ch. 188, § 2, p. 515.]

67-6511. Zoning ordinance. — Each governing board shall, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, establish within its jurisdiction one (1) or more zones or zoning districts where appropriate. The zoning districts shall be in accordance with the adopted plan.

Within a zoning district, the governing board shall where appropriate, establish standards to regulate and restrict the height, number of stories, size, construction, reconstruction, alteration, repair or use of buildings and structures; percentage of lot occupancy, size of courts, yards, and open spaces; density of population; and the location and use of buildings and structures. All standards shall be uniform for each class or kind of buildings throughout each district, but the standards in one (1) district may differ from those in another district.

Ordinances establishing zoning districts shall be amended as follow:

(a) Requests for an amendment to the zoning ordinance shall be submitted to the zoning or planning and zoning commission which shall evaluate the request to determine the extent and nature of the amendment requested.

(b) If the request is in accordance with the adopted plan, the zoning or planning and zoning commission may recommend and the governing board may adopt or reject the ordinance amendment under the notice and hearing procedures provided in section 67-6509, Idaho Code, provided that in the case of a zoning district boundary change, additional notice shall be provided by mail to property owners and residents within the land being considered, three hundred (300) feet of the external boundaries of the land being considered; and any additional area that may be impacted by the proposed change as determined by the commission. When notice is required to two hundred (200) or more property owners or residents, alternate forms or procedures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice.

(c) If the request is not in accordance with the adopted plan, the request shall be submitted to the planning or planning and zoning commission or, in absence of a commission, the governing board, which shall recommend and the governing board may adopt or reject an amendment to the plan under the notice and hearing procedures provided in section 67-6509, Idaho Code. After the plan has been amended, the zoning ordinance may then be amended as provided for under section 67-6511(b), Idaho Code. [I.C. § 67-6511, as added by 1975, ch. 188, § 2, p. 515.]

67-6512. Special use permits, conditions, and procedures. — As part of a zoning ordinance each governing board may provide by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for the processing of applications for special or conditional use permits. A special use permit may be granted to an applicant if the proposed use is otherwise prohibited by the terms of the ordinance, but may be allowed with conditions under specific provisions of the ordinance and when it is not in conflict with the plan.

Prior to granting a special use permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held.

At least fifteen (15) days prior to the hearing, notice of the time and place, and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall also be provided to property owners and residents within the land being considered, three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed special use as determined by the commission.

When notice is required to two hundred (200) or more property owners or residents, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice.

Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

- (a) Minimizing adverse impact on other development;
- (b) Controlling the sequence and timing of development;
- (c) Controlling the duration of development;
- (d) Assuring that development is maintained properly;
- (e) Designating the exact location and nature of development;
- (f) Requiring the provision for on-site or off-site public facilities or services;
- (g) Requiring more restrictive standards than those generally required in an ordinance.

Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one parcel of land to another. [I.C., § 67-6512, as added by 1975, ch. 188, § 2, p. 515.]

~~Sec. to sec. ref.~~ This section is referred to in §§ 67-6515 and 67-6521.

67-6513. Subdivision ordinance. — Each governing board shall provide, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for standards and for the processing of applications for subdivision permits under sections 50-1301 through 50-1329, Idaho Code. [I.C., § 67-6513, as added by 1975, ch. 188, § 2, p. 515.]

67-6514. Existing zoning or subdivision ordinances. — A governing board, using any zoning or subdivision ordinance in existence on the effective date of this chapter, shall conduct a review of those ordinances and shall make necessary amendments in accordance with this chapter prior to January 1, 1978, following notice and hearing pursuant to section 67-6509, Idaho Code. [I.C., § 67-6514, as added by 1975, ch. 188, § 2, p. 515.]

67-6515. Planned unit developments. — As part of or separate from the zoning ordinance, each governing board may provide, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for the processing of applications for planned unit development permits.

A planned unit development may be defined in a local as an area of land in which a variety of residential, commercial, industrial, and other land uses are provided for under single ownership or control. Planned unit development ordinances may include, but are not limited to, requirements for minimum area, permitted uses, ownership, common open space, utilities, density, arrangements of land uses on a site, and permit processing. Planned unit developments may be permitted under processing for special use permits as defined in this chapter. Permits for planned unit developments

may be granted following the notice and hearing procedures provided in section 67-6512, Idaho Code. [I.C., § 67-6515, as added by 1975, ch. 188, § 2, p. 515.]

67-6516. Variance — Definition — Application — Notice — Hearing. — Each governing board shall provide as part of the zoning ordinance for the processing of applications for variance permits. A variance is a modification of the requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. Prior to granting a variance, notice and an opportunity to be heard shall be provided to property owners adjoining the parcel under consideration. [I.C., § 67-6516, as added by 1975, ch. 188, § 2, p. 515.]

Compiler's notes. As enacted the section heading of this section read "Variance."

67-6517. Future acquisitions map. — Upon the recommendation of the planning or planning and zoning commission each governing board may adopt, amend, or repeal a future acquisitions map in accordance with the notice and hearing procedures provided in section 67-6509, Idaho Code. The map shall designate land proposed for acquisition by a public agency for a maximum six (6) year period. Lands designated for acquisition may include land for:

- (a) Streets, roads, other public ways, or transportation facilities proposed for construction or alteration;
- (b) Proposed schools, airports, or other public buildings;
- (c) Proposed parks or other open spaces; or
- (d) Lands for other public purposes.

Upon receipt of a request for a permit as defined in this chapter, or a building permit as defined in a local ordinance, for a development on any lands designated upon the future acquisitions map, the zoning or planning and zoning commission or the governing board shall notify the public agency proposing to acquire the land. Within thirty (30) days of the date of that notice, the public agency may, in writing, request the commission or governing board to suspend consideration of the permit for sixty (60) days from the date of the request to allow the public agency to negotiate with the land owner to obtain an option to purchase the land, acquire the land, or institute condemnation proceedings as may be authorized in the Idaho Code. If the public agency fails to do so within the sixty (60) days, the commission or governing board shall resume consideration of the permit. Nothing in this chapter shall limit a governing board from adopting local ordinances as required or authorized which include lands on the future acquisitions map. [I.C., § 67-6517, as added by 1975, ch. 188, § 2, p. 515.]

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278.200 Form of master plan. The master plan shall be a map, together with such charts, drawings, diagrams, schedules, reports, ordinances, or other printed or published material, or any one or a combination of any of the foregoing as may be considered essential to the purposes of NRS 278.010 to 278.630, inclusive.

[9:110:1941; 1931 NCL § 5063.08]—(NRS A 1973, 1827)

278.210 Adoption of master plan and amendments by the commission: Notice; hearing; resolution; attested copies.

1. Before adopting the master plan or any part of it, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given at least by one publication in a newspaper of general circulation in the city or county, or in the case of a regional planning commission, by one publication in a newspaper in each county within the regional district, at least 10 days before the day of the hearing.

2. The adoption of the master plan, or of any amendment, extension or addition thereof, shall be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the total membership of the commission. The resolution shall refer expressly to the maps, descriptive matter and other matter intended by the commission to constitute the plan or any amendment, addition or extension thereof, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signatures of the secretary and chairman of the commission.

3. No plan or map, hereafter, shall have indicated thereon that it is a part of the master plan until it shall have been adopted as part of the master plan by the commission as herein provided for the adoption thereof, whenever changed conditions or further studies by the commission require such amendments, extension, or addition.

4. An attested copy of any part, amendment, extension or addition to the master plan adopted by the planning commission of any city, county or region shall be certified to the governing body of such city, county, or region.

5. An attested copy of any part, amendment, extension or addition to the master plan adopted by any regional planning commission shall be certified to the county planning commission and to the board of county commissioners of each county within the regional district.

[10:110:1941; 1931 NCL § 5063.09]

278.220 Adoption of master plan by governing body: Notice; hearing; procedure for changes in plan.

1. Upon receipt of a certified copy of the master plan, or of any part thereof, as adopted by the planning commission, the governing body may adopt such parts thereof as may practicably be applied to the

development of the city, county or region for a reasonable period of time next ensuing.

2. The parts shall thereupon be endorsed and certified as master plans thus adopted for the territory covered, and are hereby declared to be established to conserve and promote the public health, safety and general welfare.

3. Before adopting any plan or part thereof, the governing body shall hold at least one public hearing thereon, notice of the time and place of which shall be published at least once in a newspaper of general circulation in the city or counties at least 10 days before the day of hearing.

4. No change in or addition to the master plan or any part thereof, as adopted by the planning commission, shall be made by the governing body in adopting the same until the proposed change or addition shall have been referred to the planning commission for a report thereon and an attested copy of the report shall have been filed with the governing body. Failure of the planning commission so to report within 40 days, or such longer period as may be designated by the governing body, after such reference shall be deemed to be approval of the proposed change or addition.

[Part 11:110:1941; A 1947, 834; 1943 NCL § 5063.10]

278.230 Governing body to put adopted master plan into effect.

1. Whenever the governing body of any city or county shall have adopted a master plan or part thereof for the city or county, or for any major section or district thereof, the governing body shall, upon recommendation of the planning commission, determine upon reasonable and practical means for putting into effect the master plan or part thereof, in order that the same will serve as a pattern and guide for that kind of orderly physical growth and development of the city or county which will cause the least amount of natural resource impairment and will conform to the adopted population plan, where required, and as a basis for the efficient expenditure of funds thereof relating to the subjects of the master plan.

2. The governing body may adopt and use such procedure as may be necessary for this purpose.

[Part 11:110:1941; A 1947, 834; 1943 NCL § 5063.10]—(NRS A 1973, 1243)

278.240 Acquisition and abandonment of streets and parks and construction of public buildings: Approval by commission.

1. Whenever the governing body of any city, county or region shall have adopted a master plan, or one or more subject matters thereof, for the city, county or region, or for any major section or district thereof, no street, square, park, or other public way, ground, or open space shall be acquired by dedication or otherwise, except by bequest, and no

(f) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services.

(g) To ensure that the development on land is commensurate with the character and the physical limitations of the land.

(h) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development.

(i) To promote health and the general welfare.

3. The zoning regulations shall be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.

[13:110:1941; 1931 NCL § 5063.12]—(NRS A 1973, 1244, 1828; 1977, 1016)

278.255 Replacement of nonconforming structure in county whose population is less than 250,000.

1. In any county which has a population of less than 250,000 or any city within such a county, the zoning ordinance must provide that a structure which exists and is nonconforming when the ordinance is adopted, and which is subsequently destroyed or removed from the property, may be replaced by:

(a) A structure appropriate to the same use within a reasonable time established by the governing body of the city or county; or

(b) A structure of a conforming use.

2. This section does not apply to any property:

(a) Whose boundary is adjusted on or after the effective date of this act.

(b) From which a structure has been removed through condemnation.

(Added to NRS by 1981, 1707)

278.260 Zoning districts, regulations and restrictions: Changes; notice and hearing. The governing body shall provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established and enforced, and from time to time amended. However, a zoning regulation, restriction or boundary shall not become effective until after a public hearing at which parties in interest and citizens shall have an opportunity to be heard. At least 10 days' notice of the time and place of the hearing shall be published in an official newspaper, or a newspaper of general circulation, in the city, county, or region.

[14:110:1941; 1931 NCL § 5063.13]—(NRS A 1973, 1828; 1977, 1017)

rules provided by the governing body to govern the procedure of the board of adjustment and in the supplemental rules of procedure adopted by the board of adjustment.

[16:110:1941; 1931 NCL § 5063.15]

SPECIAL EXCEPTIONS

278.315 Granting of variances, special use permits and other special exceptions by board of adjustment or planning commission: Hearing; notice; appeal.

1. The governing body may provide by ordinance for the granting of variances, special use permits or other special exceptions by the board of adjustment or the planning commission. The governing body may impose this duty entirely on the board of adjustment or the planning commission, respectively, or provide for the granting of enumerated categories of variances, special use permits or special exceptions by the board or commission.

2. A hearing to consider an application for the granting of a variance, special use permit or special exception must be held before the board or commission within 65 days after the filing of the application. A notice setting forth the time, place and purpose of the hearing must be sent by mail at least 10 days before the hearing to the applicant, to each owner of real property located within 300 feet of the property in question, and to any advisory board which has been established for the affected area by the governing body.

3. Any such ordinance must provide an opportunity for the applicant or a protestant to appeal from a decision of the board or commission to the governing body.

(Added to NRS by 1969, 734; A 1983, 1247)

278.317 Review by governing body.

1. The governing body may reserve to itself the power to review decisions of the board of adjustment or planning commission, or both, with respect to variances, special use permits or other special exceptions, and to affirm, modify or reverse any such decision.

2. In reviewing those decisions, the governing body must be guided by the statement of purpose underlying the regulation of land improvement expressed in NRS 278.020.

(Added to NRS by 1969, 735; A 1973, 1245; 1983, 1247)

face of buildings during solar heating hours, taking into account latitude, topography, microclimate, existing development, existing vegetation and planned uses and densities. The county governing body shall consider for inclusion in any solar access ordinance, but not be limited to, standards for:

(a) The orientation of new streets, lots and parcels;

(b) The placement, height, bulk and orientation of new buildings;

(c) The type and placement of new trees on public street rights of way and other public property; and

(d) Planned uses and densities to conserve energy, facilitate the use of solar energy, or both.

(2) The Department of Energy shall actively encourage and assist county governing bodies' efforts to protect and provide for solar access.

(3) As used in this section, "solar heating hours" means those hours between three hours before and three hours after the sun is at its highest point above the horizon on December 21. [1981 c.722 §2]

215.046 [1973 c.552 §11; repealed by 1977 c.766 §16]

215.047 Effect of comprehensive plan and land use regulations on solar access ordinances. Solar access ordinances shall not be in conflict with acknowledged comprehensive plans and land use regulations. [1981 c.722 §3]

215.050 Comprehensive planning, zoning and subdivision ordinances. (1) The county governing body shall adopt and may from time to time revise a comprehensive plan and zoning, subdivision and other ordinances applicable to all of the land in the county. The plan and related ordinances may be adopted and revised part by part or by geographic area.

(2) Zoning, subdivision or other ordinances or regulations and any revisions or amendments thereof shall be designed to implement the adopted county comprehensive plan. [Amended by 1955 c.439 §2; 1963 c.619 §3; 1973 c.552 §4; 1977 c.766 §2; 1981 c.748 §41]

215.055 [1955 c.439 §3; 1963 c.619 §4; 1971 c.13 §2; 1971 c.739 §1; 1973 c.80 §43; 1975 c.153 §1; repealed by 1977 c.766 §16]

215.060 Procedure for action on plan; notice; hearing. Action by the governing body of a county regarding the plan shall have no legal effect unless the governing body first conducts one or more public hearings on the plan and unless 10 days' advance public notice of each of the hearings is published in a newspaper of gen-

eral circulation in the county or, in case the plan as it is to be heard concerns only part of the county, is so published in the territory so concerned and unless a majority of the members of the governing body approves the action. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio and television. [Amended by 1963 c.619 §5; 1967 c.589 §1; 1973 c.552 §6]

215.070 [Repealed by 1963 c.619 §16]

215.080 Power to enter upon land.

The commission, and any of its members, officers and employes, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers thereon.

215.090 Information made available to commission. Public officials, departments and agencies, having information, maps or other data deemed by the planning commission pertinent to county planning shall make such information available for the use of the commission. [Amended by 1977 c.766 §3]

215.100 Cooperation with other agencies. The county planning commission shall advise and cooperate with other planning commissions within the state, and shall upon request, or on its own initiative, furnish advice or reports to any city, county, officer or department on any problem comprehended in county planning.

215.104 [1955 c.439 §4; 1963 c.619 §6; 1967 c.589 §2; 1973 c.552 §7; repealed by 1977 c.766 §16]

215.108 [1955 c.439 §5; 1961 c.607 §1; repealed by 1963 c.619 §16]

215.110 Recommendation of ordinances to implement plan; content; enactment; referral; retroactivity prohibited.

(1) A planning commission may recommend to the governing body ordinances intended to implement part or all of the comprehensive plan. The ordinances may provide, among other things, for:

(a) Zoning;

(b) Official maps showing the location and dimensions of, and the degree of permitted access to, existing and proposed thoroughfares, easements and property needed for public purposes;

(c) Preservation of the integrity of the maps by controls over construction, by making official maps parts of county deed records, and by other action not violative of private property rights;

(d) Conservation of the natural resources of the county;

(e) Controlling subdivision and partitioning of land;

NOTICE TO PROPERTY OWNERS

215.503 Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) Except as otherwise provided by county charter:

(a) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance.

(b) In addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(c) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(3) An additional individual notice of land use change required by paragraph (b) or (c) of subsection (2) of this section shall be approved by the governing body of the county and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall be mailed by first class mail to the affected owner at the address shown on the last available complete tax assessment roll. [1977 c.664 §37]

215.505 [1969 c.324 §1; repealed by 1977 c.664 §42]

215.508 Individual notice not required if funds not available. Except as otherwise provided by county charter, if funds are not available from the Department of Land Conservation and Development to reimburse a county for expenses incurred in giving additional individual notices of land use change as provided in ORS 215.503, the governing body of the county is not required to give those additional notices. [1977 c.664 §38]

APPENDIX B

COPIES OF PUBLIC NOTICE REQUIREMENTS FOR PLANNING AND PLANNING
RELATED ACTIVITIES FOR CLARK AND WASHOE COUNTIES IN NEVADA;
CONTRA COSTA COUNTY, CALIFORNIA; AND THE CITIES OF
LAS VEGAS, NORTH LAS VEGAS AND SPARKS, NEVADA

CONDITIONAL USES-VARIANCES-PERMITS 29.66.010-29.66.012

Chapter 29.66

CONDITIONAL USES-VARIANCES-PERMITS

Sections:

- 29.66.010 Submission procedure.
- 29.66.012 Hearings and decisions.
- 29.66.014 Time limit for permit.
- 29.66.016 Reapplication.
- 29.66.017 Extensions of time.
- 29.66.019 Expiration of application not acted upon.
- 29.66.020 Conditional use permits.
- 29.66.030 Variance permits.

29.66.010 Submission procedure. (A) Application. The application for a conditional use permit or variance permit as provided in this chapter shall be made by the property owner or his authorized representative to the planning commission, in triplicate, on forms furnished by the commission and signed by the property owner. Such application shall be accompanied by the following data and information submitted in duplicate on paper of a minimum size of eighteen by twenty-four inches:

(1) Site development plan, drawn to scale to include building dimensions of existing and proposed structures, setback dimensions, yards and open space dimensions, parking space dimensions, location of signs, location of landscaping and such other information as may be necessary;

(2) Floor plan, drawn to scale to indicate size of buildings and total square footage of buildings;

(3) Rendered elevation to indicate the architectural appearance of proposed buildings;

(4) Evidence satisfactory to the planning commission of the ability and intention of the applicant to proceed with actual construction work in accordance with the plans within one year after the effective date of such permit.

(B) Fees. The planning commission shall charge and collect the hereinafter stated fee for the filing of each conditional use permit or variance permit application, the charge being due and payable at the time of filing:

(1) Application for a conditional use permit shall be one hundred fifty dollars.

(2) Application for a variance permit shall be one hundred dollars.

(C) Nonprofit Organizations. There will not be a fee charged to any nonprofit organization or political entity which is the owner of record of the property involved in a conditional use permit or variance permit application. (Ord. 895 § 9, 1984; Ord. 850 § 2 (part), 1983).

29.66.012 Hearings and decisions. (A) Upon receipt in the proper form of any application, the planning commission shall hold a public hearing thereon. Notice of time and place of hearing, a description of the property

involved, and the purpose of hearing shall be sent to each owner of property within a minimum distance of three hundred feet of the exterior boundary of the lot or parcel of land described in such application. If it is deemed advisable, the planning commission shall cause the notice to be published once in a newspaper of general circulation in the county not less than ten days nor more than thirty days prior to the meeting. For the purpose of this section "property owner" means that owner shown upon the latest assessment rolls of the county.

(B) Records. From the time of filing of such application, the application together with all plans and data submitted shall become a part of the records of the planning commission and shall be available for public inspection in the commission's office.

(C) Action of Commission. At the conclusion of the hearing, the planning commission shall take such action thereon as it deems warranted under the circumstances. The action of the planning commission in granting or denying conditional use permits or variance permits shall become final five judicial days after approval or denial, unless appealed to the board of county commissioners.

The planning commission in granting the permit may establish conditions under which the lot or parcel of land may be used, or a building or structure is constructed or altered, or make requirements as to architectural height of a building or structure, open spaces, parking areas or vehicle storage and conditions of operation of any enterprise, or may make any other conditions, requirements or safeguards that the commission may consider necessary to prevent damages or prejudice to adjacent properties or detriment to the county and to secure substantially the objectives of the regulation or provision to which conditional use permit, variance or adjustment is requested and will provide adequately for the maintenance of the integrity and character of the district in which located. When deemed necessary, the commission may require guarantees in such form as it may deem proper under the circumstances, to insure that the conditions designated in connection therewith are being or will be complied with.

(D) In the case of planning commission disapproval, or approval with conditions not accepted by the applicant, or in any case where a written objection to planning commission approval is received by the zoning administrator within five judicial days of such approval, of any plans submitted in compliance with this chapter, copies of the plans with the findings of the planning commission and reasons for their action shall be filed immediately with the clerk of the board of county commissioners. This board shall consider the matter within forty days after the filing thereof. No building permit in such instance shall be issued, unless the plans filed with application therefor, as required in this chapter, have first been acted upon by the planning commission and approved by the board of county commissioners.

(E) Exception. Use permit or variance applications which are part of a zone change application and filed concurrently shall be considered part of

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injury to the neighborhood will not result from the issuance of a variance permit, it may approve or conditionally approve the same. (Ord. 975 § 5, 1986; Ord. 895 § 16, 1984; Ord. 429 (part), 1974).

Chapter 29.68

AMENDMENTS AND BOUNDARY CHANGES

Sections:

- 29.68.010 Procedure authorized.
- 29.68.020 Initiation of changes, amendments.
- 29.68.030 Hearing and notice.
- 29.68.040 Additional property included.
- 29.68.060 Decision by county commission.
- 29.68.065 Finality of decision.
- 29.68.070 Fees.
- 29.68.080 Resolution of intent to reclassify.
- 29.68.085 Interim compliance.
- 29.68.090 Reapplication.
- 29.68.100 Extensions of time.
- 29.68.110 Expiration of applications not acted upon.

29.68.010 Procedure authorized. Boundaries of zone districts established by this title or the classification of property uses therein may be amended, reclassified or altered by the board of county commissioners whenever public necessity and convenience and general welfare require. (Ord. 895 § 18, 1984; Ord. 429 (part), 1974).

29.68.020 Initiation of changes, amendments. Amendments, supplements or changes may be initiated in the following manner, either by:

- (A) The planning commission;
- (B) The board of county commissioners;

(C) The petition of one or more property owners. Such petition shall be in the form of an application for change of land-use classification and shall be duly signed and acknowledged by the property owner of record and shall be filed in the office of the planning commission upon forms furnished by the commission for the purpose and shall be accompanied by the following data and information submitted in duplicate on paper of a minimum size of eighteen inches by twenty-four inches:

(1) Site development plan, drawn to scale to include building dimensions of existing and proposed structures; setback dimensions; yards and open space dimensions; parking space dimensions; location of signs; location of landscaping; and such other information as may be necessary,

(2) Floor plan, drawn to scale to indicate size of buildings and total square footage of buildings,

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(3) Rendered elevation to indicate the architectural appearance of proposed buildings.

(4) Deed. Copy of recorded deed.

Each application shall be signed by at least one of the property owners of record of the property to be changed by such application, and notarized attesting to the truth and correctness of all the facts and information presented with the application. The board of county commissioners shall ascertain if any application for a zone change is reasonable, equitable and in the public interests. (Ord. 895 § 19, 1984; Ord. 429 (part), 1974).

29.68.030 Hearing and notice. Upon the filing of any such verified petition, the board of county commissioners shall hold at least one public hearing in relation thereto which shall be advertised in a newspaper of general circulation in the county at least ten days before the day of such hearing, at which parties of interest and citizens shall have an opportunity to be heard. If the board of county commissioners deems it advisable, they may, in addition thereto, cause notice of the same hearing to be sent to nearby property owners in accordance with the following standards:

(A) When the property proposed to be rezoned is in whole or in part being changed from the R-E (rural estates residential) district to a less restrictive district, the notice distance shall be five hundred feet.

(B) In all other instances, the notice distance shall be three hundred feet. (Ord. 973 § 1, 1986; Ord. 895 § 20, 1984; Ord. 429 (part), 1974).

29.68.040 Additional property included. When the board of county commissioners deems it necessary or expedient, the commission may consider other property for change or amendment in addition to the property described in an application for change of land-use classification and may include such additional property in the notices of hearing, and consider amendments relating to such property at the school hearing. (Ord. 895 § 21, 1984; Ord. 429 (part), 1974).

29.68.060 Decision by county commission. The board of county commissioners shall make such decision as it deems warranted, or if deemed necessary the board of county commissioners may refer such application to the planning commission for a recommendation. (Ord. 895 § 23, 1984; Ord. 429 (part), 1974).

29.68.065 Finality of decision. The decision of the board of county commissioners shall become final and effective five judicial days after the decision is made. No permits shall be issued concerning the property in question until the decision becomes final. (Ord. 895 § 24, 1984; Ord. 560 § 2, 1977; Ord. 454 § 2, 1975; Ord. 429 (part), 1974).

29.68.070 Fees. (A) A zone change application shall require a fee payable to the county which shall be in the sum of four hundred dollars for each

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not the property owner) is a government agency or nonprofit organization. (Ord. 973 § 2, 1986; Ord. 895 § 28, 1984; Ord. 846 § 3, 1983; Ord. 743 § 1, 1981; Ord. 509 § 2, 1976; Ord. 443 § 2, 1974).

29.68.110 Expiration of applications not acted upon. When any application for a zoning district boundary change is not acted upon by the board of county commissioners due to:

(1) The failure of the applicant to be represented at a scheduled public hearing on such application; or

(2) The request or consent of the applicant to withhold action on any application; and such application remains in an inactive status for more than one hundred eighty days without a request by the applicant for rehearing of the application, then such application shall expire and be treated as withdrawn. (Ord. 895 § 29, 1984; Ord. 721 § 10, 1980).

Chapter 29.70

MASTER PLAN CHANGES

Sections:

- 29.70.010 Adopting plan authorized.
- 29.70.020 Hearing on plan by planning commission.
- 29.70.030 Procedure for adoption by planning commission.
- 29.70.040 Hearing on plan by county commissioners.

29.70.010 Adopting plan authorized. The planning commission shall prepare and adopt any amendments, changes, extensions or parts thereof of a comprehensive long-term general plan as a basis for future development of the county. (Ord. 429 (part), 1974).

29.70.020 Hearing on plan by planning commission. Before adopting the plan or any part or amendment thereof, the planning commission shall hold at least one public hearing in relation thereto, which notice shall be published in a newspaper of general circulation in the county at least ten days before that day of the hearing. (Ord. 429 (part), 1974).

29.70.030 Procedure for adoption by planning commission. The adoption of any amendment, extension or change of any part of a comprehensive, long-term general plan (a master plan) by the planning commission shall be by resolution and carried by the affirmative vote of not less than two-thirds of the total membership of the commission and shall thereupon be endorsed and certified as adopted by the planning commission. (Ord. 429 (part), 1974).

29.70.040 Hearing on plan by county commissioners. The board of county commissioners, after receipt of a certified copy of the comprehensive, long-term general plan (the master plan), or any part thereof as adopted by the planning commission, may adopt such parts thereof after a

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2. Any action of the board of adjustment that has in effect changed the land use district is a violation of powers of the board and of the Land Use Ordinance and is of no force and effect.

[Part Art. 42, Ord. No. 57; A 73-1763; 73-1773]

110.210 Administrator: Powers and duties.

1. The administrator shall investigate each application to assure that the proposal in each application is consistent with the intent and purpose of the Land Use Ordinance.

2. The administrator may grant or deny, at his discretion, modification in lot area, yard and parking requirements if undue hardship is shown. Such modifications shall be limited to deviations not to exceed 20 percent of required yard area or 10 percent of lot area or 10 percent of off-street parking requirements.

3. All decisions of the administrator shall be in writing and filed in his office with copies transmitted to the building and safety division of the department of public works, the board of adjustment and the applicant. Such decisions of the administrator may be granted without public hearing.

[Part Art. 42, Ord. No. 57; A 73-1763, 73-1773]

110.211 Application for variance: Contents; evidence.

1. Any person requesting a variance shall file an application with the administrator. Such application shall include:

(a) Provisions of the Land Use Ordinance from which the property or building is sought to be excepted.

(b) A legal description of the property involved.

(c) Ground plans showing the location of all existing and proposed buildings.

(d) Elevations of all proposed buildings or alterations in sufficient detail to meet all requirements.

(e) Evidence of the ability and intent of the applicant to proceed with actual construction within 6 months of the filing of the application.

2. All applications shall be verified before a notary public by the owner of the land or buildings or his authorized agent.

3. The applicant shall present adequate evidence showing that:

(a) There are special circumstances or conditions applying to the property under consideration which make compliance with the provisions of the Land Use Ordinance difficult and a cause of hardship to, and abridgement of a property right of, the owner of the property.

(b) Such circumstances or conditions do not apply generally to other properties in the same land use district.

(c) The granting of the variance is necessary to do substantial justice to the applicant or owner of the property.

(d) The granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety and general welfare.

[Part Art. 42, Ord. No. 57; A 73-1763, 73-1773]

110.212 Notice and hearing.

1. The hearing shall be held within 65 days of the date of filing of the application.

2. Notice by mail of the time, place and purpose shall be given not less than 10 days prior to the date of the hearing to the following:

(a) The applicant.

(b) The owners of real property within 300 feet of the exterior boundaries of the property described in the application pursuant to section 110.211. Such owners of real property shall be those owners indicated by the latest county assessor's ownership maps and the requirement of notice is complied with when the administrator mails the maps to the last-known addresses of such real property owners as indicated by the latest county assessor's records. Of the above real property owners to be noticed, six shall be noticed by certified mail. If there are not six real property owners within 300 feet of the exterior boundaries of the property described in the application, then notice by certified mail shall be sent to additional real property owners nearest the exterior boundaries of the real property in the application, bringing the total to six real property owners being noticed by certified mail.

(c) The building and safety division of the department of public works, county engineer and the district health department.

3. Notice may be given to owners of real property in addition to those owners provided for in subsection 2 either by mail as provided in subsection 2 or by at least one publication in a newspaper of general circulation in Washoe County not less than 10 days prior to the date of such hearing, or both, when the administrator deems such notice to be necessary to protect the public interest.

4. The board of adjustment may hear facts from any person appearing and may consider written communications relative to the application.

[Part Art. 42, Ord. No. 57; A 73-1763, 73-1773]

110.213 Findings. The board of adjustment shall, within 40 days from the date of the hearing, return its decision unless for good cause an extension is granted.

[Part Art. 42, Ord. No. 57; A 73-1763, 73-1773]

110.214 Conditions.

1. The board of adjustment in recommending approval of any variance may require conditions under which the lot or parcel may be used or the building constructed which in the opinion of the board of adjustment will prevent material damage or prejudice to adjacent properties. Any such conditions as required must be complied with, and violation of them shall result in revocation of the permission granted by variance. Further use constitutes a violation of the Land Use Ordinance and shall be punishable as provided in the Land Use Ordinance.

2. All variances shall carry the following conditions:

- (a) Commencement within 6 months and completion within 1 year.
- (b) Conformance to plans approved as a part of the variance.
- (c) Subject to review by the board of adjustment in 2 years.

[Part Art. 42, Ord. No. 57; A 73-1763, 73-1773]

Article 51: Special Use Permits

110.215 Special use permit: Establishment of uses or functions. Where the establishment of uses or functions requires the issuance of a special use permit, as provided in the Land Use Ordinance with the exception of Tahoe Regional Planning Agency administrative permits, the provisions of sections 110.216 to 110.220, inclusive, apply.

[Part Art. 43, Ord. No. 57; A Ord. No. 314]

110.216 Special use permit: Procedure. Any person seeking the issuance of a special use permit shall file an application with the administrator and shall appear before the board of adjustment or the planning commission presenting evidence of all the following:

1. That the use is necessary to the public health, convenience, safety and welfare and to the promotion of the general good of the community; and

2. That the use of the property for such purposes will not result in material damage or prejudice to other property in the vicinity.

[Part Art. 43, Ord. No. 57; A Ord. No. 314]

110.217 Special use permit: Investigation. The administrator shall investigate each application to assure that the proposal in each application is consistent with the intent and purpose of the Land Use Ordinance.

[Part Art. 43, Ord. No. 57; A Ord. No. 314]

110.218 Special use permit: Hearing. The board of adjustment or the planning commission may hold a public hearing upon the application. If a hearing is held, notice shall be given as set forth in section 110.212.

[Part Art. 43, Ord. No. 57; A Ord. No. 314]

110.219 Special use permit: Findings; recommendation; conditions.

1. Within 65 days from date of filing, the board of adjustment or the planning commission shall submit findings and a recommendation to the board of county commissioners. The applicant shall be notified of such recommendation not later than 3 days after submission of the report to the board of county commissioners.

2. The board of adjustment, the planning commission or the board of county commissioners, in approving the special use permit, may require certain conditions under which the proposed use may be allowed which will prevent material damage to adjacent properties and provide suitable safeguards to the public health, safety and general welfare. Such conditions may include time limitations, architectural considerations, access provisions, off-street parking, greenbelt planting requirements or other controls.

[Part Art. 43, Ord. No. 57; A Ord. No. 314]

110.220 Special use permits: Revocation.

1. Failure to comply with any conditions imposed in the issuance of special use permits shall result in the institution of revocation procedures.

2. The board of adjustment or the planning commission shall hold a public hearing upon the revocation of a special use permit and notice shall be given as prescribed for issuance of a special use permit.

3. The board of adjustment or the planning commission shall submit findings and a recommendation on revocation to the board of county commissioners. The person or persons to whom the special use permit has been issued shall be notified of such recommendation not later than 3 days after submission of the report to the clerk of the board of county commissioners.

4. The board of county commissioners upon receipt of a recommendation for revocation of a special use permit may revoke such permit for failure to comply with any of the conditions imposed in the issuance of the special use permit.

[Part Art. 43, Ord. No. 57; A Ord. No. 314]

amended, repealed or supplemented by the board of county commissioners. Any such amendment shall be considered an amendment to the master plan and shall be accomplished in the manner required by chapter 278 of NRS.

[Part Art. 44, Ord. No. 57; A 73-1773, 74-129, Ord. No. 580]

110.229 Initiation of amendments: Procedure; notice and hearing.

1. Initiation of amendments. Amendments may be initiated as follows:

- (a) By the planning commission.
- (b) By the board of county commissioners.
- (c) By the owner of a lot or parcel within the area sought for amendment by filing with the planning commission a signed and verified application accompanied by the necessary fee.

2. Hearing. The planning commission shall first hold a public hearing on all proposed amendments. Such hearings shall be held within 110 days following the initiation of such proceedings. Notice of the time and place of hearing shall be published in a newspaper of general circulation in Washoe County not less than 10 days prior to the date of such hearing. Such notice shall describe the change proposed, the lot, parcel or properties proposed for change and other pertinent information in such a manner that the property and change proposed can readily be identified. When the planning commission deems it proper, it may consider other property for change in addition to that sought in the application.

3. Notice. When a change of land use district is applied for by persons other than the planning commission or the board of county commissioners, the planning commission shall mail to the applicant and to all real property owners within 300 feet of the exterior boundaries of the property proposed for reclassification, and to all real property owners of land within such area proposed for reclassification, written notice of the time, place and date of such hearing and the general location of the property of the addressee with reference to the property proposed for change, not less than 10 days prior to the date of such hearing. Of the above real property owners to be noticed, six shall be noticed by certified mail. If there are not six real property owners within the area proposed for reclassification or within 300 feet of the exterior boundaries of the property described in the application, then notice by certified mail shall be sent to real property owners of land nearest the exterior boundaries of the property in the application bringing the total to six real property owners being noticed by certified

mail. Notice may be given to owners of real property in addition to those provided for in this subsection when the planning commission deems it necessary to protect the public interest. All owners of real property as provided in this section shall be those owners indicated by the latest county assessor's ownership maps, and such notice is complied with when the planning commission mails the same to the last-known addresses of such real property owners as indicated by the latest county assessor's records.

[Part Art. 44, Ord. No. 57; A 73-1773, 74-129, Ord. No. 580]

110.230 Continued hearings. When any public hearing required by this Article 53 to be conducted by the planning commission with respect to a change of land use district application is continued by the planning commission to a subsequent date for completion of the hearing, notice of the time and place of such continued hearing shall be given by publication as required in subsection 2 of section 110.229, and all written notices required by subsection 3 of section 110.229 for the first hearing date shall be given for the subsequent hearing date in the same manner.

[Part Art. 44, Ord. No. 57; A 73-1773, 74-129, Ord. No. 580]

110.231 Report to board of county commissioners; inspections after adoption of resolution of intent; validation of actions.

1. Within 40 days following the public hearing, the planning commission shall file a written report with the board of county commissioners relative to the proposed change or amendment. Such written report shall recommend one of the following:

(a) Approval of all or a portion of the proposed change or amendment.

(b) Disapproval of the proposed change or amendment.

(c) Adoption by the board of county commissioners of a resolution of intent to reclassify all or a portion of the property included in the proposed change or amendment. The planning commission recommendation of adoption of such a resolution may contain any conditions, stipulations or limitations which the planning commission feels necessary to protect the public interest.

2. Failure of the planning commission so to report shall be deemed approval. The planning commission shall mail to the applicant notice of the recommendation within 3 days following the filing of the report with the clerk of the board of county commissioners.

3. If a resolution of intent is adopted by the board of county commissioners pursuant to the provisions of subsection 1,

and such resolution contains conditions, stipulations or limitations, the county building inspector and employees and agent of the planning commission shall, as occasion demands, make inspections of the subject real property to determine compliance or the lack thereof with the conditions, stipulations or limitations. Before any such inspection is made, oral or written notice shall be given by the county building inspector or the employees and agents of the planning commission to the applicant who has applied for the change of land use of the time when such inspection will be made and that such applicant has the opportunity to observe and participate in such inspections.

4. Notwithstanding any defects and irregularities, all acts and proceedings had or taken by the board of county commissioners, the clerk of the board of county commissioners and the planning commission, or purportedly had or taken under law or under color of law by them, in making changes or amendments to the land use plan prior to the adoption of the Washoe County Code by the enactment of county ordinances, including but not limited to Washoe County Ordinances Nos. 333, 334, 368 and 477, or otherwise, are hereby validated, ratified, approved and confirmed.

[Part Art. 44, Ord. No. 57; A 73-1773, 74-129, Ord. No. 580]

Article 54: Appeals

110.232 Appeals to county commissioners from decisions of planning commission, board of adjustment; appeals not to be withdrawn.

1. The decision of the planning commission or the board of adjustment granting, denying or recommending a change of land use, variance or special use permit, or recommending revocation of a special use permit, may be appealed in writing to the board of county commissioners within 10 days after the board of adjustment or the planning commission has notified the clerk of the board of county commissioners of its decision.

2. Decisions and recommendations of the board of adjustment shall be set for final action by the clerk of the board of county commissioners. Appeals on such recommendations may also be heard at that time.

3. Decisions of the planning commission recommending changes of land use shall be set for public hearing by the clerk of the board of county commissioners. Appeals on such recommendations may also be heard at that time.

4. No appeal, once filed, may be withdrawn.

[Part Art. 45, Ord. No. 57; A 71-832, 73-1763]

~~26-2.2004~~ Variance, conditional use and special permits – Notice requirements. (a) Mail – Addresses. Except as provided by Article 26-2.21, the planning department shall schedule a hearing before the appropriate division, and mail notice thereof pursuant to Government Code Section 65905. The mail notice shall be given, by postage prepaid first-class United States mail, to all owners of real property within three hundred feet of the subject land, using addresses from the last equalized assessment roll, or from such other records (as the assessor's or tax collector's) as contain more recent addresses in the opinion of the planning director.

(b) ~~Contents~~. The notices shall state the time, date and place of the hearing, the general nature of the application, and the street address, if any, of the property involved or its legal or boundary description if it has no street address. Substantial compliance with these provisions for notice is sufficient, and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this article.

(c) Revocations. Notice of hearings on revocations shall be given in the same manner as on applications. (Ords. 80-87 § 1, 78-54 § 2, 1975: prior code § 2203.15; Ords. 917 § 5.1, 856 § 1, 382 § 7: see Gov. C. § 65901).

26-2.2006 Variance, conditional use and special permits – Variance permit standards. An application for a variance permit is an application to modify zoning regulations as they pertain to lot area, lot building coverage, average lot width, lot depth, side yard, rear yard, setback, auto parking space, building or structure height, or any other regulation pertaining to the size, dimension, shape or design of a lot, parcel, building or structure, or the placement of a building or structure on a lot or parcel. The division of the planning agency hearing the matter either initially or on appeal shall find the following conditions that must exist prior to approval of an application:

(1) That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located;

(2) That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district;

(3) That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located. Failure to so find shall result in a denial. (Ord. 1975: prior code § 2204.30: Ord. 917).

26-2.2008 Variance, conditional use and special permits – Conditional use permit standards. An application for a conditional use permit is an application to establish a conditional land use within a land use district which does not allow establishment by right, but does allow the granting of a land use permit after a public hearing. The division of the planning agency hearing the matter either initially or on appeal, shall find the following before granting the permit:

(1) That the proposed conditional land use shall not be detrimental to the health, safety and general welfare of the county;

(2) That it shall not adversely affect the orderly development of property within the county;

(3) That it shall not adversely affect the preservation of property values and the protection of the tax base within the county;

(4) That it shall not adversely affect the policy and goals as set by the general plan;

(5) That it shall not create a nuisance and/or enforcement problem within the neighborhood or community;

(6) That it shall not encourage marginal development within the neighborhood;

(7) That special conditions or unique characteristics of the subject property and its location or surroundings are established. Failure to so find shall result in a denial. (Ord. 1975: prior code § 2204.40: Ord. 917).

26-2.2010 Variance, conditional use and special permits – Special permit standards. An application for a special permit shall be primarily governed by the code provision

Chapter 19.70

COMMERCIAL CONDOMINIUMS

Sections:

19.70.010 Requirements generally.

19.70.020 Residential requirements conformity--Homogeneity of use.

19.70.030 Existing buildings.

19.70.010 Requirements generally. A commercial condominium development may be permitted provided that all of the owners in the development participate in the common land and/or joint ownership by means of an undivided interest or permanent mutual easement and further provided that the following conditions are complied with:

(A) Conformance to the requirements of the Department of Building and Safety relative to grading and drainage;

(B) Conformance to the requirements of the Department of Building and Safety relative to the improvement of the access and parking areas held in common ownership or through permanent mutual easement;

(C) Access to more than one street or provision of an adequate turn-around if access is by means of a cul-de-sac;

(D) Sanitary sewer lines installed in the commonly owned areas shall conform to the same requirements as though they were located in a public right-of-way;

(E) The installation of fire hydrants as required by the Fire Services Department;

(F) A plot plan approved by the Planning Commission and a record of survey shall be recorded in the office of the County Recorder.

(Ord. 1364 § 2, 1968: Ord. 1215 § 2, 1965: prior code § 11-1-6(O))

19.70.020 Residential requirements conformity – Homogeneity of use. The construction of commercial buildings for a condominium ownership pattern shall conform to the same requirements as specified for residential, and, in addition, shall conform to the requirement that all occupancy shall be of a similar nature in accord with the Building Code.

(Ord. 1419 § 1, 1969: prior code § 11-1-6(S)(1))

19.70.030 Existing buildings. In the case of a proposed condominium subdivision of an existing commercial 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 services.

(Ord. 1419 § 1, 1969: prior code § 11-1-6(S)(2))

at the time of filing such application.

(Ord. 1748 § 1, 1974; Ord. 1722 § 1 (part), 1974; Ord. 972 § 24(A)(6), 1962; prior code § 11-1-24(A)(6))

19.88.070 Public hearing – Notice. The Board of Zoning Adjustment shall hold a public hearing upon each properly submitted application for a permissible variance. The public hearing shall be conducted not less than twenty-four days nor more than sixty days following the date of filing such application. Notice of the time and place of the public hearing shall be given by publication in a newspaper of general circulation in the City not less than ten days prior to the date of the hearing. The Secretary of the Board of Zoning Adjustment may give additional notice of the hearing, and if he does, may use any or all of the following methods:

(A) Mailing a notice to each property owner shown on the latest assessment rolls of Clark County or other available public records within three hundred feet of the exterior boundary of the lot or parcel of land described in the application of the time and place of the public hearing with a description of the property involved. In the event that the Secretary of the Board of Zoning Adjustment shall make a determination that the area which would be affected by a variance, if granted by the Board, would be greater than three hundred feet from the exterior boundary of the land in question, he is authorized to expand the area of notification to property owners to whatever he deems reasonable;

(B) Posting of a written notice, posted conspicuously at a minimum of two public places within the affected area as determined in accordance with Subsection (A) of this Section;

(C) Delivering a written notice to the premises of each occupied lot or parcel of property within the affected area as determined in accordance with Subsection (A) of this Section.

If additional notice is given, the City shall endeavor to provide notice not less than ten days prior to the date of the hearing.

(Ord. 2071 § 1, 1980; Ord. 1591 § 1, 1972; Ord. 972 § 24(A)(7), 1962; prior code § 11-1-24(A)(7))

**SAME PROCEDURE
FOR
ZONING**

19.88.080 Public hearing – Conduct.

(A) The Board of Zoning Adjustment shall conduct all public hearings in strict compliance with such rules and regulations as the Board may adopt by majority vote of the entire Board, provided that:

(1) The rules and regulations shall in no way be in conflict with the provisions of this Title or any other provisions of this Code or related State statutes;

(2) The rules and regulations shall be ratified by a majority vote of the Board of Commissioners.

ZONING CODE

NORTH LAS VEGAS, NEVADA

19.08.010

CHAPTER 19.08

RECLASSIFICATION AND AMENDMENTS

SECTIONS:

19.08.010	Initiation of Change
19.08.020	Application
19.08.030	Planning Commission
19.08.040	City Council
19.08.050	Public Hearings

19.08.010 INITIATION OF CHANGE

The City Council may, from time to time, amend, supplement, change or modify by ordinance, the number, shape, area or boundaries of the zoning districts or the regulation herein established. Any such amendments shall be initiated by a motion of the Planning Commission or by application of the property owner(s) or Bureau of Land Management land by land users.

19.08.020 APPLICATIONS

All applications submitted by property owner(s) or Bureau of Land Management land by land users for an amendment shall be submitted to the Community Planning and Development Department in accordance with the following:

- A. FORM. If the application for an amendment in order to reclassify property from one district to another is initiated by the property owner(s) or Bureau of Land Management land by land users, such application shall be made on forms as provided by the Community Planning and Development Department. In the case of Bureau of Land Management land the land users shall submit proof of authorization from the Bureau of Land Management to use the land and any conditions placed on that use. The application form shall be filed with the Community Planning and Development Department along with the legal description, elevation drawings, six (6) copies of the site plan and a construction schedule of all improvements. The application shall be signed and executed by the recorded owner(s) or Bureau of Land Management land by land users of the property sought to be reclassified. Upon receipt of a properly executed application, the Community Planning and Development Department shall set a date for a public hearing and shall maintain the application, together with all pertinent attachments and exhibits, in the permanent files of the department as a public record.
- B. FILING FEE. To partially defray the cost of noticing public hearings and other incidental administrative and investigative expenses involved in the application, a non-refundable fee of \$400 shall be charged. This fee shall be due and payable at the time of the filing of the application. No application shall be accepted for processing unless such fees have been paid or waived by motion of the City Council.

19.08.030 PLANNING COMMISSION

- A. PUBLIC HEARING. All proposed amendments initiated by motion of City Council, by motion of the Planning Commission or by application by the property owner(s) or Bureau of Land Management land by land users shall be submitted to the Planning Commission for a public hearing. Said public hearing shall be held not less than 21 calendar days nor more than 45 calendar days following the motion of the City Council or Planning Commission or the filing of a complete application by the property owner(s) or Bureau of Land Management land by land users. The property owner(s), Bureau of Land Management land users or his representative must be present at all public hearings. The procedures for notification of a public hearing can be found in Chapter 19.08.050.
- B. RECOMMENDATION. Following the conduct of a public hearing and within 30 calendar days of the hearing, the Planning Commission shall report its findings and recommendations on the proposed amendment to the City Council unless an extension of time is agreed upon. The Commission, in making its recommendation concerning a reclassification of property, may change or modify the proposed amendment. If the Commission also considers reclassifying other adjacent property, it shall be necessary to notify the additional persons required and set another public hearing per Chapter 19.08.050.

19.08.040 CITY COUNCIL

- A. TIME. The City Council shall consider the proposed amendment and the recommendations of the Planning Commission at the Council's next regular meeting following receipt of the recommendations of the Planning Commission.
- B. DETERMINATION. If for the evidence presented and the recommendations of the Planning Commission, the City Council determines that this proposed amendment will not adversely affect the health and general welfare, the City Council may change or modify and approve the proposed amendment by ordinance or, in the case of a reclassification, may indicate its general approval in principal of the reclassification by the adoption of a "resolution of intent to reclassify" said property.
- C. CONTENTS OF RESOLUTIONS. A resolution of intent to reclassify may include any conditions, stipulations or limitations which the City Council may feel necessary to require in the public interest as prerequisite to final action. The conditions, stipulations or limitations contained within the resolution of intent shall be binding upon the applicants, heirs, successors and assigns. All conditions, stipulations and limitations contained in the resolution of intent shall be fulfilled by the applicant within a one (1) year period of time unless otherwise stated in the resolution of intent in order to make this resolution a binding commitment on the City Council. Upon compliance by the applicant, the City Council shall, by ordinance, reclassify the property. Failure to complete the conditions, stipulations or limitations within the time limit placed thereon in the resolution shall render such resolution of intent to reclassify null and void, unless an extension of time is granted by the City Council.

19.08.050 PUBLIC HEARINGS

The following is the procedure to be followed concerning proper notification of a public hearing to be held by the Planning Commission.

- A. CONTENTS. The notice of a public hearing shall contain a description of the property involved and a statement as to the existing zoning of the property and if applicable, the zoning requested in the application for reclassification.
- B. METHOD OF NOTIFICATION. Notice shall be given as follows:
 - 1. A copy of the Notice of Public Hearing shall be mailed at least ten (10) calendar days prior to the public hearing to each property owner as shown on the latest tax rolls of Clark County Assessor's office within a minimum radius of 300 feet of the exterior boundary of the lot or parcel of land described in the application.
 - 2. Publication of a legal notice in a newspaper of general circulation in the community shall occur at least ten (10) calendar days before the public hearing.
 - 3. The Director of Community Planning and Development may, in addition, use any of the following methods of notification.
 - a. Posting of copies of the Notice of Public Hearing conspicuously in a minimum of two locations on the exterior boundaries of the lot or parcel contained within the application.
 - b. Delivering a copy of the Notice of Public Hearing to the premises of each occupied lot or parcel of land within the area determined for notification.
 - c. Any other method of notification which may be deemed appropriate under the circumstances.

the current provisions of this title regarding setbacks, height restrictions, parking, landscaping, signs or other site development standards. (Ord. 1325 § 14, 1981.)

20.05.417 Time-share license.

"Time-share license" means a right to occupy a unit or any of several units during three or more separated time periods over a period of at least three years, including renewal options, not coupled with a free-hold estate or an estate for years. (Ord. 1348 § 3, 1982.)

20.05.418 Trailer.

"Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle. (Ord. 1519 § 3, 1985.)

20.05.420 Two-family dwelling.

"Two-family dwelling" means a building containing not more than two kitchens designed or used or designed and used to house not more than two families, living independently of each other, including necessary employees of such family. (Ord. 1074 § 1 (part), 1976.)

20.05.430 Yard.

"Yard" means an open space on the same lot or parcel with the building, extending from the building to the nearest lot line.

- A. "Front yard" means the yard lying between the front wall of the main building and the front property line and extending across the full width of the lot or parcel.
- B. "Rear yard" means the yard between the main building and the rear line and extending across the full width of the lot or parcel.
- C. "Side yard" means the yard lying between the side lot line and the main building and extending from the front yard line to the rear yard line.
- D. "Exterior sideyard" means the areas between the side wall of the building and side property line abutting a street right-of-way on corner lots.
- E. "Interior sideyard" means the area between

the side wall of the building and the property line not abutting a street right-of-way. (Ord. 1074 § 1 (part), 1976.)

CHAPTER 20.07

ADMINISTRATION

Sections:

- 20.07.010 Administration and enforcement.
- 20.07.030 Decisions subject to review and methods of appeal.
- 20.07.040 Rules and regulations.
- 20.07.050 Public hearing.
- 20.07.060 Enforcement.
- 20.07.070 Violation—Penalty.

20.07.010 Administration and enforcement.

This title shall be administered and enforced by the administrator, and such other officers and employees of the city who are delegated such duty by authority and direction of the city council or city manager. (Ord. 1325 § 15, 1981; Ord. 1074 § 1 (part), 1976.)

20.07.030 Decisions subject to review and methods of appeal.

- A. Actions or decisions subject to appeal. Every action or decision of the planning commission or of any person engaged in the administration or enforcement of this title, other than a recommendation or other action or decision routinely reviewed by the city council, is subject to appeal to the city council.
- B. Appeal procedure. Unless otherwise provided, any person aggrieved by any such action or decision, or any person engaged in the administration or enforcement of this title affected by such action or decision, may appeal such action or decision to the city council, by filing a written notice of

appeal with the city clerk within ten days after such action or decision. Upon such filing, the city clerk shall set the matter for public hearing at the next available regular meeting of the city council.

- C. Waiver of right to appeal. The right to appeal to the city council as provided herein shall be deemed to have been waived upon failure to comply with the procedures set forth herein.

(Ord. 1325 § 17, 1981; Ord. 1247 § 7, 1979; Ord. 1074 § 1 (part), 1976.)

20.07.040 Rules and regulations.

In all cases of administration of this title for which no other specific provision is made, the administrator is authorized to adopt and enforce such rules and regulations as may be necessary from time to time for the administration and enforcement of the provisions of this title. Such rules and regulations shall be consistent with the purposes and standards of this title. After a public hearing on the proposed rules and regulations, one copy of the adopted rules and regulations shall be filed with the city clerk and shall become effective immediately thereafter. Additional copies shall be kept in the public works department for distribution to the public. (Ord. 1325 § 18, 1981; Ord. 1074 § 1 (part), 1976.)

20.07.050 Public hearing.

Unless otherwise provided, whenever in this title any public hearing is required to be held, the following procedures shall apply:

- A. At least ten days notice of the time, place and purpose of such public hearing shall be:
1. Published in an official newspaper or a newspaper of general circulation in the city, county or region;
 2. Given by mail to the owner, applicant or appellant, as the case may be; and
 3. Given by mail to owners of property within three hundred feet of the exterior limits of the property or area involved as shown by the assessor's latest ownership maps.
- B. Parties in interest and citizens shall have an opportunity to be heard and the written communications relative to the hearing may be considered.

(Ord. 1325 § 19, 1981; Ord. 1074 § 1 (part), 1976.)

20.07.060 Enforcement.

Any violation of any provision of this title is unlawful and a public nuisance, and shall be abated in accordance with the procedures set forth in Chapter 7.16 of this code.

(Ord. 1325 § 20, 1981; Ord. 1120 § 1, 1977; Ord. 1074 § 1 (part), 1976.)

20.07.070 Violation—Penalty.

Any person, firm or corporation, whether as principal agent, employee or otherwise, violating any provision of this title or violating or failing to comply with any rule or regulation made under this title, is guilty of a misdemeanor and upon conviction thereof is punishable as provided in Section 1.12.010 of this code. Such person, firm or corporation is guilty of a separate offense for each and every day during which such violation of this title or failure to comply with any rule or regulation is committed, continued or otherwise maintained. (Ord. 1325 § 21, 1981; Ord. 1074 § 1 (part), 1976.)

CHAPTER 20.11

FEES AND PERMITS

Sections:

20.11.010 Fees.

20.11.020 Building permits—Issuance conditions.

20.11.010 Fees.

The city council may set fees to be charged and collected and deposited with the director of finance from time to time as the city council may deem reasonable. (Ord. 1074 § 1 (part), 1976.)

SPECIAL USE PERMITS

20.11.020 Building permits—Issuance conditions.

No building permit shall be issued for the erection or use of any structure or part thereof or for the use of any land which is not in accordance with the provisions of this title, except where a variance or a special use permit has been issued by the city council, in which case the building inspector may issue a permit sufficient to allow such work as so authorized by the variance or special use permit in accordance with whatever conditions as may be attached; providing such permit shall not be issued until all time limits for appeal have been exhausted and no appeal has been filed. Any permit issued contrary to the provisions of this title shall be void. (Ord. 1074 § 1 (part), 1976.)

CHAPTER 20.13

SPECIAL USE PERMITS*

Sections:

- 20.13.010 Special use permit defined.
- 20.13.020 Purpose.
- 20.13.030 Failure to obtain a special use permit unlawful.
- 20.13.040 Special use permits granted by city council.
- 20.13.050 Public hearing required.
- 20.13.060 Application and hearing requirements.
- 20.13.070 Issuance of special use permit.
- 20.13.080 Expiration of special use permit.
- 20.13.090 Extension of time.
- 20.13.100 Reapplication following denial.

20.13.010 Special use permit defined.

As used in this chapter, "special use permit" means a permit required as a prerequisite to the establishment of certain uses in certain zoning districts. Uses requiring a special use permit are specified by zoning district in this title. (Ord. 1487 § 6 (part), 1985.)

* Prior ordinance history: Ordinances 1074 and 1343.

20.13.020 Purpose.

The purpose of this chapter is to promote the public health, safety and general welfare by providing for special safeguards in the location and design of certain uses in certain zoning districts, and by allowing for minor adjustments in the impact of some regulations as specifically provided elsewhere in this title. (Ord. 1487 § 6 (part), 1985.)

20.13.030 Failure to obtain a special use permit unlawful.

It is unlawful for any person to establish or conduct a use requiring a special use permit without first obtaining the required permit as provided in this chapter. (Ord. 1487 § 6, (part), 1985.)

20.13.040 Special use permits granted by city council.

Special use permit applications will be heard by the city council, as the zoning board of adjustment. The city council may grant a special use permit upon finding that the proposed special use will be compatible with existing or permitted uses of adjacent properties and may impose conditions on the special use permit to safeguard the public health, safety and general welfare. Such conditions may address, but are not limited to, architectural considerations, access, lighting, signs, parking and landscaping. (Ord. 1487 § 6 (part), 1985.)

20.13.050 Public hearing required.

Before acting upon any special use permit application, the city council must hold a public hearing as provided in Section 20.07.050 of this title. (Ord. 1487 § 6 (part), 1985.)

20.13.060 Application and hearing requirements.

A. Any person seeking a special use permit must submit to the administrator the required application fee accompanied by a special use permit application and supporting materials as prescribed by the administrator.

SPECIAL USE PERMITS

- B. Within sixty-five days from the filing of a complete special use permit application with the administrator, the city council must hold a public hearing on the application. The city council must take final action on the application within thirty days after the initial public hearing. If final action is not taken within that period, the special use permit will be deemed approved, unless the applicant agrees, in writing, to an extension.
- C. Within ten days after the city council's final action, the city clerk must notify the applicant, in writing, of that action, including any conditions imposed by the council.

(Ord. 1487 § 6 (part), 1985.)

20.13.070 Issuance of special use permit.

Following approval of a special use by the city council, the administrator will issue the permit within ten days unless it is subject to prerequisite conditions. In that event, the permit will be issued within ten days after the prerequisite conditions have been satisfied. If such conditions have not been satisfied within one hundred twenty days of the city council's action or within such other time limit as the city council specifies, the approval is automatically rescinded. (Ord. 1487 § 6 (part), 1985.)

20.13.080 Expiration of special use permit.

Once a special use permit has been issued, the applicant has one year to establish the permitted use. If the permitted use has not been established, or construction to accommodate that use begun within one year following issuance of the permit, and diligently pursued, it shall become null and void. Once a permitted use has been established in accordance with the special use permit, the permit will be valid until revoked, or until the permitted use is discontinued, unless the city council specified an expiration date. If a final subdivision map is recorded on any portion of a project while a special use permit for the project is in effect, the use of that portion of the project will be considered established, even if construction has not taken place, unless the subdivision map is amended or reverted to acreage.

A special use permit may be revoked by the city council for any of the following reasons:

1. The permit holder violates one or more conditions of the permit.
2. The permitted use becomes a public nuisance.
3. The permit was granted on the basis of false statements or a fraudulent application.

If the administrator has reason to believe that a special use permit is subject to revocation, proceedings may be instituted to revoke the permit. Before revoking any special use permit, the city council must hold a public hearing as provided in Section 20.07.050.

(Ord. 1487 § 6 (part), 1985.)

20.13.090 Extension of time.

In the event that a permit holder is unable to establish the permitted use or begin construction to accommodate such use within one year, the city council may extend the expiration date of the special use permit for a maximum of one year beyond the original expiration date, provided that a written request is submitted by the permit holder before the permit expires. (Ord. 1487 § 6 (part), 1985.)

20.13.100 Reapplication following denial.

In the event that the city council denies an application for a special use permit, a new application for a substantially similar permit may not be submitted for at least six months following the council's action. (Ord. 1487 § 6 (part), 1985.)

CHAPTER 20.16

VARIANCE

Sections:

- 20.16.010 Purpose and authorization.**
- 20.16.020 Application procedure.**
- 20.16.030 Hearing.**
- 20.16.040 Findings.**
- 20.16.050 Lapse of variance.**

20.16.010 Purpose and authorization.

The city council may grant a variance to an owner of a specific piece of property under circumstances wherein it is necessary to prevent

or to lessen such peculiar and exceptional practical difficulties or exceptional and undue hardships that would result from a strict application and enforcement of any provision of this title. A peculiar and exceptional practical difficulty or exceptional and undue hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon; from geographic, topographic or other physical conditions on the site. Cost to the applicant of strict compliance shall not be the sole reason for granting a variance. No use variances shall be granted. (Ord. 1325 § 22, 1981: Ord. 1074 § 1 (part), 1976.)

20.16.020 Application procedure.

- A. Any person requesting a variance shall file an application with the administrator. Such application shall include:
 - 1. Provisions of this title from which the property or building is sought to be excepted;
 - 2. A legal description of the property involved;
 - 3. Site plans drawn to scale showing the location of all existing and proposed buildings;
 - 4. Elevations of all proposed buildings or alterations in sufficient detail to meet all requirements.
- B. All applications shall be verified before a notary public by the owner of the land or building or his authorized agent.

(Ord. 1074 § 1 (part), 1976.)

20.16.030 Hearing.

The city council shall hold a public hearing within fifty-five days of the date of the filing of the application for variance. (Ord. 1325 § 23, 1981: Ord. 1074 § 1 (part), 1976.)

20.16.040 Findings.

The city council may grant a variance to a regulation prescribed by this title with respect to items enumerated in Section 20.16.010 above as the variance was applied for or in modified form, if on the basis of the application and evidence submitted, the city council makes findings of fact that establish that circumstances prescribed in this chapter and paragraphs A, B, C and D below apply.

- A. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not generally apply to other properties classified in the same zoning district;
 - B. That strict interpretation and enforcement of the specified provisions would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
 - C. That the granting of the variance will not constitute or grant a special privilege inconsistent with limitations on other properties classified in the same zoning district;
 - D. That the granting of the variance will not substantially impair the public health, safety or welfare or materially injure properties or improvements in the vicinity.
- (Ord. 1325 § 24, 1981: Ord. 1074 § 1 (part), 1976.)

20.16.050 Lapse of variance.

- A. A variance shall automatically lapse and shall become void one year following the date on which the variance became effective, unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was subject to the variance application.
 - B. A variance may be renewed for an additional period of one year provided that prior to the expiration of one year from the date when the variance or the renewal became effective an application for the renewal of the variance is filed with the administrator.
 - C. The administrator may grant or deny applications for renewals of variances.
- (Ord. 1074 § 1 (part), 1976.)

CHAPTER 20.19

AMENDMENTS

Sections:

- 20.19.010 Generally.
- 20.19.020 Proceedings.
- 20.19.030 Procedure and report to city council.
- 20.19.060 Application after denial.

20.19.010 Generally.

This title including the zoning map, may be amended, repealed or supplemented by ordinance by the city council. An amendment involving the reclassification of one or more parcels of property from one zoning district to another, excluding a reclassification of an entire zoning district, shall be referred to as "rezoning." (Ord. 1325 § 25, 1981; Ord. 1074 § 1 (part), 1976.)

20.19.020 Proceedings.

Amendments to the zoning map may be initiated as follows:

- A. By the planning commission;
- B. By the city council;
- C. By the owner of a lot or parcel within the area sought for amendments, by filing with the administrator a signed and verified application, accompanied by the necessary fee.

(Ord. 1247 § 8, 1979; Ord. 1201 § 1, 1978; Ord. 1074 § 1 (part), 1976.)

20.19.030 Procedure and report to city council.

- A. The planning commission shall hold a public hearing relative to all proposed rezonings and other changes in this title.
- B. For all proposed rezonings, the following procedures shall apply:
 - 1. The public hearing shall be held within one hundred ten (110) days following the initiation of the proposed rezoning. The required notice for the hearing shall also describe the lot, parcel or area involved in such a manner that it can be readily identified.
 - 2. Within forty (40) days following the public hearing, the planning commission

shall file a written report with the city clerk relative to the proposed rezoning. Such written report shall recommend either approval or disapproval of the proposed rezoning.

- 3. Failure of the planning commission to so report shall be deemed a recommendation for approval. The planning commission shall mail to the applicant notice of the recommendation within five (5) days following the filing of the report with the city clerk.
- 4. Upon the filing of the report, or the expiration of the forty (40) days without such filing, the city clerk shall cause a rezoning bill prepared by the city attorney to be placed on the agenda of the city council for a first reading pursuant to Section 2.080.1 of the Sparks City Charter.
- 5. The city council shall then comply with the ordinance enactment procedures set forth in Section 2.080 of the Sparks City Charter. At the meeting of the city council held pursuant to Section 2.080.2 thereof, the city council shall also hold a public hearing relative to the report of the planning commission and the proposed rezoning bill before taking any action relating to the proposed rezoning bill. Such hearing may be held without complying with Section 20.07.050 A of this chapter.
- C. For all other proposed changes to this title, the following procedures shall apply:
 - 1. The public hearing may be held without complying with Section 20.07.050 A, subsections 2 and 3, of this chapter.
 - 2. Following the public hearing, the planning commission shall file a written report with the city clerk relative to such proposed change.
 - 3. Upon the filing of the report, the city clerk shall cause a proposed bill prepared by the city attorney to be placed on the agenda of the city council for a first reading pursuant to Section 2.080.1 of the Sparks City Charter.
 - 4. The city council shall then comply with the ordinance enactment procedures set forth in Section 2.080 of the Sparks City Charter. At the meeting of the city council held pursuant to Section 2.080.2 thereof, the city council shall also hold a

ZONING UPON ANNEXATION OF TERRITORIES

public hearing relative to the report of the planning commission and the proposed bill before taking any action relating to the proposed bill. Such hearing may be held without complying with Section 20.07.050 A of this chapter.

(Ord. 1341 § 1, 1981: Ord. 1325 § 26, 1981: Ord. 1247 § 9, 1979: Ord. 1201 § 2, 1978: Ord. 1074 § 1 (part), 1976.)

20.19.060 Application after denial.

In the event the city council denies an application for rezoning, a new application for the same rezoning may not be made for at least six months after the date of denial. (Ord. 1325 § 29, 1981: Ord. 1201 § 3, 1978: Ord. 1074 § 1 (part), 1976.)

Chapter 20.22

ZONING UPON ANNEXATION OF TERRITORIES

Sections:

20.22.010 Classification of annexed territory.

20.22.010 Classification of annexed territory.

A. Territory annexed into the city shall, upon the date of annexation, be classified for the purposes of this title as "S" pursuant to chapter 20.97 of this title.

B. If the city fails to take action pursuant to chapter 20.97, territory annexed to the city shall, upon the failure of the city council to take such action, be classified for purposes of this chapter as follows:

1. R-1-7, if previously classified R-1 in Washoe County;
2. R-1-9, if previously classified R-1a in Washoe County;
3. R-1-12, if previously classified R-1b in Washoe County;
4. R-1-15, if previously classified E-1 in Washoe County;
5. R-1-20, if previously classified E-2 in Washoe County;

6. R-1-40, if previously classified A-1 through A-11 and E-3 through E-5 in Washoe County;

7. R-2, if previously classified R-2 in Washoe County;

8. R-3, if previously classified R-2a in Washoe County;

9. R-4, if previously classified R-3 in Washoe County;

10. C-1, if previously classified C-1 or C-2 in Washoe County;

11. C-2, if previously classified C-3 in Washoe County;

12. I, if previously classified M-E in Washoe County;

13. I, if previously classified M-1 in Washoe County.

14. -TR, if previously classified -TR in Washoe County.

(Ord. 1325 § 30, 1981: Ord. 1074 § 1 (part), 1976.)

Chapter 20.25

NONCONFORMING USES AND SUBSTANDARD DEVELOPMENTS

Sections:

20.25.010 Nonconforming use.

20.25.015 Nonconforming lots.

20.25.020 Substandard development.

20.25.030 Enlargement of nonconforming uses.

20.25.040 Intensifying uses of substandard developments.

20.25.050 Use changes.

20.25.060 Abandonment of nonconforming uses.

20.25.070 Damage or destruction of a substandard development.

20.25.010 Nonconforming use.

A nonconforming use may be continued under the provisions of this chapter unless it becomes a public nuisance. (Ord. 1325 § 31 (part), 1981: Ord. 1074 § 1 (part), 1976.)

- B. No portion of any lot or parcel of land which is part of the required area for an existing building shall be used as a part of the required area of any other lot or parcel or proposed building. When a portion of any lot or parcel is sold or transferred and the areas of that portion or the portion remaining no longer conform to the required areas as defined in the zoning district in which such lot or parcel is located, the portion sold or transferred and the portion remaining shall be considered as one parcel only in determining the permissible number and location of buildings allowed to be placed on both parcels.**
(Ord. 1074 § 1 (part), 1976.)

20.28.020 Lighting.

Any lighting facilities shall be so installed as to reflect away from adjoining properties. (Ord. 1074 § 1 (part), 1976.)

20.28.030 More than one dwelling on one lot.

There may be one or more single-family dwellings on a R-1 lot or parcel provided that for every single-family dwelling there is not less than the minimum area required per dwelling unit, and that the dwellings are situated on the site so as to permit division of the site into two or more lots or parcels which conform to the area and setback side yard and rear yard requirements of the zone within which the lot or parcel is situated. (Ord. 1325 § 32, 1981; Ord. 1074 § 1 (part), 1976.)

20.28.040 Off-street loading.

In order to avoid undue interference with the public use of streets or alleys, there shall be provided and maintained adequate off-street space for standing, loading or unloading for those uses involving receipt and distribution of vehicles or merchandise and materials off-street. Each such space shall be at least ten feet by forty-five feet with a fourteen foot height clearance. For a building containing less than three thousand square feet of gross floor area, a combined parking and loading area shall be acceptable. (Ord. 1325 § 33, 1981; Ord. 1074 § 1 (part), 1976.)

20.28.050 Glare.

Except in processes of construction, glare from arc welding, acetylene torch cutting or similar activity shall be performed so as not to be seen from any point outside the property on which the work is being performed. (Ord. 1074 § 1 (part), 1976.)

20.28.060 Noise.

Noise shall be so muffled so as not to become objectionable due to intermittence, beat, frequency or shrillness. It may be equal to but not exceed seventy decibels. (Ord. 1074 § 1 (part), 1976.)

20.28.070 Smoke, odor and gas.

- A. Smoke shall be controlled as to provide proper safeguards for the public health, safety and welfare in whatever manner as further provided by other city ordinances.
- B. The emission of obnoxious odors of any kind shall not be permitted.
- C. No gas shall be emitted which is deliterious to the public health, safety or general welfare.

(Ord. 1074 § 1 (part), 1976.)

20.28.080 Open storage.

Storage of lumber, coal or other combustibles shall be not less than ten feet from any interior lot line and a suitable roadway from the street to the rear of the property shall be provided, maintained and kept open at all times. (Ord. 1974 § 1 (part), 1976.)

20.28.090 Fire hazards.

Bulk storage and handling of flammable liquids, liquefied petroleum, gases, explosives and dangerous chemicals above or below ground shall comply with all state rules and regulations and is unlawful in all districts except as provided in Title 14 of this code. (Ord. 1074 § 1 (part), 1976.)

20.28.100 Concurrent Applications

In order to facilitate the development process, (a) rezonings, (b) special use permits, (c) subdivisions, (d) parcel maps or (e) variance applications, may be submitted and processed

concurrently. (Ord. 1325 § 34, 1981: Ord. 1074 § 1 (part), 1976.)

CHAPTER 20.31

SITE PLAN REVIEW

Sections:

- 20.31.010 Purpose.
- 20.31.020 Site plan approval applications.
- 20.31.030 Considerations in review of applications.
- 20.31.040 Conditions and discretion.

20.31.010 Purpose.

The purpose and intent of site plan review is to secure the general purposes of this title and to insure that the development of land shall in no case be such as to impair the orderly and harmonious development of the neighborhood. (Ord. 1074 § 1 (part), 1976.)

20.31.020 Site plan approval applications.

All applications for special use permits or building permits (in the event special use permits are not required) shall be accompanied by site development plans drawn to scale which shall show building locations; landscaping; prominent existing trees; ground treatment; fences; off-street parking and circulation; location and size of adjacent streets; existing grades and proposed new grades; north arrow and property lines. (Ord. 1074 § 1 (part), 1976.)

20.31.030 Considerations in review of applications.

The city council, planning commission, or administrator shall consider the following matters, and others when applicable, in their review of applications:

- A. Consideration relating to traffic safety and traffic conditions:
 - 1. The effect of the site development plan on traffic conditions on abutting streets,
 - 2. The layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives, walkways and fire-department access lanes,

- 3. The arrangement and adequacy of off-street parking facilities to prevent traffic congestion,
- 4. The location, arrangement, and dimensions of truck loading and unloading facilities,
- 5. The surfacing and lighting of off-street parking,
- 6. Location of refuse storage and disposal facilities;

B. Considerations relating to landscaping and drainage:

- 1. The location, height and materials of walls, fences, hedges, and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations or other unsightly development,
- 2. The planting of ground cover or other surfacing to prevent dust and erosion,
- 3. The unnecessary destruction of existing healthy trees,
- 4. The effect of the site development plan on the adequacy of the storm and surface water drainage.

(Ord. 1325 § 35, 1981: Ord. 1074 § 1 (part), 1976.)

20.31.040 Conditions and discretion.

- A. Site plan approval may include such conditions consistent with the consideration of this title as the city council or planning commission may deem reasonable and necessary under the circumstances to carry out the intent of this title.
- B. Discretion. The administrator, planning commission or the city council may grant or deny site plan approval as provided herein in their absolute discretion. Such discretion shall be conclusively presumed to be exercised with the goals and intents of this title in mind.

(Ord. 1325 § 36, 1981: Ord. 1074 § 1 (part), 1976.)