

**NEVADA DEPARTMENT OF WILDLIFE
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice of Hearing for the Adoption of Regulations of the
Nevada Board of Wildlife Commissioners**

LCB File No. R162-22 – Commission General Regulation 500

The Nevada Board of Wildlife Commissioners will hold a public hearing at 8:30 a.m. on March 09, 2024, at the Clark County Government Center, 500 S. Grand Central Parkway, Las Vegas, NV 89155. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 278 of the Nevada Administrative Code. A Zoom link is provided below for those individuals that are unable to attend in person.

If you wish to make public comment, please use this link for Saturday, March 9, 2024:
<https://us02web.zoom.us/j/83888234750?pwd=YkxrOGg1UU5KTUdDZkNwbXBjZStZQT09>
Passcode: 859244

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. **The need for and the purpose of the proposed regulation or amendment:**
There is currently no regulation to carryout the provisions of NRS 278.337.
2. **Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved:**
Establishment of a mechanism to carry out subdivision review will aid in providing wildlife resource review to make more informed subdivision planning and decisions to help avoid, minimize, or mitigate adverse impacts to Nevada’s wildlife. This regulation will also adopt a fee structure into NAC.
3. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:**
 - (a) **Both adverse and beneficial effects on businesses; and**
The regulation will not have any significant adverse or beneficial economic effects on businesses.
 - (b) **Both immediate and long-term effects on businesses:**
There will be no immediate or long-term economic effects from the proposed regulation on small businesses because it does not regulate the operation of any small business.
 - (c) **Both adverse and beneficial effects on the public; and**
This regulation does not have an anticipated significant beneficial or adverse economic effect on the public. There are some indirect beneficial impacts such as mitigation efforts.

Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following Nevada Department of Wildlife offices:

1100 Valley Road; Reno, Nevada 89512 (775) 688-1506
380 W. B Street; Fallon, Nevada 89406 (775) 423-3171
60 Youth Center Road; Elko, Nevada 89801 (775) 777-2300
3373 Pepper Lane; Las Vegas, Nevada 89120 (702) 486-5127

These regulations will also be available at the following websites:

<https://www.leg.state.nv.us/App/Notice/A/>
<https://notice.nv.gov/>
<http://www.leg.state.nv.us/register/>
<https://nvboardofwildlife.org/>

A copy of all materials relating to the proposed regulation may be obtained at the hearing or by contacting the Director's Office at the Nevada Department of Wildlife, 6980 Sierra Center Parkway, Suite 120; Reno, Nevada 89511 or (775) 688-1597. A reasonable fee may be charged for copies if it is deemed necessary.

February 5, 2024

**PROPOSED REGULATION OF THE
BOARD OF WILDLIFE COMMISSIONERS**

LCB File No. R162-22

August 23, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted-material]~~ is material to be omitted. *Recommendations from public meeting.*

AUTHORITY: §§ 1-7, NRS 278.335; § 8, NRS 278.335 and 278.337.

A REGULATION relating to land use planning; defining certain terms relating to the review of a tentative map of a subdivision of land; interpreting certain terms for the purpose of the review of a tentative map by the Department of Wildlife; requiring that certain information be submitted to the Department for the review of a tentative map; providing that the Department will provide written comments on a tentative map; establishing certain fees for the review of a tentative map; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth an approval process for a subdivision of land that requires the subdivider of the land to submit a tentative map to the planning commission or governing body of a county or city, as applicable. (NRS 278.330) Existing law also: (1) requires the tentative map to be forwarded to certain state agencies and local governments for review, which includes, with certain exceptions, the Department of Wildlife; and (2) authorizes the Board of Wildlife Commissioners to establish reasonable fees for the review of a tentative map. (NRS 278.335, 278.337) This regulation sets forth certain procedures and requirements for the review of a tentative map by the Department.

Sections 3 and 4 of this regulation define certain terms relating to the review of a tentative map.

Under existing law, a tentative map is not required to be forwarded to the Department if the proposed subdivision is infill development which is proposed on a vacant or substantially vacant tract of land that is surrounded by land that is already developed. (NRS 278.335) **Section 5** of this regulation sets forth the interpretation by the Department of the terms “infill development,” “substantially vacant” and “vacant” for the purposes of this exception.

Section 6 of this regulation requires a developer to submit to the Department a tentative map, a review form and the fee required for the review of a tentative map. **Section 6** also sets forth the information that must be included on the review form submitted to the Department.

Section 7 of this regulation provides that the Department will provide written comments on the tentative map and review form which may include methods to avoid or minimize impacts to wildlife, mitigation measures, best management practices or required design features.

Section 8 of this regulation sets forth the fees charged by the Department for the review of a tentative map, which are: (1) \$250 for the initial review of the tentative map plus an additional \$5 for each acre shown on the map; and (2) \$5 per acre shown on the tentative map for any subsequent review of modifications to the map.

Section 1. Chapter 278 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 8, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Subdivision” has the meaning ascribed to it in NRS 278.320.*

Sec. 4. *“Tentative map” has the meaning ascribed to it in NRS 278.019.*

Sec. 5. *As used in NRS 278.335, the Department of Wildlife interprets the term:*

1. “Infill development” to mean the process of developing vacant or underutilized tracts of land in areas that are already developed.

2. “Substantially vacant” to mean a subdivision of land in which ~~not less than~~ at least 75 percent of the land is vacant.

3. “Vacant” to mean a subdivision of land in which the land:

(a) Is not occupied or used;

~~(b) Has not been developed or disturbed; and~~

(c) Does not have any forage, cover, nesting habitat or any other value necessary for wildlife.

Sec. 6. *1. Except as otherwise provided in paragraph (d) of subsection 1 of NRS 278.335, for each tentative map or a modification to a tentative map submitted pursuant to NRS 278.335, a developer shall submit to the Department of Wildlife for review ~~in printed or electronic form:~~*

- (a) The tentative map;*
- (b) The review form prescribed by the Department of Wildlife; and*
- (c) The fee required pursuant to section 8 of this regulation.*

2. The review form required pursuant to subsection 1 must include, without limitation:

(a) A map that shows:

(1) The topographic features of the subdivision, including, without limitation, the topographic features of the vicinity of the subdivision; and

(2) The location of the proposed subdivision relative to the nearest city, major highway, cross streets and any other easily identifiable landmarks;

(b) The expected general timeline of the development of the subdivision;

(c) The size of the subdivision indicated in acres, including planned open space(s);

(d) A statement of the type of water system to be used in the subdivision and the water source, which may include, without limitation, private wells or a public water system;

(e) A map of the 100-year floodplain for the location of the subdivision, which must have been prepared using recognized methods of preparing a map by a governmental agency responsible for the areas subject to flooding;

(f) A description of the subdivision by 40-acre legal subdivisions within a designated section, township and range or any other legal description which provides a positive identification of the location of the subdivision;

(g) The names, addresses, phone numbers and any other contact information of all developers of the subdivision; and

(h) A description of expected or planned ~~master plan showing the location of future development~~ and the intended use of all the land under the ownership or control of the developers in the vicinity of the subdivision.

3. *All items and information required pursuant to subsections 1 and 2 must be submitted to the Department of Wildlife within 5 business days after the tentative map is submitted to the planning commission, or its designated representative, or the clerk of the governing body pursuant to NRS 278.330. If any item or information required pursuant to subsections 1 and 2 are missing, the Department of Wildlife will provide written notice to the developer which identifies the specific item or information that is missing.*

4. *A developer may submit a tentative map to the Department of Wildlife before submitting the tentative map to the planning commission or governing body to be pre-reviewed by the Department of Wildlife for any potential wildlife issues. If a developer submits a tentative map pursuant to this subsection, he or she must still submit the tentative map, information and fees required in accordance with section 8.*

5. *The Department of Wildlife will make the review form required pursuant to subsection 1 available on the Internet website of the Department of Wildlife.*

6. *A developer or other interested party may request wildlife information from the Department of Wildlife before submitting any information required by this section.*

Sec. 7. *The Department of Wildlife will provide written comments on a tentative map and review form submitted pursuant to section 6 of this regulation by the deadline set forth in subsection 5 of NRS 278.335. The comments provided by the Department of Wildlife may include, without limitation:*

1. *Methods to avoid or minimize impacts to wildlife;*
2. *Recommendations on mitigation measures; or*
3. *Best management practices or **required** design features.*

Sec. 8. 1. *The Department of Wildlife will charge the following fees for the review of a tentative map:*

(a) For the review of a tentative map, \$250 plus an additional fee of \$5 for each acre shown on the tentative map; and

(b) For the review of any modifications to a tentative map that was previously submitted to the Department of Wildlife, \$5 for each acre not previously ~~shown~~ reviewed or disclosed, acres outside of previously submitted areas, newly depicted, on ~~the~~ modified tentative map.

2. Any fee required pursuant to subsection 1 must be paid at the same time the developer submits the tentative map and review form to the Department of Wildlife pursuant to section 6 of this regulation.

3. For the purposes of the section, acres subject to fee include only those acres that will be disturbed during development and not those that are reserved in the tentative map for open space.

**STATE OF NEVADA
NEVADA BOARD OF WILDLIFE COMMISSIONERS
NEVADA DEPARTMENT OF WILDLIFE
SMALL BUSINESS IMPACT STATEMENT PURSUANT TO NRS233B**

Commission General Regulation 500 LCB File No. R162-22P Subdivision Review

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 to determine whether a small business impact statement is required for submittal of a proposed regulation before the Nevada Board of Wildlife Commissioners. Note: Small business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS233B.0382).

1. Describe the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary:

ANSWER:

NDOW assessed the potential impact of the proposed regulation on small business by using a direct survey of potentially affected businesses. In addition to potentially affected businesses, the survey was sent to builders associations across the state, county and city planning departments (where applicable), county planning commissions, and the Nevada Association of Counties. The additional feedback from non-businesses was anticipated to help highlight any other impacts that may not be initially identified by potentially affected business owners. Potential business owners or authorized representatives of business that could be affected were identified from the following sources:

- Northern Nevada Builders Association
- Southern Nevada Homebuilders Association
- Individual builders/developers
- County planning departments
- City planning departments
- County Planning Commissions
- Nevada Association of Counties

In total the survey was sent to 238 individual contacts with both target and non-target individuals included and utilized NDOW and builders association email distribution lists. The actual survey included a series of screening questions designed to sort small-businesses from non-target individuals. Any responses received from non-target individuals were considered as general public comments on the proposed regulation change but were not included in the Small Business Impact Statement.

The survey was generated using Survey Monkey and assessed the potential impact of the proposed regulation on small businesses. The survey was open for a total of 21 days from December 21, 2022 to January 10, 2023. With the survey was included a copy of the proposed regulation for review, and notification that an additional public workshop would be held January 24, 2023. No extension requests were received.

A total of 15 responses to the survey were received, including six (6) from qualified small businesses or their representatives, one (1) from a builder’s association, three (3) from a governmental planning commission or body, four (4) responses from county planning departments, and one (1) from a city planning department. Responses from non-target individuals/entities were screened and allowed to respond to the first eight (8) out of 15 questions. Of the six (6) target audience responses, only two (2) were fully completed and contained information suitable for analysis. The remaining four (4) surveys only contained answers for questions related to contact information, the number of employees, and whether

the respondents had previously submitted a tentative map to any agencies, commissions, or governing bodies in Nevada for review under NRS 278.320 through NRS 278.3485. These respondents appear to be contractors who work on behalf of small businesses.

The results of the two (2) valid, completed surveys are discussed below:

The initial survey questions were comprised of contact information and screening questions to identify the survey targets. The remaining questions were reserved for small businesses only, and addressed whether a small business:

- Has previously submitted a tentative map to any agencies, commissions, or governing bodies in Nevada for review under NRS 278.320 through NRS 278.3485;
- If a small business expects the proposed regulation to result in a significant adverse change with regards to business' requirement(s) for submitting a tentative map to a governing body (i.e. planning commission or representative) for review;
- What a small business anticipates fees will be on an annual basis, as a result of the proposed regulation based on the proposed fee structure;
- Whether the proposed regulation would cause any other significant financial/economic impacts to the business or directly restrict the formation, operation, or expansion of the business; and
- If any beneficial effects on the business were anticipated.

Both respondents indicated their small business (company/corporation) had previously submitted a tentative map for review under NRS 278.320 through NRS 278.3485, indicating they are familiar with the state requirements and submitting tentative maps for review. Additionally, both respondents indicated that they were unsure if the proposed regulation fees would pose a significant financial/economic impact. Additionally, neither respondent anticipated any beneficial effects on business resulting from the proposed regulation.

Concerns identified by both respondents included difficulties in estimating anticipated financial/economic impacts.

Respondent A indicated that without being able to estimate annual fees, they were unsure whether the fees would be a significant financial/economic impact, or what the reduced net revenue would be because of the proposed regulation and believed that fees should be based on lot numbers rather than acres or have a cap on cost included. This respondent did not believe that any other significant impacts restricting formation, operation, or expansion of business would result.

Respondent B indicated that an anticipated annual cost of \$1,400 for NDOW review of tentative maps but was unsure if \$1,400 would constitute a significant financial/economic impact. That respondent also indicated that annual revenue would be reduced by that amount. This respondent was primarily concerned with the added time associated with NDOW review or time required for processing "entitlements."

Results from the Small Business Impact Survey will be made publicly available via NDOW's website, be discussed at the January 24th, 2023, public meeting, and will be available upon request to Jasmine Kleiber, jkleiber@ndow.org or (775) 688-1561.

2. Describe the manner in which the analysis was conducted:

ANSWER:

The analysis was conducted by examining each individual response and organizing concerns based upon Questions 6, and 9-15 in the survey. The other questions were comprised of contact information and screening questions to identify the survey targets. Both small business respondents were considered

appropriate for use, the analysis included an in-depth assessment of each individual business survey response.

3. Describe the estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

a.) Both adverse and beneficial effects:

ANSWER:

An *adverse effect* may be realized by subdivision developers, including small businesses, because they will now be subject to required review fees. The increased expense can vary greatly by development size. These added costs have the potential to adversely affect small business to some degree; however, as only one (1) respondent provided quantitative data, the significance of the impact is expected to be minor.

A *beneficial effect* includes that the fee structure is a static fee, and easily estimated based upon the size of a proposed subdivision. This eliminates any guesswork on required fees and can be easily built into project budgets. The fee structure also dictates that smaller subdivisions will pay less, thereby minimizing financial/economic impacts on smaller operations.

Additional beneficial effects may be realized by small business contractors that specialize in habitat improvement work such as re-seeding, pinion-juniper thinning, or other habitat improvement work that may be recommended by NDOW during review to offset impacts resulting from subdivision development. Current funding requires use of sportsman dollars to subsidize developers that do not contribute funding to mitigate impacts to wildlife. If more sportsman dollars are free, NDOW could fund additional wildlife and habitat projects that often benefit small businesses through contract work. Further, fee revenue and re-directed sportsman dollars would increase the amount of State matching dollars NDOW has available to obtain Federal Pittman-Robertson Grant dollars. Additional benefits include the more comprehensive planning to account for wildlife habitat and species and the need for subdivision developers or their representatives to hire resource specialists to assist in the planning processes.

b.) Both direct and indirect effects:

ANSWER:

Direct effects will likely be realized through the requirement of the fee described in NRS and within the proposed regulation, as well as through the addition of the requirement to submit tentative maps both to the planning commission or governing bodies and directly to NDOW. Neither respondent provided concern regarding the requirement to submit tentative maps to NDOW in addition to submission to the planning commission or governing body.

Indirect effects may be seen due to the variable nature of the housing markets. During market contractions, the fee will still be required to review developments. Additionally, there is potential that additional requirements, such as mitigation, may be required by Planning Commissions or other governing bodies as a result of recommendations made by NDOW. While this may cause adverse effects to developers of subdivisions, there may be positive indirect effects to other industries that specialize in habitat restoration, for example.

4. Describe the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods:

ANSWER:

During initial public involvement for development of the proposed regulation, it was noted that there was significant concern over review time. This was identified by both survey respondents as well. In order to allow additional time for review and coordination, the proposed regulation includes a provision allowing the submission and coordination of review with NDOW prior to submission to the planning commission or governing body. This will not circumvent that requirement but will allow the review and identification of any major wildlife-related concerns well in advance, thereby reducing the likelihood of issues arising later in the planning process. It is anticipated that this will allow developers to meet their timelines without accruing any additional external penalties.

5. Describe the estimated cost to the agency for enforcement of the proposed regulation:

ANSWER:

Implementation of the review process outlined in the proposed regulation is anticipated to cost approximately \$124,224 for the initial establishment of the review process and program and associated equipment, operating expenses, and standard information services expenses, and approximately \$106,245 annually after establishment. This estimate is based upon the requirement of a new full-time (FTE) Wildlife Staff Specialist (approved by IFC in November 2022) to administer this review program. In addition to review of tentative maps, NDOW has fielded numerous calls from interested members of the public relative to proposed subdivisions, and NDOW will continue devoting staff resources toward public and/or interested party coordination.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used:

ANSWER:

The agency is preparing to collect \$250 per tentative map received plus \$5 per acre depicted on said map, per NRS.

To-date, the Nevada Department of Wildlife has not fully enforced NRS 278.335-337 due to the lack of guiding regulations for implementation of review and collection of fees outlined in NRS, though it is anticipated fees collected may increase with the passage of these regulations. However, NDOW has received 31 tentative subdivision maps since passage of Assembly Bill 211 (2021). No fees were collected for review of these maps. The subdivision maps covered 5,117 acres. Had NDOW been fully implementing review including collection of fees under NRS, this would have amounted to collecting of \$33,335.50 in revenue.

It is also anticipated that fees will significantly fluctuate during periods of increased or decreased housing development. It is difficult to anticipate exactly how much will be collected due to these variations.

Funding will be used in its entirety toward review costs, but it is not anticipated to cover the entire costs of reviews.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary:

ANSWER:

There are no duplicate or applicable federal, state, or local standards that apply to this regulation.

8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses:


ANSWER:

The Nevada Department of Wildlife has determined that the proposed regulation is unlikely to directly impose a significant negative financial/economic impact upon small businesses or have a negative impact

on the formation, operation or expansion of a small business in Nevada. The fee is currently required and outlined under NRS; NDOW is simply creating provision for how maps will be reviewed and creating a mechanism to collect the required fees.

Feedback received during various public workshops (County Advisory Board Meetings, Nevada Board of Wildlife Commissioners meetings, and the SBI survey) have indicated that most concern is regarding processing and review timelines. Some concern was expressed in survey responses regarding the fees; however, based upon our current estimate across the last 18 months from tentative maps received, the fees appear modest.

I hereby certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.


Alan Jenne, Director
Nevada Department of Wildlife