



Nevada Association of Counties  
304 South Minnesota Street  
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(775) 883-7863

[www.nvnaco.org](http://www.nvnaco.org)

NEVADA ASSOCIATION OF COUNTIES  
**Report on the Implementation of SB29, Functional Home Rule for Counties**  
*Required Pursuant to SB29 passed in the 2015 Legislative Session*

***Submitted to the Legislative Counsel Bureau on February 2, 2017***

**Introduction**

During the 2015 session of the Nevada Legislature, Senate Bill 29 became law. SB29 grants counties limited *functional* home rule, that is, a limited form of the authority to pass ordinances and act upon matters of local concern that are *not* otherwise governed by state or federal laws. Local governments in Nevada sought additional home rule authority so that administrative matters of local concern that are not expressly authorized in state law, matters that are often minor or jurisdictionally specific, can be addressed at the local level without seeking legislation. SB29 clearly limits this new grant of county authority by making it clear that it does not include additional powers in certain areas and that State and federal laws always take precedence.

Since this legislation was signed into law in June of 2015 the Nevada Association of Counties (NACO) has worked with every county in the State to monitor implementation of SB29 as well as to provide information and training on the intent of the legislation and how it may be used. In July of 2015 NACO held a training workshop for counties on the new law which included a presentation from Kevin Powers of LCB. Following the workshop NACO produced a white paper on home rule that was distributed to all counties. The white paper was intended to be used as guidance for counties wishing to utilize functional home rule and is attached to this document for reference.

Based on the information that NACO has received from each of its member counties, there have been only three counties so far who have used the new functional home rule authority. A summary of those home rule actions follow and links to each of the ordinances and resolutions can be found at:

<http://www.nvnaco.org/resources/education-workshops/>

**Carson City**

The ordinance concerns notification requirements for certain zoning and land use actions in Carson City. Prior to adoption of the ordinance, the Carson City Municipal Code ("CCMC") reflected identical notification requirements as those established in



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NRS 278.260 and NRS 278.315. In general, the requirement was that property owners within a 300-foot radius of the property applying for the zoning action had to be sent written notification of the application. Prior to the passage of SB 29, NRS 278.260 and NRS 278.315 had been interpreted by the Carson City District Attorney's office to preclude modification of the 300-foot notification radius by political subdivisions.

After the passage of SB 29, Carson City revisited the question and determined that Carson City now had the authority to expand the requirements of NRS to allow for more notification in regards to zoning actions. SB 29 expressly identifies "planning, zoning, development and redevelopment in the county" as a "matter of local concern" over which the Board of Supervisors has authority subject to State and Federal limitations, SB 29 §§ 2.7(2), 7. Based on this interpretation the Board of Supervisors adopted ordinance numbered 2016-11 which (1) expanded the notification radius from 300 feet to 600 feet when the application property is between one and 40 acres; and (2) expanded the notification radius from 300 feet to 900 feet when the application property is 40 acres or larger.

### **Clark County**

Clark County has used its authority under NRS 244.137 et sec. (SB29 of 2015), addressing matters of local concern, three times since enactment. The subjects addressed concerned graffiti, civil infractions for sidewalk violations, and annexations.

Through ordinance numbered ORD-4385-16, Clark County enacted a bill to address graffiti abatement. The large urban population in Clark County, together with its large gang population, makes the need for rapid graffiti abatement necessary to prevent blight. NRS 244.36935 and NRS 244.3694 provided for a binary system, between residential and non-residential properties, generally allowing county government to pay for the former, but not the latter, with both affording delays. The bill added a third expedited process for the portion of properties in open areas adjacent to public streets, which are most easily accessed by graffiti vandals, as well as abatement officers.

Through ordinance numbered ORD-4384-16, Clark County enacted a law enforcement process for civil infractions related to public sidewalks, particularly for matters such as obstructive uses and sales. This is a matter of very substantial concern for public safety upon the Las Vegas Strip. The Ordinance affords the perpetrator with the election to choose a criminal or civil proceeding, with the latter



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to take place immediately and which typically terminates with a voluntary surrender of goods offered for sale.

Through an ordinance numbered ORD-0482-16 by the Clark County Clerk, and 4411 by Clark County Comprehensive Planning, an ordinance was enacted to address the city annexation process, which forced certain inhabitants in the Lone Mountain area into agreeing to annexation in order to obtain sewer services. The bill recited the home rule authority of SB 29, as well as the circumstances leading up to and justifying necessary action relating to timing of annexation and implementation of the Lone Mountain Land Use Plan. The ordinance, after enactment, was eventually repealed after negotiations with the City of Las Vegas resulted in an interlocal agreement that resolved the issues addressed by the bill.

### **Storey County**

The Resolution authorizes a portion of the funds appropriated to Intermountain Slurry, a private contractor, contracted by the County to perform cape-sealing of roadways throughout the County to be used for cape-sealing of certain roadways in the Virginia City Highlands. The reason it was believed necessary to provide a resolution for this purpose is that the roads in the Virginia City Highlands, while largely open to the public, are privately owned and not dedicated to the County. There are limitations on the use of county equipment on privately owned roadways set out in NRS 244.273 and NRS 244.2731. There is no similar express restriction on using a private contractor to improve a privately-owned roadway where the improvement performed is part of a county-wide street improvement program. The resolution sets forth the justification for the action. Approval of the resolution required that it be placed on an agenda in accordance with the Open-Meeting law. This provided public notice and transparency as to the proposed action and its justification. Again, in the absence of express authority, it is presumed that the Board has the authority to take the action it took when addressing a matter of local concern. NRS 244.164(1)(c). Improvement of a widely utilized roadway within the County, even where privately owned, would be a matter of local concern.

Local governments are routinely authorized to exercise their authority through the adoption of resolutions, contracts and by other means. See e.g., NRS 244.1505(3). NRS 244.146(2) states that if there is no specific statutory or constitutional provision requiring county authority to be exercised in a specific manner, the county may adopt an ordinance prescribing a specific manner for exercising the power. The statute does not require that an ordinance be adopted in order for a county to exercise its authority over matters of local concern. Further,



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under NRS 244.146(1)(c) if there is any fair or reasonable doubt concerning the existence of a power of the board to address a matter of local concern... it must be presumed that the board has the power unless the presumption is rebutted by evidence of a contrary intent by the Legislature. It is the opinion of the Storey County District Attorney that this latter provision supports the exercise of authority over matters of local concern through a resolution, especially where it addresses a one-time issue rather than a recurring issue.