

BILL NO. 2017-06

NYE COUNTY ORDINANCE NO. 514

SUMMARY: An Ordinance amending Nye County Code 17.04, the Pahrump Regional Planning District (PRPD) Zoning Regulations, by amending Section 17.04.740, to fulfill the water conservation specifications outlined within the following policy documents; 2014 PRPD Master Plan Update, and the Pahrump Basin 162 Groundwater Management Plan, providing for the severability, constitutionality and effective date thereof; and other matters properly related thereto.

TITLE: AN ORDINANCE AMENDING NYE COUNTY CODE 17.04, THE PAHRUMP REGIONAL PLANNING DISTRICT (PRPD) ZONING REGULATIONS, BY AMENDING SECTION 17.04.740, TO FULFILL THE WATER CONSERVATION SPECIFICATIONS OUTLINED WITHIN THE FOLLOWING POLICY DOCUMENTS; 2014 PRPD MASTER PLAN UPDATE AND THE PAHRUMP BASIN 162 GROUNDWATER MANAGEMENT PLAN PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety and the general welfare of the residents of Nye County, the Nye County Board of County Commissioners (Board) is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

WHEREAS, any such regulation, restriction and control must take into account the potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and

WHEREAS, the Board is acutely aware that the dominant issue related to the continued growth within the Pahrump Regional Planning District is the availability of water; and

WHEREAS, wasteful uses of Pahrump Basin groundwater will only accelerate the future need to import water into the Pahrump Valley at great expense; and

WHEREAS, the Board would like to emphasize to all residents that the Pahrump Valley is a desert climate and should be respected as such; and

WHEREAS, adopting water conserving and outdoor landscape design standards for new development will significantly reduce the outdoor use of water, and

NOW, THEREFORE, the Board of County Commissioners of the County of Nye, State of Nevada, does hereby adopt, promulgate and order compliance therewith within the Pahrump Regional Planning District, the following regulations:

NYE COUNTY CODE CHAPTER 17.04 IS AMENDED AS FOLLOWS:

17.04.740: LANDSCAPING:

A. Purpose: The purpose of this section is to create visually attractive desert-themed, drought tolerant landscapes along streets and commercial corridors, provide shade across large expanses of pavement, provide landscaped areas around multi-family buildings and reduce the impacts of nonresidential uses on residences. All required landscaping must consist of live native, xeric and drought tolerant plants to minimize outdoor water use on landscapes. Outdoor sculptures, shade structures, decorative hardscapes and rock work are encouraged

B. Scope: Wasting water is unlawful per NRS 534. 0165, 534.020(2), 534.070, and NAC 704.567. Since Pahrump is in a desert with scarce water supplies, the use of xeric and native plants is required. For the purposes of this section, "xeric landscaping" shall mean utilizing plants that are drought tolerant, Great Basin desert compatible and zero to moderate water use. Use of treated recycled water for irrigation is required wherever such water is available. The use of artificial turf is also permitted.

Development that is processed through the Site Development Plan Review Procedures pursuant to NCC 17.04.950, uses authorized by CUP or expansion of legally grandfathered use or building(s) meeting the criteria set forth in section 17.04.905 and Multi-family development greater than 5-units shall comply with these requirements. Livestock pastures, vegetable gardens are specifically exempt from these restrictions.

C. Recommended plants, trees and shrubs are included in Appendix G of the Ground Water Management Plan.

D. Landscaping Plan:

1. Landscape plans must incorporate water conserving designs which includes appropriate soil, soil amendments, mulching and drainage. All applicants for building permits for construction that have an approved and certified site development plan must submit and have approved by the zoning administrator, a landscaping plan prior to issuance of a related building permit. The landscaping plan must show:

- a. Location of buildings and structures on the property;
- b. The common names of the plants to be used; if there is no common name or if that name does not clearly indicate the species, the botanical name must be used;

- c. Planned location of all plants;
- d. The type and location of watering system/lines, soil amendments and how installation and maintenance will be performed;
- e. The parties responsible for maintenance of the landscaping;
- f. The square footage for all landscaping on the site; dimensions of each landscaping area must be provided, along with the quantities and locations of trees and shrubs, and their mature height and spread;
- g. The location of all underground utility easements, septic, leach field, and any existing or proposed overhead power lines;
- h. The estimated total landscape water use.
- i. Type of groundcover, any portion of a landscape area not planted must be covered with decorative rock, bark, mulch or other suitable material for reducing dust and evaporation and improving the aesthetic appearance of the area.
- j. Salt Cedar plants must be identified on the property if any exist. See G. Prohibited Plantings

E. Installation and Maintenance:

1. Plantings must not obstruct the clear sight triangle views of drivers, see Figure 1 below.
2. Landscaping must be installed according to the approved plan; installation must be completed at the time of the related building's occupancy.
3. Site Grading, must be designed to minimize irrigation water runoff onto streets and to maximize the use of storm water for on-site irrigation.
 - a. The slope of turf grass areas must exhibit minimal slope or none at all.
4. Water conserving irrigation system must be installed along with an automatic rain sensors. All irrigation must be adequately maintained. Landscaping which dies must be replaced by the owner as expeditiously as possible, but in no case, longer than sixty (60) days after notification.
5. Appropriate soil, soil amendments and top mulch to absorb and retain water and encourage the formation of deep root systems;
6. Plants with similar water requirements should be grouped on the same irrigation line.

D. Landscaping Area Requirements:

1. 1. Commercial, Multi-Family and Industrial: The total landscaped area required must equal not less than ten percent (10%) of the net lot area. For the purposes of this section, "net lot area" means the total area of the lot minus:

- a. The area of the lot covered by buildings;
- b. The portions of the lot that are fully screened from view from any adjacent lot or public right of way by an opaque wall or fence at least six feet (6') high, no landscaping will be required except buffer landscaping, as applicable;
 - (1) Chain link fence with slats does not constitute acceptable full screening;



G. Turf Restrictions:

- 1. Single Family Residential:
 - a. 1,500 square feet is the maximum turf area allowed for single family residential parcels,
 - b. Turf in the front yard is prohibited, except for artificial,
 - c. Turf must be placed at least 3-feet from all buildings, structures and walls, except for artificial,
 - d. Turf must be at least 15-feet from the pavement of all streets, except for artificial,
 - e. Planting cool season grasses such as Rye and Fescue from seeds is prohibited May through August, (the hottest times of the year). Laying sod is permitted,
- 2. All new golf courses must limit turf to 3-5 acres of turf per hole, watered with effluent reuse water to the extent possible,
- 3. Farming, ranching and livestock pastures using permitted water rights and in existence prior to the adoption of this ordinance are exempt from turf grass restrictions.

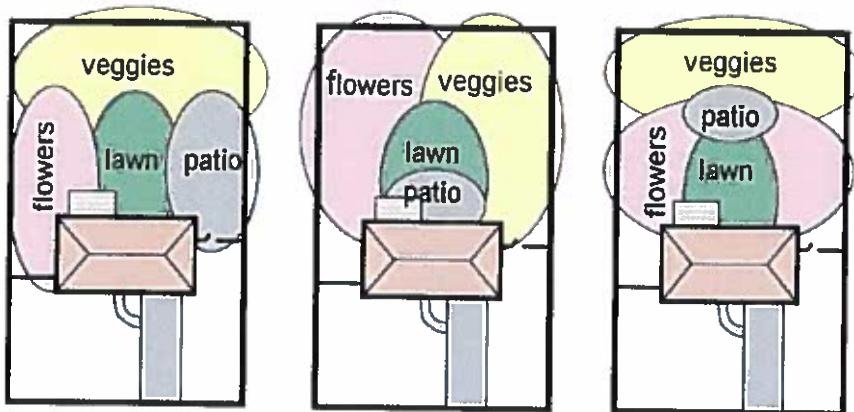


Figure 1: Examples of residential backyard layout with minimized turf grass area

H. Prohibited Plantings:

1. Salt cedar (tamarisk) bushes or trees is specifically prohibited
 - a. Salt cedars of all sizes must be removed from a property prior to any new development.
2. Planting cool season grasses such as Rye and Fescue from seed is prohibited from May through August.
- I. Clear Sight Areas: Clear sight areas must be maintained at all entrances and exits of parking areas and driveways in accordance with Table VIII: Sight Triangle Easement Requirements of the Standard Details and Specifications for Public Improvements within the Pahrump Regional Planning District.
 1. No walls, fences, trees, shrubs or any other object other than street hardware may be constructed or installed within the sight triangle easement, unless maintained at less than thirty-six inches (36") in height measured from the top of adjacent asphalt, curb, gravel or pavement street surface.

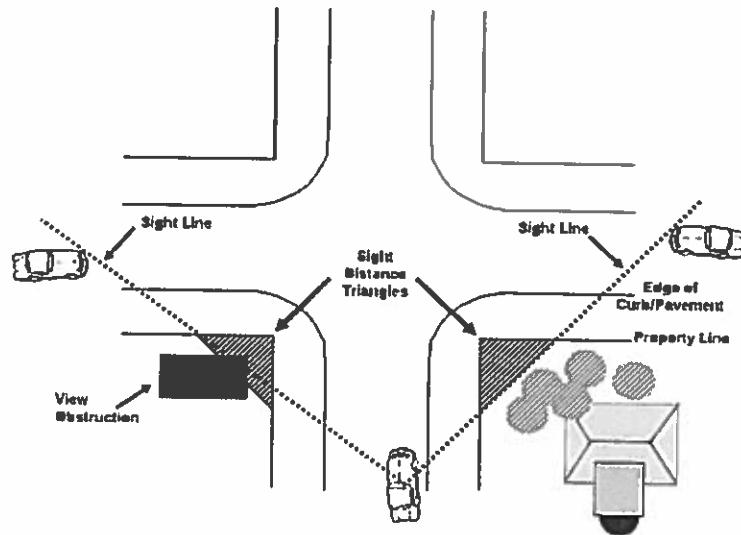


Figure 2: Clear Sight Triangle Diagram

J. **Landscape Buffering and Screening Requirements:** Landscape buffer areas are required between residential uses and nonresidential uses. Landscape buffers may be crossed by driveways connecting to adjacent land. No parking is permitted within a required landscape buffer area. The buffer landscaping must consist primarily of drought tolerant trees of an approved variety, which trees must be at least eight feet (8') high at time of planting and capable of reaching a height at maturity of at least twenty feet (20'). Spacing of the trees must be equal to seventy five percent (75%) of the mature canopy diameter of the trees. In no case shall the width of the on-site landscape buffer be less than the requirements listed below.

1. Locations and minimum widths:

- a. Front: Ten feet (10') minimum.
- b. Side: Five feet (5'). The landscape buffer may be relocated if the lot line is within a common access easement or where overhead powerlines exist.
- c. Rear: Six feet (6'). The landscape buffer may be relocated if the lot line is within a common access easement or where overhead powerlines exist.
- d. The buffer landscaping between residential and nonresidential property lines must be maintained on the nonresidential side of the boundary.
- e. When adjacent properties have similar zoning (i.e., commercial adjacent to commercial or industrial adjacent to industrial) the side and rear landscape buffers may be replaced with a block wall.
- f. No trees shall be planted in any landscaping buffer that is located below overhead power lines.
 - (1) Trees may be relocated to a different landscape buffer within the property, provided the total number of trees required is provided.

2. Screened areas: When properties are developed and the public cannot access the rear of the building or lot, the rear landscaping buffer and the portion of the side landscaping buffer that will not be accessed or viewed by the public may be removed or replaced with a block wall.
 - a. Where parking or vehicle circulation areas are adjacent to the landscaping strip, a minimum six foot (6') high opaque wall or fence shall also be required, located along the property line, to visually screen the parking or circulation area from any adjacent residential zone; chain link fence with slats shall not constitute acceptable screening.
 - b. Where perimeter walls are used surrounding residential developments in village residential, multi-family, mobile home park or mixed use zoning districts a minimum fifteen feet (15') of perimeter landscaping (which may include the sidewalk) must be installed, but shall not be turf.
 - (1) Irrigated landscaping that could adversely impact a block wall may be relocated away from the block wall and all other structures on the property, provided a soils report is submitted with the site development plan.
 - (2) The soils report submitted must be prepared by a licensed geotechnical or civil engineer licensed in the state of Nevada, and should indicate minimum separation from irrigation and any block walls or other structures on the property.

K. Special Landscape Standards:

1. Commercial, Industrial and Multi-Family Housing greater than four units must include landscaping as part of their design as shown on a plan submitted pursuant to NCC 17.04.950 and must include live native, xeric and drought tolerant plants and be designed to minimize outdoor water use on landscapes. Outdoor sculptures, shade structures, decorative hardscapes and rock work are encouraged. Existing native trees and shrubs must be preserved to the fullest extent possible. Trees, shrubs and other vegetative landscaping must be trimmed and maintained so as not to interfere with the ability of vehicles to park in any provided parking spaces.
 - a. Off Street Parking Area Trees: Quantity and distribution of trees shall be as follows:
 - (1) One tree is required per twenty (20) parking spaces;
 - (2) The minimum size of tree planters within off street parking areas shall be thirty-six (36) square feet per tree;
 - (3) Trees must be drought tolerant shade trees, capable of achieving a mature canopy diameter of at least twenty-five feet (25').
 - (4) The total number of trees may be reduced by 20% if 10% or more of the required parking lot is finished with a permeable surface or pavers.

b. **Ground Cover:** To minimize water consumption, the use of vegetative ground cover other than turf grass is encouraged. Any portion of a landscape area not planted must be covered with decorative rock, bark, mulch or other material suitable for reducing dust and evaporation and improve the aesthetic appearance of the area.

(1) Any nonliving ground cover areas must be clearly delineated on the landscaping plan.

c. **Water Features, Ponds and Artificial Lakes:**

(1) Decorative water features and ponds are limited to less than 50 square feet surface area.

(2) Bodies of water used for recreation purposes that are not one hundred percent (100%) reclaimed water are to be authorized by conditional use permit.

(3) Swimming pools and spas are encouraged to be covered to mitigate evaporation when not in use.

d. **Artificial Outdoor Landscaping:**

(1) **Artificial Turf Landscaping:**

(i) Must be constructed of a low-density polyethylene material with a melting point equal to or in excess of one hundred fifty degrees Fahrenheit (150°F), a softening point equal to or in excess of one hundred twenty degrees Fahrenheit (120°F), and a brittle point equal to or in excess of zero degrees Fahrenheit (0°F).

(ii) Shall be a minimum of three colors combined of natural grass colors to mirror living vegetation. The primary color must be green. Product must have UV resistant pigmentation and UV stabilization to prevent fading and allow for longevity.

(iii). Products must be installed and anchored so as to withstand ninety (90) mile per hour wind loads, and anchored to reasonably withstand storm event flooding.

(iv). Products that are torn, broken, faded, damaged or missing must be replaced immediately.

(v). The use of plastic, vinyl, polyester, silk or glass in artificial outdoor landscaping products is prohibited.

L. Water Conservation Standards – New Construction:

1. Wasting water is unlawful per NRS 534.0165, 534.020(2), 534.070, and NAC 704.567:

a. Automatic irrigation systems are required for all common areas, residential and commercial landscaped areas,

- b. Overhead spray must be minimized and restricted to turf grass and flower beds, all other landscaped areas must use low volume drip lines,
- c. Large radius spray heads adjacent to roads or sidewalks are prohibited,
- d. Runoff or spraying water directly onto roads, paths, sidewalks or other non-turf areas is prohibited,
- e. Overhead spray watering during high wind events is prohibited,

M. Watering Restrictions and Watering Schedules – New Construction:

- 1. All common areas, residential dwellings and commercial areas must comply with watering schedules issued by Nye County Water District (NCWD) which sets forth the days, time of day and duration of time allowed for outdoor watering.
 - a. From November 1 through February watering is limited to one day a week.
 - b. From September 1 through October and March 1 through April, watering is limited to three days per week.
 - c. From May 1 through August, watering is allowed seven days of the week.
 - (1) Summer watering restrictions allow landscape watering any day of the week through August
 - (2) Watering newly installed sod is allowed daily for up to 30 days once per calendar year.

2. Additional Watering Restrictions:

- a. From May 1 until October 1 sprinkler and drip system watering is prohibited from 11 am to 7 pm.

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the day of 5th day of June, 2017.

Proposed on the 16th day of May, 2017

Proposed by: Commissioner Koenig.

Adopted on the 16th day of May, 2017.

Vote: Ayes: Commissioners: Schinhofen, Koenig, Wichman

Nays: Commissioners: Borasky, Cox

Absent: Commissioners: Ø

BY:



Daniel Schinhofen, Chairman
Nye County Board of
County Commissioners

ATTEST:



Sandra L. Merlino
Clerk and Ex-Officio
Clerk of the Board