

NYE COUNTY AGENDA INFORMATION FORM

Action Presentation Presentation & Action

Department: Planning		Agenda Date:	
Category: Timed Agenda Item – 11:00 a.m.		April 17, 2018	
Contact: Brett Waggoner		Phone: 775-751-4249	Continued from meeting of:
Return to: Brett Waggoner	Location: Planning	Phone: 775-751-4249	
Action requested: (Include what, with whom, when, where, why, how much (\$ and terms))			
Public Hearing, discussion and deliberation to: 1) Adopt, amend and adopt, or reject Nye County Bill No. 2018-05: A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, relating to the requirement that accessory uses are permitted in conjunction with any principal use; accessory uses or structures are allowed prior to installation of the principal residence; providing for the severability, constitutionality and effective date thereof; and other matters properly related thereto; and 2) Set an effective date.			
Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)			
Staff recommends adoption, with an effective date of May 7, 2018.			
Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.			
Expenditure Impact by FY(s): (Provide detail on Financial Form)			
<input checked="" type="checkbox"/> No financial impact			

Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date
2.	Date	7. HR	Date
3.	Date	8. Legal	Date
4.	Date	9. Finance	Date
5.	Date	10. County Manager	Date

[Handwritten signatures and initials over the routing table]

ITEM # 15

**NYE COUNTY BOARD OF COUNTY COMMISSIONERS
PLANNING DEPARTMENT STAFF REPORT**

Meeting Date: April 17, 2018

AGENDA ITEMS

11:00 – For Possible Action – **Public Hearing**, discussion and deliberation to: 1) Adopt, amend and adopt, or reject Nye County Bill No. 2018-05: A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, relating to the requirement that accessory uses are permitted in conjunction with any principal use; accessory uses or structures are allowed prior to installation of the principal residence; providing for the severability, constitutionality and effective date thereof; and other matters properly related thereto; and 2) Set an effective date.

GENERAL INFORMATION SUMMARY

On February 14, 2018 the Pahrump Regional Planning Commission recommended adoption of this Bill by a 6-0 vote.

Staff recommends adoption with an effective date of May 7, 2018.

Attached is the proposed Bill.

RPC MINUTES

Mr. Ehrheart stated at the last meeting they would like agricultural uses added and adjacent property owner that had travel trailers added, this change reflects those additions. They have added definition of principal building, as in 17.04.110.

Public comment opened at 6:46 pm.

Kathy Mueller stated in regards to the property next door, it was graded last July. She objects to changing the existing permitting under NCC Title 17, specifically allowing accessory uses or structures without a permit for the primary residence. The situation is happening adjacent to her primary residence, there is no dust control and they erected sheds with no building permits. The dust issue is all the time. The intended use what they told everyone was for the storage of construction material. If they do this they will make Pahrump more of a dump than it already is. They have a burn pit and no water on the property. Every time it's windy she has to pick up all the construction debris. If people are coming here and not planning to be a resident, for health and safety reason, with the dust and burning it is a fire hazard and a health hazard. If she is reading this right it says they can do this without a principal building permit.

Dawn Murphy stated she agrees with her that the construction site next door to her. But she doesn't agree to what is new here, she feels they are turning this into CC & R's and HOA's. She doesn't live here to be watched over. She bought 1 1/4 acre properties and she has placed things on her property with zoning approval prior to putting on her residence. By adding in all these new rules, it is taking the property owners rights away.

Public comment closed at 6:51 pm.

Commissioner Hafen stated for clarification on Ms. Mueller's comment. The change will be that it is unlawful to build an accessory structure on the lot without a main residence or principal structure. Addressing Ms. Murphy's comment, they will be allowing a temporary structure once the building permits are pulled. They are trying to find a happy medium so that they can have accessory structures and bring your building permit and materials to the property.

Commissioner Adams stated he has an interpretation in between both members of the public's comments. The fire department will take care of the burning of the trash. He stated they are asking that until a building permit is pulled you don't put anything on the property.

Commissioner Hafen stated he believes the confusion is in the title, where it shows the language that has been stricken.

Mr. Waggoner stated all the activities located on the property next door, there are no building permits and they have been issued a stop work order.

Commissioner Hafen motioned to recommend approval to the BOCC. Seconded by Commissioner Adams.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Beth Lee, Gary Bennett, Gregory T. Hafen II, Leah-Ann DeAnda, Leo Blundo, Robert Adams.

Excused: Derek Fowler.

RECOMMENDATION

Recommended BOCC Motion: "I move to adopt Bill 2018-05 with an effective date of May 7, 2018."

NYE COUNTY ORDINANCE NO. ____

SUMMARY: A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, relating to the requirement that Accessory Uses are permitted in conjunction with any Principal Use: Accessory Uses or Structures are allowed prior to installation of the Principal Residence only when a building permit is issued for the Principal Residence; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 17, COMPREHENSIVE LAND USE PLANNING AND ZONING, RELATING TO THE REQUIREMENT THAT ACCESSORY USES ARE PERMITTED IN CONJUNCTION WITH ANY PRINCIPAL USE. ACCESSORY USES OR STRUCTURES ARE ALLOWED PRIOR TO INSTALLATION OF THE PRINCIPAL RESIDENCE; AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, pursuant to NRS 244.119, the Nye County Board of Commissioners (Board) is authorized to amend the Nye County Code; and

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety, morals, or the general welfare of the community of Nye County, the 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;

NOW, THEREFORE, pursuant to NRS 244.110, the Board of County Commissioners of the County of Nye, State of Nevada does ordain:

NYE COUNTY CODE TITLE 17 IS HEREBY AMENDED AS FOLLOWS, with deletions shown in strike-through red font, and additions and modifications shown in underscored blue font as follows:

Chapter 17.04 PAHRUMP REGIONAL PLANNING DISTRICT

17.04.200: RESIDENTIAL DISTRICTS:

A. General Provisions for Residential Districts:

1. **Zone Map Amendment Required:** All new developments in residential zoning districts shall be subject to the zone map amendment procedure as set forth in article VIII of this chapter.
 - a. **Development Agreement Required:** All approved subdivision developments in residential zoning districts greater than four (4) dwelling units shall, as part of the subdivision approval process, and at the board's sole discretion, enter into a development agreement pursuant to title 16, chapter 16.32 of this code as a condition of zone map amendment approval.
2. **Site Development Plan Required:** All developments in the residential zoning districts greater than four (4) dwelling units shall comply with the site development plan submittal requirements in article IX of this chapter. Such site plan may be submitted as part of an application for a tentative map.
3. **Building Separation:** All buildings located on a single parcel within a residential zoning district must be separated by a minimum of five feet (5') unless a greater separation is required within a specific residential district. Buildings on a single parcel within a residential zoning district may be allowed to be separated by less than five feet (5') if the buildings are in compliance with all applicable requirements of the adopted building and fire codes and the applicant obtains approval of an administrative waiver.
4. **Off Street Parking:** Off street parking in multi-family residential zones shall meet the requirements of article VI of this chapter. All off street parking shall be in compliance with the Americans with disabilities act.
5. **Landscaping:** Landscaping requirements in residential and multi-family residential zones shall meet the requirements of article VI of this chapter.
6. **Lighting:** Lighting requirements in residential zones shall meet the requirements of article VI of this chapter.
7. **Screening, Walls And Fences:** Screening, walls and fences in residential zones shall meet the requirements of article VI of this chapter.
8. **Signage:** Signage in residential zones shall meet the requirements of article VI of this chapter.
9. **Manufactured Homes:** Notwithstanding any other provisions in this code, manufactured homes are hereby recognized as a "permissive use" in all zoning districts which recognize single-family dwellings as a "permissive use", provided that all manufactured homes outside of mobile home parks must be permanently affixed to a foundation and converted to real property, except when located within an RH zone. In addition,

manufactured homes located within a VR zone must be in conformance with the following:

- a. The manufactured home shall be placed on a foundation permanently affixed to the residential lot and qualify and constitute real property, as established by chapter 361 of the Nevada Revised Statutes.
- b. Any elevated foundations shall be masked architecturally in a manner to blend and harmonize with exterior siding materials utilized on the manufactured home.
- c. As provided in the Nevada Revised Statutes, the provisions of this section do not abrogate recorded restrictive covenants prohibiting manufactured homes nor do the provisions apply within the boundaries of a historic district established pursuant to Nevada Revised Statutes 384.005 or 384.100.

10. Home Occupations: Home occupations, home based businesses and residential industry are permissive in residential districts and must comply with article VI of this chapter.
11. Garage Sales: All garage sales are limited to twelve (12) days during any twelve (12) consecutive month period, and may not operate for more than three (3) consecutive days during each occurrence.
12. Temporary Living Facilities: Temporary living facilities may be permitted under certain conditions subject to the approval of a temporary use permit.
13. Lot Size Calculations: All lot size calculations shall be measured as net lot area.
14. Prohibited Uses: Any use not listed within a specific zoning district shall not be permitted within such zoning district until such time as a zoning ordinance text amendment has been approved in conformance with article VIII of this chapter.
15. Projections Into Required Yards, Residential Districts:
 - a. Awnings, open fire balconies, fire escape stairs, window type refrigeration units not exceeding one and one-half (1 1/2) tons or one and one-half (1 1/2) horsepower rating, suspended or roof evaporative coolers, and forced air furnaces, may project not more than five feet (5') over any required yard, provided that they shall be no closer than two feet (2') to any lot line.
 - b. Cornices and eaves may project over any required yard, provided that they shall be no closer than two feet (2') to any lot line.
 - c. Sills, belt courses and similar ornamental features may project not more than six inches (6") over or into any required yard.
 - d. Unroofed terraces, patios, steps or similar features may project into any required yard, provided that projections into required front yards shall not exceed ten feet (10').

Roofed or covered terraces, patios, steps or similar features may project into the required rear yard no closer than ten feet (10') to the rear lot line, provided two (2) sides of the covered feature remain open.

- e. Fireplaces may be allowed to encroach into required yards no closer than two feet (2') to any lot line.
- f. Carports may be allowed to encroach into required side yards, provided that two (2) sides of the carport remain open, that no portion of the carport structure is closer than three feet (3') to any side lot line, and all drainage from the roof of the structure shall be onto the property itself.
- g. Ground mounted heating and cooling systems may protrude no more than three feet (3') into required side and rear yards.
- h. Swimming pools may protrude into required side and rear yards, but must be no less than five feet (5') from the wall of the pool to the property line.

16. Agriculture Animal Care Project: On parcels that are less than one acre (gross) in size the following conditions and safeguards shall be used in deciding upon applications for this use:

- a. Must be accessory to a residential principal use.
- b. The animal care project must be sponsored and monitored by a multimember animal husbandry society that provides the participants with direction and guidance in the raising of animals and an opportunity to exhibit the animals at the end of the project.
- c. No animal shall be kept for a period of more than six (6) months.
- d. Adjacent property owners must sign a statement of agreement.
- e. No project animal shall exceed forty-five (45) pounds. (Ord. 353, 2008: Ord. 346, 2007: Ord. 308, 2005: Ord. 299, 2005: Ord. 285, 2004)

17. Accessory Buildings and Accessory Uses, and Storage of Recreational Vehicles:

- a. It is unlawful to construct, erect, or locate an accessory building or accessory use on any lot or parcel without an existing principal residential dwelling unit or principal building, unless otherwise provided in this chapter.
- b. The storage of a recreational vehicle is permissive once the principal residential dwelling unit has been issued a Certificate of Occupancy and the recreational vehicle has been disconnected from all utilities and is no longer serving as a temporary living facility.
- c. An accessory building or accessory use may be permitted on a lot or parcel for nonresidential uses only where the principal use is established on the adjacent lot or

parcel and both properties are under the same ownership.

- d. During construction of a principal residential dwelling unit and upon the issuance of a building permit, temporary occupancy of a recreational vehicle or a travel trailer in any residential zoning district may be allowed with the approval of a Temporary Use Permit, pursuant to this chapter.
- e. Farming or Ranching Operation: When used in conjunction with a bona fide functioning farming or ranching operation on a lot or parcel in the Rural Homestead (RH) or Rural Estates (RE) zoning districts:
 - i. When used as a temporary living facility, a recreational vehicle is allowed with the approval of a Temporary Use Permit, pursuant to this chapter.
 - ii. When used as an accessory building, an accessory building is allowed with the approval of a Temporary Use Permit, pursuant to this chapter.
- f. An accessory building or accessory use is allowed prior to the installation of a permanent structure, only after all applicable permits have been issued and all impact fees have been paid in conjunction with the construction of the permanent structure.
- g. The Planning Director shall determine when buildings or uses are accessory. If the applicant or permittee disagrees with the Planning Director's determination, the applicant or permittee may appeal the decision of the Planning Director, in accordance with Title 16, Chapter 16.36 of this code.

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application there 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 _____, 2018.

Proposed on the _____ day of _____, 2018.

Proposed by: Commissioner _____.

Adopted on the _____ day of _____, 2018

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: _____
John Koenig, Chairman
Nye County Board of
County Commissioners

ATTEST: _____
Sandra L. "Sam" Merlino
Clerk and Ex-Officio
Clerk of the Board

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Proposed by: Commissioner _____.

Adopted on the _____ day of _____, 2018

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: _____

John Koenig, Chairman
Nye County Board of
County Commissioners

ATTEST: _____

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