

# NYE COUNTY AGENDA INFORMATION FORM

☒ Action
 ☐ Presentation
 ☐ Presentation & Action

<b>Department: Planning</b>		<b>Agenda Date:</b>	
<b>Category: Timed Agenda Item – 11:00 a.m.</b>		<b>June 5, 2018</b>	
<b>Contact: Brett Waggoner</b>		<b>Phone: 775-751-4249</b>	<b>Continued from meeting of:</b>
<b>Return to: Brett Waggoner</b>	<b>Location: Planning</b>		<b>Phone: 775-751-4249</b>
<b>Action requested:</b> (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. 2018-03: A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, by adding Chapter 17.12 entitled Special Use Permits; providing for the severability, constitutionality and effective date thereof; and other matters properly related thereto; and 2) Set an effective date.			
<b>Complete description of requested action:</b> (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 June 25, 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.			
<b>Expenditure Impact by FY(s):</b> (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

ITEM # 9

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

**Meeting Date:** June 5, 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. 2018-03: A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, by adding Chapter 17.12 entitled Special Use Permits; providing for the severability, constitutionality and effective date thereof; and other matters properly related thereto; and 2) Set an effective date.

**GENERAL INFORMATION SUMMARY**

The general intent of this Bill is to require approval for uses of land that typically have the potential to cause negative impacts on adjacent or surrounding people or properties, such as heavy manufacturing facilities, explosives storage, automobile junk yards, or similar uses.

Currently, these types of uses do not require notification of adjacent property owners, and do not require any approval by Nye County prior to starting these types of uses (outside of the PRPD).

Adopting this Bill would require notification of surrounding property owners, the opportunity for public input, submittal of plans by the applicant, and approval by the Board prior to commencing these types of land use activities.

Special uses would be permitted upon the applicant showing that such use in a specified location will comply with all the conditions and safeguards for the location or operation of the use and if it is authorized by the Board.

Staff recommends adoption with an effective date of June 25, 2018.

Attached is the proposed Bill.

**RECOMMENDATION**

**Recommended BOCC Motion:** "I move to adopt Bill 2018-03 with an effective date of June 25, 2018."

BILL NO. 2018-03

NYE COUNTY ORDINANCE NO. \_\_\_\_\_

**SUMMARY:** A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, by adding Chapter 17.12 entitled Special Use Permits; 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, BY ADDING CHAPTER 17.12 ENTITLED SPECIAL USE PERMITS; 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 and the general welfare of the residents 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:

**CHAPTER 17.12 SPECIAL USE PERMITS**

**17.12.010: SPECIAL USE PERMITS, GENERALLY:**

- A. The intent of this chapter is to establish land use and permitting requirements applicable to certain types of land uses, as authorized by Nevada state law, for all areas within Nye County.
- B. Land uses requiring a Special Use Permit and the type of Special Use Permit required in each instance are set out in the regulations of this chapter.

C. In addition to the listing of such special uses, the Board intends that the requirements established in this chapter shall be used to direct deliberations upon applications for the approval of Special Use Permits. It is the express intent of the Board to delineate the areas of concern connected with each Special Use Permit and to provide standards by which applications for such Special Use Permits shall be evaluated. Additionally, for any special use listed herein which requires a Special Use Permit and is located within the Pahrump Regional Planning District ("PRPD"), the requirements applicable to the PRPD shall apply and shall supersede any requirements contained in this chapter.

#### **17.12.020: DEFINITIONS:**

The words and terms used in this chapter shall be defined as follows. Words and terms not defined herein will have the meanings prescribed in Nye County Code Title 17, Chapter 17.04, Section 17.04.110. All words used in the singular shall include the plural, and all words used in the plural shall include the singular. Each gender shall include the others. Any tense shall include the other tenses. The word "shall" is mandatory, and the word "may" is permissive.

AGGRIEVED PARTY: The applicant, permittee or property owner when appealing a decision made pursuant to this chapter. If an aggrieved party is appealing a decision of the Planning Director to the Board, only the same aggrieved party may request judicial review of the Board's final decision on that appeal. Only an aggrieved party may appeal, unless otherwise specified in this chapter.

ASPHALT PLANT: A manufacturing facility for the production of asphalt, tar paving mixtures, paving block made of asphalt and various compositions of asphalt or tar with other materials, and the recycling of old asphalt into asphalt-type material.

BOARD: The Board of County Commissioners of the County of Nye, State of Nevada.

CONCRETE PLANT: A manufacturing facility for the production of concrete that uses a manufacturing process involving the mixing of a number of aggregates, sand, water, cement or other components.

FEDERAL AVIATION ADMINISTRATION (FAA): The Federal Aviation Administration of the United States Department of Transportation.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The Federal Emergency Management Agency of the United States Department of Homeland Security.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

MANUFACTURED HOME PARK: An area, parcel, or tract of land having as its principal use the rental, leasing, or occupancy of space by two (2) or more mobile homes or manufactured homes on a permanent or semi-permanent basis, including accessory buildings, structures, or uses customarily incidental thereto.

NOTICE WRITTEN NOTICE: Written notice of a decision pursuant to this chapter. Service on the recipient shall be made by personally delivering a copy of the written notice to the recipient, or by

mailing a copy of the written notice by certified mail with return receipt requested to the recipient's address.

**PROJECT OF REGIONAL SIGNIFICANCE:** Any project which would create one hundred (100) vehicle trips per day or more, twenty (20) or more employees, twenty (20) or more residential housing units, or fifty (50) acre-feet or more of annual water usage (excluding agricultural uses).

**RECREATIONAL VEHICLE PARK:** An area, parcel or tract of land having as its principal use the transient rental of two (2) or more spaces for recreational vehicles including accessory buildings, structures, or uses customarily incidental thereto.

**SPECIAL USE:** A use that has the potential to have adverse effects on adjacent or local properties. Special uses are permitted upon showing that such use in a specified location will comply with all the conditions and safeguards for the location or operation of the use and if it is authorized by the Board.

**SPECIAL USE PERMIT:** A grant of authority under the terms of this chapter from and by the Board to an applicant for the use of property in the manner set out in the grant of the Special Use Permit.

**VEHICLE TRIPS PER DAY:** An estimate of the number of vehicles entering or exiting a site in one day as determined using the current edition of the Institute of Transportation Engineers (ITE) Trip Generation manual for trip generation rates for land use and building types.

#### **17.12.030: SPECIAL USES REQUIRING SPECIAL USE PERMIT:**

A. It is intended that Special Use Permits shall be required when certain special uses are likely to have adverse effects on adjacent and local properties. The following special uses shall require a Special Use Permit:

1. Airports and Airport Related Uses:

- a. Public or Private Airports and related Aviation Facilities; Airfields; Airstrips
- b. Any use of land, building or proposed development within an established airport or airfield's Clear Zones ("CZ") or Accident Potential Zones ("APZ") as defined by the Federal Aviation Administration (FAA)

2. Animals:

- a. Animals, Special Conditions; Exotic Animals
- b. Intensive Animal Feeding Operations; Feed Lots

3. Billboards (Off Premise Signs)

4. Brothels

5. Commercial Uses:

- a. Marijuana Establishments (all Marijuana Establishments shall comply with Nye County Code Chapter 17.06 "Marijuana Establishments")



- b. Privately or Publicly Operated Correctional Facilities; Prisons; Jails
  - c. Privately or Publicly Operated Shooting Ranges (Outdoors)
- 6. Fireworks (Retail), as defined in Nye County Code Title 8, Chapter 8.04 "Fireworks"
- 7. Floodways: Activities or construction within an adopted regulatory floodway including fill, new construction, substantial improvements, and other development, as defined by FIMA
- 8. Industrial Uses:
  - a. Any industrial use located or partially located within a designated wellhead protection area or within a floodway as shown in the Flood Insurance Study
  - b. Asphalt Plant or Concrete Batch Plants (not required for temporary uses of less than a total of six (6) months duration throughout a twelve (12) month period)
  - c. Automobile Wrecker; Salvage Yards; Junkyards
  - d. Heavy Manufacturing Heavy Industrial Uses; Hazardous Materials; Manufacturing, processing, transfer, or storage of explosives, chemicals, matches, oxygen, paint, plastics, fireworks
  - e. Mining operations, such as milling, ore dumps, quarries, gravel sand pits, rock crushing, smelting operations
  - f. Public or Private Landfills; Storage, consolidation, importation, transfer, or processing of waste materials
- 9. Manufactured Home Parks
- 10. Projects of Regional Significance
- 11. Recreational Vehicle Parks
- 12. Sexually Oriented Businesses (see definition of "Adult Uses" in Nye County Code Title 17, Chapter 17.04)
- 13. Utility Projects:
  - a. Transmission Lines (all Aboveground Electric Transmission Lines operating at 200 kilovolts or higher must comply with Nye County Code Title 17, Chapter 17.10 "Aboveground Utility Projects")
  - b. Utility Projects (Major): Sewer Wastewater Plants, Water, Gas, Electric, major utility projects
  - c. Energy Facilities; Fracking; for multiple wells in a drilling program; Geothermal; Solar Projects; Electric Generating Facilities over 10 megawatts (MW)

#### **17.12.040: SPECIAL USES NOT LISTED:**

- A. In those instances where a requested use is not listed above, the Planning Director shall determine whether the requested use is allowed as a permissive use or if the use requires a Special Use Permit.
  - 1. The Planning Director shall make his determination and shall provide a written response stating such determination to the applicant within fourteen (14) calendar days of applicant's request for determination on a special use not listed.
  - 2. If the Planning Director determines that the requested use is a permissive use, the applicant is not required to obtain a Special Use Permit.
  - 3. If the Planning Director determines that a Special Use Permit is required for the applicant's requested use, the applicant may appeal the decision to the Board within ten (10) calendar days, in accordance with Section 17.12.120.

#### **17.12.050: APPLICATIONS FOR SPECIAL USE PERMITS:**

- A. Generally: Except when specifically set out otherwise in this chapter, applications for Special Use Permits shall be filed with the Planning Department, which is charged with responsibility for its receipt, fee collection, if any, processing and distribution.
- B. When Filed: Who May File: Special Use Permit applications may be filed only by the property owner, its formally designated agent with power of attorney, or a lessee with formal and sufficient consent of the property owner, and applications may be made only for Special Use Permits specifically authorized or required by this chapter.
- C. Completion Before Processing: For purposes of establishing time limitations on processing, no application shall be deemed to have been filed unless and until the application shall have been completed, and all plans, reports or other information, exhibits, or documents required by this chapter shall have been provided, and all fees, due at the time of filing, shall have been paid.

#### **17.12.060: APPLICATION FORMS:**

- A. Materials That Are Required: Where applicable to the use for which a Special Use Permit is requested and where necessary to a decision on the application for a Special Use Permit, all applicants shall provide the following:
  - 1. A completed proper application form as provided by the Planning Department,
  - 2. The name, address, and phone number of the applicant or its agent with power of attorney, and property owner's name, address, phone number and written, notarized approval if property ownership is other than the applicant;
  - 3. The legal description and physical address of the property of the proposed use;
  - 4. A statement describing in detail the character and intended use of the property; and
  - 5. A conceptual site plan.

B. Materials That May Be Required For Special Use Permits: Where applicable to the use for which a Special Use Permit is requested and where necessary to a decision on the application for Special Use Permit, any of the following additional documents may be required:

1. General location map, showing relation of the property for which the Special Use Permit is sought to major streets, schools, existing utilities, shopping areas, important physical features in and adjoining the property.

C. Supplemental Materials:

1. During processing of any application, if it is determined by the Planning Director that additional information is required to make the necessary findings bearing on its approval, disapproval, or conditions and safeguards to be attached, such information may be requested. Failure to supply such supplemental information may be used as grounds for disapproval of the permit. Such supplemental information shall be supplied at least ten (10) business days prior to the hearing on the application.
2. During processing of any application, if it is determined by the Board that additional information is required to make the necessary findings bearing on its approval, disapproval, or conditions and safeguards to be attached, such information may be requested. The hearing on the application shall be continued to the next meeting of the Board, or as soon thereafter as practicable. Failure to supply such supplemental information may be used as grounds for disapproval of the permit. Such supplemental information shall be supplied at least five (5) business days prior to the continued hearing on the application.

#### 17.12.070: PUBLIC HEARING ON APPLICATION:

A. Hearing Notice: Upon the filing of a complete application for a Special Use Permit and receipt of all applicable fees, the Planning Department shall:

1. Set a date, time and place for public hearing on the matter not to exceed sixty-five (65) calendar days after filing of a complete application and receipt of all applicable fees. The Planning Department shall review the application and shall determine what, if any, other supplemental materials are required and referrals to make to other agencies, bodies, or officers, for review, analysis, or technical findings. If any supplemental information is requested, the Planning Department shall inform the applicant and the applicant shall supply such supplemental information at least ten (10) business days prior to the hearing on the application.
2. The Planning Department shall give notice setting forth the date, time and place of such hearing in accordance with Nevada Revised Statutes 278.315.
3. If an applicant applies for a Special Use Permit for property which is located within the boundaries of a town located in the County, the Planning Department shall provide notice of the application to the applicable advisory or elected Town Board. The notified advisory or elected Town Board, at its discretion, may review the application and may provide comments or recommendations to the Board. If an advisory or elected Town Board reviews a Special Use Permit application and provides comments in writing to the Planning Department prior to any established deadlines, the advisory or elected Town Board's comments shall be transmitted to the Board and shall be considered by the Board during its deliberation towards making a final decision on the application.



- B. Hearing Procedure: The Board shall hear and consider evidence and facts from the testimony of any person at the public hearing, and shall consider written communications from any person relative to the application. The Board shall make a determination on the application at the public hearing in accordance with this chapter.

**17.12.080: GENERAL FINDINGS FOR MARKING DETERMINATIONS:**

- A. The Board shall review the particular facts and circumstances of each application. The Board shall make a determination regarding the application for the Special Use Permit upon weighing the following factors:
1. Will be harmonious with and in accordance with the general objectives or with any specific objectives of the Comprehensive Master Plan of current adoption, and this chapter;
  2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
  3. Will not be hazardous or disturbing to existing or future neighboring uses;
  4. Will be a substantial improvement to property in the immediate vicinity and to the community as a whole;
  5. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
  6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
  7. Will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glares or odors; or
  8. Will be consistent with the intent and purpose of this chapter.

**17.12.090: BOARD ACTION:**

- A. The Board shall take one of the following actions on an application for a Special Use Permit:
1. Approval of the application as submitted;
  2. Approval of the application, with conditions and safeguards for the protection of the public health, safety, morals and general welfare attached; or
  3. Disapproval of the application.
- B. Board Action Following Decisions On Special Use Permits: After the Board makes determinations on Special Use Permits, the following actions shall be taken:

1. Notification Of Applicant In Cases Of Approval Approval With Conditions And Safeguards: Where a Special Use Permit application is approved, with or without conditions and safeguards, a copy shall be transmitted by the Board to the applicant within five (5) business days of the decision.
  2. Notification Of Applicant In Cases Of Disapproval: Where a Special Use Permit application is disapproved, applicant shall be provided written notice by the Board, within five (5) business days of the decision, with a summary of the reasons therefor and notice that complete records on the case are available in a location specified, and are public records.
  3. Notification Of Affected County Agencies In Cases Of Approval Approval With Conditions And Safeguards: Where a Special Use Permit application is approved, with or without conditions and safeguards, affected agencies or officials shall be informed by the Board within five (5) business days of the decision by copy of the Special Use Permit, including any conditions and safeguards attached thereto. As appropriate to the circumstances of the case, upon such notification, such agencies or officials shall proceed to decide matters concerning any building permit, occupancy permit, or other action dependent upon issuance of the Special Use Permit, without further action by the applicant therefor, and shall perform their duties with regard to administration, inspection, or enforcement in the case.
  4. Notification Of Affected County Agencies In Cases Of Disapproval: Where a Special Use Permit application is disapproved, affected agencies or officials shall be informed by the Board within five (5) business days of the decision by copy of the written notice provided to the applicant.
- C. The Board may make referrals to other agencies, bodies, departments or officers, for review, analysis, or technical findings.
- D. The decision of the Board is a final decision for the purpose of judicial review.

#### **17.12.100: SUSPENSION OF SPECIAL USE PERMIT:**

- A. Grounds: Any of the following conditions or occurrences are grounds for the suspension of a Special Use Permit:
1. Any violation of the terms or conditions of the Special Use Permit;
  2. Any misrepresentation made in an application for a Special Use Permit;
  3. Any act or failure to act by the permittee or its agents in connection with the use for which the Special Use Permit was obtained which creates or tends to create or constitute a public nuisance;
  4. Refusing or neglecting to comply with any provision of this chapter; or
  5. Any act or failure to act by the permittee or its agents which the Planning Director determines is detrimental to the public health, safety, morals or general welfare of the public.
- B. Suspension Procedure:

1. The Planning Director, without prior notice, may suspend any Special Use Permit pursuant to any one or more of the grounds listed above. The Planning Director shall provide written notice of the reasons for suspension of the Special Use Permit to the permittee. The permittee shall have fourteen (14) calendar days from the date of receipt of the notice to correct or mitigate the grounds which caused the suspension. Upon correction or mitigation of the grounds which caused the suspension, the Planning Director shall determine whether to rescind the suspension of the Special Use Permit and shall provide written notice of such determination.
2. If the permittee does not correct or mitigate the grounds which caused the suspension, or if the Planning Director determines that the corrective or mitigating actions are insufficient, the Planning Director may proceed with revocation procedures, pursuant to this chapter.
3. Appeal: An aggrieved party may appeal to the Board in accordance with Section 17.12.120.

C. Emergency Suspension By Planning Director:

1. The Planning Director, without prior notice, may suspend any Special Use Permit until the next practicable meeting of the Board when the public health, safety, morals or general welfare will be endangered by the continued existence of the special use authorized by the Special Use Permit. The Planning Director shall, within forty-eight (48) hours of the suspension, give written notice of the suspension to the permittee and the Board.
2. At its next practicable meeting after the suspension and in accordance with all applicable notice requirements, the Board shall determine whether such suspension shall be rescinded, but if the Board decides that the suspension shall continue and remain in effect, then, and in such event, the proceedings prescribed in this chapter relative to the maintenance of such Special Use Permit suspension with required notice and hearing shall be initiated as soon as possible and complied with.
3. Hearing Procedure: The Board shall hear and consider evidence and facts from the testimony of any person at the public hearing, and shall consider written communications from any person relative to the suspension. The Board shall make a determination on the suspension at the public hearing in accordance with this chapter.
4. Appeal: An aggrieved party may appeal the final decision of the Board in accordance with Section 17.12.120.

**17.12.110: REVOCATION OF SPECIAL USE PERMIT**

- A. Grounds: Any of the following conditions or occurrences are grounds for the revocation of a Special Use Permit:
1. Permittee failed to sufficiently correct or mitigate the grounds that caused the suspension of the Special Use Permit;
  2. Any violation of the terms or conditions of the Special Use Permit;
  3. Any misrepresentation made in an application for a Special Use Permit; or
  4. Any act or failure to act by the permittee or its agents which the Planning Director determines is detrimental to the public health, safety, morals or general welfare of the public.



## B. Revocation Procedure:

1. The Planning Director may, in writing, inform the Board if any of the grounds for revocation exist. Alternatively, if certain facts or allegations become known to the Board which may constitute grounds for revocation, the Board may request the Planning Director to investigate the conduct of any permittee under this chapter to determine whether grounds for revocation of a Special Use Permit exist. The Planning Director may request the assistance of the permittee or other agencies or departments in such an investigation.
2. If it appears that one or more grounds for revocation exists, the Board shall issue and cause to be served on the permittee written notice setting forth the act or failure to act upon which the revocation proceedings are brought. The written notice shall be signed by the Planning Director or his or her authorized designee and shall contain:
  - a. A statement directing the permittee or permittee's agent to appear before the Board at a time and place set out therein which shall not be less than ten (10) calendar days from the date of receipt of the written notice;
  - b. A brief statement explaining the grounds for revocation, and
  - c. A statement that the permittee shall have an opportunity to be heard, present witnesses and confront any witnesses against him or her.

## C. Hearing:

1. At the hearing, the permittee may be represented by an attorney, present testimony and cross-examine witnesses
2. The Board shall render its decision and give notice thereof to the permittee.
3. At any time prior to a hearing, or during a hearing before the Board, the Board shall issue subpoenas and subpoenas duces tecum at the request of a party. All witnesses appearing pursuant to subpoena other than parties, officers, or employees of the State or any of its political subdivisions shall receive fees and mileage in the same amounts and under the same circumstances as provided by State law for witnesses in civil actions in the District Court. Such fees shall be paid by the party at whose request the witness is subpoenaed.

D. Permit Fees: Upon any revocation of a Special Use Permit, after notice and hearing, the County shall be entitled to retain any permit fee collected from the permittee.

F. Appeals: An aggrieved party may appeal the final decision of the Board in accordance with Section 17.12.120.

F. Reapplication: Any person who had his or her Special Use Permit revoked may reapply for a Special Use Permit six (6) months after the date of decision.

## 17.12.120: APPEALS:

A. Appeals Of Decisions Of The Planning Director To The Board Of County Commissioners:



1. Authority: The Board shall have the authority to hear and decide appeals of decisions made by the Planning Director, in accordance with this chapter.
  2. Appeal Contents: Any aggrieved party may file an appeal with the Board. The appeal must be in writing, clearly specify which part of the decision is being appealed, state why the decision is improper, state the date the decision was made, and contain all relevant supporting materials. The appeal must be filed not more than ten (10) calendar days after the date the aggrieved party was notified of the final decision of the Planning Director.
  3. Hearing, Notice: The Board shall schedule a hearing on the appeal at its next practicable meeting and in accordance with all applicable notice requirements, and in no case not more than sixty-five (65) calendar days after receipt of the appeal. Notice setting forth the date, time and place of the hearing shall be sent to the appellant.
  4. Appeal Hearing Procedure:
    - a. The Board shall consider the appeal and act to affirm, modify or reverse the decision made by the Planning Director.
    - b. In deciding an appeal of the Planning Director's decision, the Board shall grant to the Planning Director's decision a presumption of correctness. The appellant has the burden of demonstrating that the Planning Director's decision was made in error.
    - c. The Board shall hear and consider evidence and facts from the testimony of any person at the public hearing, and shall consider written communications from any person submitted to the Board prior to the appeal hearing. The Board shall make a determination on the appeal at the public hearing in accordance with this chapter.
  5. Within five (5) business days of the Board's appeal hearing, the Planning Director or the Board shall provide written notice of the Board's decision to the appellant.
  6. The decision of the Board is a final decision for the purpose of judicial review.
- B. Appeals Of Decisions Of The Board Of County Commissioners: Any aggrieved party who is aggrieved by a final decision of the Board may appeal that decision to the district court by filing a petition for judicial review within twenty-five (25) calendar days after the date of the decision.

**17.12.130: TIME REQUIREMENTS TO BE SPECIFIED IN CONDITIONS ON SPECIAL USE PERMITS; LIMITATION ON EXTENSION:**

- A. In granting any Special Use Permit, the Board may, as a condition, specify a reasonable time within which use under such Special Use Permit shall be begun. Failure to meet such time period shall result in revocation of the Special Use Permit unless, upon application to the Board and on good cause shown, the Board extends the time period originally set. Application of such extension shall be filed not less than thirty (30) calendar days prior to the date of expiration of the time period. If the Board does not specify a reasonable time period, all Special Use Permits shall expire three (3) years following approval if the use has not started. If revocation procedures are commenced, the revocation procedures set forth in Section 17.12.110 shall apply.

**17.12.140: CONTROL OF POTENTIALLY ADVERSE EFFECTS:**

- A. As appropriate to the particular type of Special Use Permit and the circumstances of the particular case, due consideration shall be given to potentially adverse effects generally on adjoining and nearby properties, the area, the neighborhood, or the county, of the use as proposed, or its location, construction, design, character, scale or manner of operation. Where such potentially adverse effects are found, consideration shall be given to special remedial measures appropriate in the particular circumstances of the case, including screening or buffering, landscaping, control of manner or hours of operation, alteration of proposed design or construction of buildings, relocation of proposed open space or alteration of use of such space, or such other measures as are required to assure that such potential adverse effects will be compatible and harmonious with other development in the area to a degree which will avoid substantial depreciation of the value of nearby property.

**17.12.150: CONDITIONS AND SAFEGUARDS:**

- A. The Board shall have authority to attach to the grant of a Special Use Permit such conditions and safeguards as may be necessary for the purposes of this chapter in the particular case. Such conditions and safeguards, if attached to the grant of a Special Use Permit, shall be based upon and consistent with the general standards and considerations and standards applicable to the type of Special Use Permit involved as set out in this chapter, and to other provisions relating to the particular type of permit. The requirement for any such conditions or safeguards shall be supported by stated reasons therefor, based upon such consideration and standards, and no such condition or safeguard shall establish special limitations or requirements beyond those reasonably necessary for the accomplishment of the purpose for which attached. Failure to comply with conditions and safeguards, when attached to the grant of a Special Use Permit, shall be deemed a violation of this chapter, and may result in the suspension or revocation, or both, of the Special Use Permit under sections 17.12.100 and 17.12.110 of this chapter.

**17.12.160: COMPLIANCE WITH CONDITIONS; RESPONSIBILITY OF PERMITTEE TO SUBMIT WRITTEN REPORT:**

- A. The responsibility for compliance with any conditions or safeguards attached to an approved Special Use Permit shall lie with the permittee. For all approved Special Use Permits, the permittee shall submit a written compliance report to the Planning Department not later than six (6) months following the approval of the Special Use Permit, outlining the status of compliance with any such conditions or safeguards attached to an approved Special Use Permit. Thereafter, the permittee shall submit annually a written compliance report to the Planning Department outlining the status of any conditions or safeguards attached to an approved Special Use Permit.

**17.12.170: MODIFICATIONS TO APPROVED SPECIAL USE PERMITS:**

- A. If the permittee requests any modification to the permittee's approved Special Use Permit, the Board shall make a decision regarding the requested modification.

**17.12.180: RENEWAL PROCEDURES FOR SPECIAL USE PERMITS WHICH REQUIRE RENEWAL:**

- A. No later than sixty (60) calendar days before Special Use Permit expires, the permittee shall apply for renewal of the permit. If the permittee fails to apply for the renewal, it shall expire and the use shall be removed or discontinued. To apply for renewal, the permittee shall provide to the Planning Department, on forms and in a manner prescribed by the Planning Department, the following:



1. A renewal application;
  2. A signed statement indicating that conditions of the original approval have not changed;
  3. A notarized statement from the property owner, if ownership is other than the permittee, authorizing the permittee to continue the use on the property; and
  4. Renewal fee, if applicable.
- B. When the permittee has supplied all necessary information, the Planning Department shall set a date, time and place for public hearing and issue notice of such hearing to the permittee in accordance with this chapter.
- C. Completion Before Processing: For purposes of establishing time limitation on processing, no renewal application shall be deemed to have been filed unless and until the renewal application shall have been completed, and all plans, reports or other information, exhibits, or documents required by this chapter shall have been provided, and all fees, due at the time of filing, shall have been paid.
- D. When the permittee has supplied all necessary information, the Planning Director shall set a public hearing on the renewal application in accordance with the procedures set forth in Section 17.12.070 of this chapter. The Board shall review the particular facts and circumstances relative to the renewal application and shall weigh the factors set forth in Section 17.12.080 when making its determination.

#### **17.12.190: BUILDING AND CONSTRUCTION PERMITS:**

- A. Any property owner or authorized agent who intends to construct, enlarge, alter, repair, or change the occupancy or use of a building or structure or to cause any such work to occur for any commercial or public use which requires a Special Use Permit, shall obtain any required building and construction permits from the Building and Safety Department, and obtain all required inspections and a certificate of occupancy in accordance with Nye County Code Title 15, Chapter 15.16.
- B. All new commercial construction shall be built to International Building Code International Fire Code ("IBC IFC") standards adopted at the time of the new commercial construction. Any exceptions (for example a commercial coach) must be specifically approved in the Special Use Permit.

#### **17.12.200: PLANNING REVIEW REQUIRED:**

- A. For areas outside of the Pahrump Regional Planning District, a Planning Review ("PR") application shall be submitted to the Planning Department prior to the construction of any commercial building or garage, including the placement of a mobile or manufactured home; and any construction that involves modification or expansion of an existing commercial building or garage; or prior to establishing any other land use which may not require a building or construction permit. A Planning Review application approval is valid for one hundred eighty (180) calendar days from the date of approval, and expires after one hundred eighty (180) calendar days if work has not commenced for the proposed use or plan of development for which the Planning Review was obtained. The Planning Department may extend a Planning Review application not more than

one time for an additional one hundred eighty (180) calendar days for good cause shown. Upon the issuance of a building or construction permit or approval to construct from other federal, state or county agencies, the Planning Review shall track along the same expiration time frames and policies as the building permit or other approval.

**17.12.210: RELATION OF SPECIAL USE PERMITS TO BUILDING OR OCCUPANCY PERMITS AND USES NOT REQUIRING BUILDING OR OCCUPANCY PERMITS:**

- A. Where building or occupancy permits are required by other codes or ordinances of Nye County, no such building or occupancy permits shall be issued where this chapter requires Special Use Permits unless and until any and all such Special Use Permits required have been obtained. Where uses or occupancies do not require building or occupancy permits, but are otherwise subject to the requirements of this chapter, no such use or occupancy shall be initiated or maintained unless and until any and all Special Use Permits required herein, in relation thereto, have been obtained.

**17.12.220: PLANNING DEPARTMENT REPORT REQUIRED:**

- A. As appropriate to the nature of the Special Use Permit involved and the particular circumstances of the case, the Planning Department shall report to the Board on the following standards in addition to any other standards and requirements set forth concerning the type of Special Use Permit being considered:
1. Ingress and Egress: The adequacy of ingress and egress to the property and structures and uses thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency, shall require the approval of the local fire department.
  2. Off Street Parking And Loading: Due consideration shall be given to off street parking and loading facilities as related to adjacent streets, with particular reference to automotive and pedestrian safety and convenience, internal traffic flow and control, arrangement in relation to access in case of fire or other emergency, and screening and landscaping. Any proposed on-street parking areas shall require the approval of the Public Works Director.
  3. Refuse And Service Areas: Due consideration shall be given to the location, scale, design, and screening of refuse and service areas; to the manner in which refuse is to be stored, to the manner of refuse collection, deliveries, shipments, or other service activities, in relation to the location and nature of uses on adjoining properties, and the location and character of adjoining public ways; and shall be approved by the local solid waste disposal authority.
  4. Lighting: Due consideration shall be given to the proposed lighting for the premises, with particular reference to traffic safety, glare, and compatibility and harmony with adjoining and nearby property and the character of the area; and shall be compliant with nationally recognized dark-sky standards, any exceptions must be approved by the Planning Director or his or her authorized designee.
  5. Utilities: Due consideration shall be given to utilities required, with particular reference to availability and capacity of systems, location of connections, and potentially adverse appearance or other adjoining and nearby property and the character of the area; and shall require the approval of the applicable utility service provider.



6. Drainage: Due consideration shall be given to provision for drainage, with particular reference to the effect on adjoining and nearby properties and on general drainage systems in the area; and shall comply with the requirements contained in Nyc County Code Title 15, Chapter 15.12 "Flood Damage Prevention."
7. Roads: Due consideration shall be given to the provision of paved, double layer chip sealed, or roads treated with a dust palliative, or compliance with Nyc County Code Title 12, Chapter 12.12 "Damage Caused to Public Roads."

#### **17.12.230: PERMITS APPLY TO PROPERTY AND PERSON:**

- A. When granted a Special Use Permit, together with any conditions or safeguards attached thereto, shall apply to the specific land, structure, or use for which it was issued as stated on the initial application, and shall apply to the particular permittee
- B. In cases of property ownership transfers, the following procedures shall apply:
  1. In cases where the permittee and property owner are the same, if the property transfers ownership and the new property owner intends to continue the use authorized under the Special Use Permit, a new Special Use Permit application shall be filed with the Planning Department and the applicable procedures in this chapter shall apply.
  2. In cases where the permittee and the property owner are different, if the property transfers ownership, the new property owner must provide a notarized statement to the Planning Department authorizing the permittee to continue the use authorized pursuant to the existing Special Use Permit. If the new property owner does not authorize the permittee to continue the use, the Special Use Permittee shall automatically expire and the special use shall be terminated.

#### **17.12.240: WITHDRAWAL OF SPECIAL USE PERMIT APPLICATION; EFFECT OF WITHDRAWAL:**

- A. An application for a Special Use Permit may be withdrawn by the applicant at any time prior to public hearing notices being sent and the time limitations set forth in Section 17.12.250 shall not apply. Any required processing fee is nonrefundable.

#### **17.12.250: PREVIOUSLY DISAPPROVED OR WITHDRAWN SPECIAL USE PERMIT APPLICATIONS:**

- A. An application for a Special Use Permit which was the subject of a previously disapproved application which proposed the same use on the same property or was withdrawn after public hearing notices had been sent, shall not be accepted until the following time periods have elapsed from the date of disapproval or withdrawal:
  1. After the first disapproval or withdrawal: Six (6) months; or
  2. After the second or a subsequent disapproval or withdrawal: Eighteen (18) months.

- B. The time periods described in subsections A(1) and A(2) of this section shall not become effective if, after consideration of the timing and circumstances of the disapproval or withdrawal, the Board specifically disapproved the application without prejudice or the Planning Director specifically approved the withdrawal without prejudice

**17.12.260: CESSATION OF USE:**

- A. A Special Use Permit shall automatically expire and become null and void without further action if the use is relocated to a different parcel or location. A Special Use Permit shall automatically expire and become null and void if any required licenses or permits for the use have expired. Additionally, a Special Use Permit shall automatically expire and become null and void without further action if the use is discontinued or ceases for six (6) consecutive months or more on the parcel or location where the use was being conducted, or twenty-four (24) consecutive months or more if the building or structure in which the use was being conducted has been damaged or partially destroyed by fire, flood, wind, or other calamity. As long as reconstruction has commenced within one year of the fire, flood, wind, or other calamity, the Special Use Permit shall not expire, providing reconstruction is continuous and any required license or building permits do not expire.

**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 \_\_\_\_\_, 2018.

Proposed on the \_\_\_\_ day of \_\_\_\_\_, 2018

Proposed by: Commissioner \_\_\_\_\_

Adopted on the \_\_\_\_ day of \_\_\_\_\_, 2018

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_

John Koenig, Chair  
Nye County Board of  
County Commissioners

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

BILL NO. 2018-03

NYE COUNTY ORDINANCE NO. \_\_\_\_\_

**SUMMARY:** A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, by adding Chapter 17.12 entitled Special Use Permits; 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, BY ADDING CHAPTER 17.12 ENTITLED SPECIAL USE PERMITS; 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 and the general welfare of the residents 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:

## **CHAPTER 17.12 SPECIAL USE PERMITS**

### **17.12.010: SPECIAL USE PERMITS, GENERALLY:**

- A. The intent of this chapter is to establish land use and permitting requirements applicable to certain types of land uses, as authorized by Nevada state law, for all areas within Nye County.
- B. Land uses requiring a Special Use Permit and the type of Special Use Permit required in each instance are set out in the regulations of this chapter.



- C. In addition to the listing of such special uses, the Board intends that the requirements established in this chapter shall be used to direct deliberations upon applications for the approval of Special Use Permits. It is the express intent of the Board to delineate the areas of concern connected with each Special Use Permit and to provide standards by which applications for such Special Use Permits shall be evaluated. Additionally, for any special use listed herein which requires a Special Use Permit and is located within the Pahrump Regional Planning District ("PRPD"), the requirements applicable to the PRPD shall apply and shall supersede any requirements contained in this chapter.

#### **17.12.020: DEFINITIONS:**

The words and terms used in this chapter shall be defined as follows. Words and terms not defined herein will have the meanings prescribed in Nye County Code Title 17, Chapter 17.04, Section 17.04.110. All words used in the singular shall include the plural, and all words used in the plural shall include the singular. Each gender shall include the others. Any tense shall include the other tenses. The word "shall" is mandatory, and the word "may" is permissive.

**AGGRIEVED PARTY:** The applicant, permittee or property owner when appealing a decision made pursuant to this chapter. If an aggrieved party is appealing a decision of the Planning Director to the Board, only the same aggrieved party may request judicial review of the Board's final decision on that appeal. Only an aggrieved party may appeal, unless otherwise specified in this chapter.

**ASPHALT PLANT:** A manufacturing facility for the production of asphalt, tar paving mixtures, paving block made of asphalt and various compositions of asphalt or tar with other materials, and the recycling of old asphalt into asphalt-type material.

**BOARD:** The Board of County Commissioners of the County of Nye, State of Nevada.

**CONCRETE PLANT:** A manufacturing facility for the production of concrete that uses a manufacturing process involving the mixing of a number of aggregates, sand, water, cement or other components.

**FEDERAL AVIATION ADMINISTRATION (FAA):** The Federal Aviation Administration of the United States Department of Transportation.

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA):** The Federal Emergency Management Agency of the United States Department of Homeland Security. **FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1'). **MANUFACTURED HOME PARK:** An area, parcel, or tract of land having as its principal use the rental, leasing, or occupancy of space by two (2) or more mobile homes or manufactured homes on a permanent or semi-permanent basis, including accessory buildings, structures, or uses customarily incidental thereto.

**NOTICE/WRITTEN NOTICE:** Written notice of a decision pursuant to this chapter. Service on the recipient shall be made by personally delivering a copy of the written notice to the recipient, or by mailing a copy of the written notice by certified mail with return receipt requested to the recipient's address.

**PROJECT OF REGIONAL SIGNIFICANCE:** Any project which would create one hundred (100) vehicle trips per day or more, twenty (20) or more employees, twenty (20) or more residential housing units, or fifty (50) acre-feet or more of annual water usage (excluding agricultural uses).

**RECREATIONAL VEHICLE PARK:** An area, parcel or tract of land having as its principal use the transient rental of two (2) or more spaces for recreational vehicles including accessory buildings, structures, or uses customarily incidental thereto.

**SPECIAL USE:** A use that has the potential to have adverse effects on adjacent or local properties. Special uses are permitted upon showing that such use in a specified location will comply with all the conditions and safeguards for the location or operation of the use and if it is authorized by the Board.

**SPECIAL USE PERMIT:** A grant of authority under the terms of this chapter from and by the Board to an applicant for the use of property in the manner set out in the grant of the Special Use Permit.

**VEHICLE TRIPS PER DAY:** An estimate of the number of vehicles entering or exiting a site in one day as determined using the current edition of the [Institute of Transportation Engineers](#) (ITE) Trip Generation manual for trip generation rates for land use and building types.

**17.12.030: SPECIAL USES REQUIRING SPECIAL USE PERMIT:**

A. It is intended that Special Use Permits shall be required when certain special uses are likely to have adverse effects on adjacent and local properties. The following special uses shall require a Special Use Permit:

1. Airports and Airport Related Uses:

- a. Public or Private Airports and related Aviation Facilities; Airfields; Airstrips
- b. Any use of land, building or proposed development within an established airport or airfield's Clear Zones ("CZ") or Accident Potential Zones ("APZ") as defined by the Federal Aviation Administration (FAA)

2. Animals:

- a. Animals, Special Conditions; Exotic Animals
- b. Intensive Animal Feeding Operations; Feed Lots
3. Billboards (Off Premise Signs)
4. Brothels

5. Commercial Uses:

- a. Marijuana Establishments (all Marijuana Establishments shall comply with Nye County Code Chapter 17.06 "Marijuana Establishments")
- b. Privately or Publicly Operated Correctional Facilities; Prisons; Jails
- c. Privately or Publicly Operated Shooting Ranges (Outdoors)
6. Fireworks (Retail), as defined in Nye County Code Title 8, Chapter 8.04 "Fireworks"

7. Floodways: Activities or construction within an adopted regulatory floodway including fill, new construction, substantial improvements, and other development, as defined by FEMA
8. Industrial Uses:
  - a. Any industrial use located or partially located within a designated wellhead protection area or within a floodway as shown in the Flood Insurance Study
  - b. Asphalt Plant or Concrete Batch Plants (not required for temporary uses of less than a total of six (6) months duration throughout a twelve (12) month period)
  - c. Automobile Wrecker; Salvage Yards; Junkyards
  - d. Heavy Manufacturing/Heavy Industrial Uses; Hazardous Materials: Manufacturing, processing, transfer, or storage of explosives, chemicals, matches, oxygen, paint, plastics, fireworks
  - e. Mining operations, such as milling, ore dumps, quarries, gravel/sand pits, rock crushing, smelting operations
  - f. Public or Private Landfills; Storage, consolidation, importation, transfer, or processing of waste materials
9. Manufactured Home Parks
10. Projects of Regional Significance
11. Recreational Vehicle Parks
12. Sexually Oriented Businesses (see definition of "Adult Uses" in Nye County Code Title 17, Chapter 17.04)
13. Utility Projects:
  - a. Transmission Lines (all Aboveground Electric Transmission Lines operating at 200 kilovolts or higher must comply with Nye County Code Title 17, Chapter 17.10 "Aboveground Utility Projects")
  - b. Utility Projects (Major); Sewer/Wastewater Plants, Water, Gas, Electric, major utility projects
  - c. Energy Facilities; Fracking; for multiple wells in a drilling program; Geothermal; Solar Projects; Electric Generating Facilities over 10 megawatts (MW)

**17.12.040: SPECIAL USES NOT LISTED:**

- A. In those instances where a requested use is not listed above, the Planning Director shall determine whether the requested use is allowed as a permissive use or if the use requires a Special Use Permit.

1. The Planning Director shall make his determination and shall provide a written response stating such determination to the applicant within fourteen (14) calendar days of applicant's request for determination on a special use not listed.
2. If the Planning Director determines that the requested use is a permissive use, the applicant is not required to obtain a Special Use Permit.
3. If the Planning Director determines that a Special Use Permit is required for the applicant's requested use, the applicant may appeal the decision to the Board within ten (10) calendar days, in accordance with Section 17.12.120.

**17.12.050: APPLICATIONS FOR SPECIAL USE PERMITS:**

- A. Generally: Except when specifically set out otherwise in this chapter, applications for Special Use Permits shall be filed with the Planning Department, which is charged with responsibility for its receipt, fee collection, if any, processing and distribution.
- B. When Filed; Who May File: Special Use Permit applications may be filed only by the property owner, its formally designated agent with power of attorney, or a lessee with formal and sufficient consent of the property owner, and applications may be made only for Special Use Permits specifically authorized or required by this chapter.
- C. Completion Before Processing: For purposes of establishing time limitations on processing, no application shall be deemed to have been filed unless and until the application shall have been completed, and all plans, reports or other information, exhibits, or documents required by this chapter shall have been provided, and all fees, due at the time of filing, shall have been paid.

**17.12.060: APPLICATION FORMS:**

- A. Materials That Are Required: Where applicable to the use for which a Special Use Permit is requested and where necessary to a decision on the application for a Special Use Permit, all applicants shall provide the following:
  1. A completed proper application form as provided by the Planning Department;
  2. The name, address, and phone number of the applicant or its agent with power of attorney, and property owner's name, address, phone number and written, notarized approval if property ownership is other than the applicant;
  3. The legal description and physical address of the property of the proposed use;
  4. A statement describing in detail the character and intended use of the property; and
  5. A conceptual site plan.
- B. Materials That May Be Required For Special Use Permits: Where applicable to the use for which a Special Use Permit is requested and where necessary to a decision on the application for Special Use Permit, any of the following additional documents may be required:



1. General location map, showing relation of the property for which the Special Use Permit is sought to major streets, schools, existing utilities, shopping areas, important physical features in and adjoining the property.

**C. Supplemental Materials:**

1. During processing of any application, if it is determined by the Planning Director that additional information is required to make the necessary findings bearing on its approval, disapproval, or conditions and safeguards to be attached, such information may be requested. Failure to supply such supplemental information may be used as grounds for disapproval of the permit. Such supplemental information shall be supplied at least ten (10) business days prior to the hearing on the application.
2. During processing of any application, if it is determined by the Board that additional information is required to make the necessary findings bearing on its approval, disapproval, or conditions and safeguards to be attached, such information may be requested. The hearing on the application shall be continued to the next meeting of the Board, or as soon thereafter as practicable. Failure to supply such supplemental information may be used as grounds for disapproval of the permit. Such supplemental information shall be supplied at least five (5) business days prior to the continued hearing on the application.

**17.12.070: PUBLIC HEARING ON APPLICATION:**

**A. Hearing Notice:** Upon the filing of a complete application for a Special Use Permit and receipt of all applicable fees, the Planning Department shall:

1. Set a date, time and place for public hearing on the matter not to exceed sixty-five (65) calendar days after filing of a complete application and receipt of all applicable fees. The Planning Department shall review the application and shall determine what, if any, other supplemental materials are required and referrals to make to other agencies, bodies, or officers, for review, analysis, or technical findings. If any supplemental information is requested, the Planning Department shall inform the applicant and the applicant shall supply such supplemental information at least ten (10) business days prior to the hearing on the application.
2. The Planning Department shall give notice setting forth the date, time and place of such hearing in accordance with Nevada Revised Statutes 278.315.
3. If an applicant applies for a Special Use Permit for property which is located within the boundaries of a town located in the County, the Planning Department shall provide notice of the application to the applicable advisory or elected Town Board. The notified advisory or elected Town Board, at its discretion, may review the application and may provide comments or recommendations to the Board. If an advisory or elected Town Board reviews a Special Use Permit application and provides comments in writing to the Planning Department prior to any established deadlines, the advisory or elected Town Board's comments shall be transmitted to the Board and shall be considered by the Board during its deliberation towards making a final decision on the application.

**B. Hearing Procedure:** The Board shall hear and consider evidence and facts from the testimony of any person at the public hearing, and shall consider written communications from any person

relative to the application. The Board shall make a determination on the application at the public hearing in accordance with this chapter.

**17.12.080: GENERAL FINDINGS FOR MARKING DETERMINATIONS:**

- A. The Board shall review the particular facts and circumstances of each application. The Board shall make a determination regarding the application for the Special Use Permit upon weighing the following factors:
1. Will be harmonious with and in accordance with the general objectives or with any specific objectives of the Comprehensive/Master Plan of current adoption, and this chapter;
  2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
  3. Will not be hazardous or disturbing to existing or future neighboring uses;
  4. Will be a substantial improvement to property in the immediate vicinity and to the community as a whole;
  5. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
  6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
  7. Will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glares or odors; or
  8. Will be consistent with the intent and purposes of this chapter.

**17.12.090: BOARD ACTION:**

- A. The Board shall take one of the following actions on an application for a Special Use Permit:
1. Approval of the application, as submitted;
  2. Approval of the application, with conditions and safeguards for the protection of the public health, safety, morals and general welfare attached; or
  3. Disapproval of the application.
- B. Board Action Following Decisions On Special Use Permits: After the Board makes determinations on Special Use Permits, the following actions shall be taken:
1. Notification Of Applicant In Cases Of Approval/Approval With Conditions And Safeguards: Where a Special Use Permit application is approved, with or without conditions and

safeguards, a copy shall be transmitted by the Board to the applicant within five (5) business days of the decision.

2. Notification Of Applicant In Cases Of Disapproval: Where a Special Use Permit application is disapproved, applicant shall be provided written notice by the Board, within five (5) business days of the decision, with a summary of the reasons therefor and notice that complete records on the case are available in a location specified, and are public records.
  3. Notification Of Affected County Agencies In Cases Of Approval/Approval With Conditions And Safeguards: Where a Special Use Permit application is approved, with or without conditions and safeguards, affected agencies or officials shall be informed by the Board within five (5) business days of the decision by copy of the Special Use Permit, including any conditions and safeguards attached thereto. As appropriate to the circumstances of the case, upon such notification, such agencies or officials shall proceed to decide matters concerning any building permit, occupancy permit, or other action dependent upon issuance of the Special Use Permit, without further action by the applicant therefor, and shall perform their duties with regard to administration, inspection, or enforcement in the case.
  4. Notification Of Affected County Agencies In Cases Of Disapproval: Where a Special Use Permit application is disapproved, affected agencies or officials shall be informed by the Board within five (5) business days of the decision by copy of the written notice provided to the applicant.
- C. The Board may make referrals to other agencies, bodies, departments or officers, for review, analysis, or technical findings.
- D. The decision of the Board is a final decision for the purpose of judicial review.

**17.12.100: SUSPENSION OF SPECIAL USE PERMIT:**

- A. Grounds: Any of the following conditions or occurrences are grounds for the suspension of a Special Use Permit:
1. Any violation of the terms or conditions of the Special Use Permit;
  2. Any misrepresentation made in an application for a Special Use Permit;
  3. Any act or failure to act by the permittee or its agents in connection with the use for which the Special Use Permit was obtained which creates or tends to create or constitute a public nuisance;
  4. Refusing or neglecting to comply with any provision of this chapter; or
  5. Any act or failure to act by the permittee or its agents which the Planning Director determines is detrimental to the public health, safety, morals or general welfare of the public.
- B. Suspension Procedure:
1. The Planning Director, without prior notice, may suspend any Special Use Permit pursuant to any one or more of the grounds listed above. The Planning Director shall provide written notice of the reasons for suspension of the Special Use Permit to the permittee. The permittee shall

have fourteen (14) calendar days from the date of receipt of the notice to correct or mitigate the grounds which caused the suspension. Upon correction or mitigation of the grounds which caused the suspension, the Planning Director shall determine whether to rescind the suspension of the Special Use Permit and shall provide written notice of such determination.

- 2, If the permittee does not correct or mitigate the grounds which caused the suspension, or if the Planning Director determines that the corrective or mitigating actions are insufficient, the Planning Director may proceed with revocation procedures, pursuant to this chapter.
3. Appeal: An aggrieved party may appeal to the Board in accordance with Section 17.12.120.

**C. Emergency Suspension By Planning Director:**

1. The Planning Director, without prior notice, may suspend any Special Use Permit until the next practicable meeting of the Board when the public health, safety, morals or general welfare will be endangered by the continued existence of the special use authorized by the Special Use Permit. The Planning Director shall, within forty-eight (48) hours of the suspension, give written notice of the suspension to the permittee and the Board.
2. At its next practicable meeting after the suspension and in accordance with all applicable notice requirements, the Board shall determine whether such suspension shall be rescinded, but if the Board decides that the suspension shall continue and remain in effect, then, and in such event, the proceedings prescribed in this chapter relative to the maintenance of such Special Use Permit suspension with required notice and hearing shall be initiated as soon as possible and complied with.
3. Hearing Procedure: The Board shall hear and consider evidence and facts from the testimony of any person at the public hearing, and shall consider written communications from any person relative to the suspension. The Board shall make a determination on the suspension at the public hearing in accordance with this chapter.
4. Appeal: An aggrieved party may appeal the final decision of the Board in accordance with Section 17.12.120.

**17.12.110: REVOCATION OF SPECIAL USE PERMIT**

**A. Grounds: Any of the following conditions or occurrences are grounds for the revocation of a Special Use Permit:**

1. Permittee failed to sufficiently correct or mitigate the grounds that caused the suspension of the Special Use Permit;
2. Any violation of the terms or conditions of the Special Use Permit;
3. Any misrepresentation made in an application for a Special Use Permit; or
4. Any act or failure to act by the permittee or its agents which the Planning Director determines is detrimental to the public health, safety, morals or general welfare of the public.

**B. Revocation Procedure:**



1. The Planning Director may, in writing, inform the Board if any of the grounds for revocation exist. Alternatively, if certain facts or allegations become known to the Board which may constitute grounds for revocation, the Board may request the Planning Director to investigate the conduct of any permittee under this chapter to determine whether grounds for revocation of a Special Use Permit exist. The Planning Director may request the assistance of the permittee or other agencies or departments in such an investigation.
2. If it appears that one or more grounds for revocation exists, the Board shall issue and cause to be served on the permittee written notice setting forth the act or failure to act upon which the revocation proceedings are brought. The written notice shall be signed by the Planning Director or his or her authorized designee and shall contain:
  - a. A statement directing the permittee or permittee's agent to appear before the Board at a time and place set out therein which shall not be less than ten (10) calendar days from the date of receipt of the written notice;
  - b. A brief statement explaining the grounds for revocation; and
  - c. A statement that the permittee shall have an opportunity to be heard, present witnesses and confront any witnesses against him or her.

**C. Hearing:**

1. At the hearing, the permittee may be represented by an attorney, present testimony and cross-examine witnesses.
2. The Board shall render its decision and give notice thereof to the permittee.
3. At any time prior to a hearing, or during a hearing before the Board, the Board shall issue subpoenas and subpoenas duces tecum at the request of a party. All witnesses appearing pursuant to subpoena other than parties, officers, or employees of the State or any of its political subdivisions shall receive fees and mileage in the same amounts and under the same circumstances as provided by State law for witnesses in civil actions in the District Court. Such fees shall be paid by the party at whose request the witness is subpoenaed.

**D. Permit Fees:** Upon any revocation of a Special Use Permit, after notice and hearing, the County shall be entitled to retain any permit fee collected from the permittee.

**E. Appeals:** An aggrieved party may appeal the final decision of the Board in accordance with Section 17.12.120.

**F. Reapplication:** Any person who had his or her Special Use Permit revoked may reapply for a Special Use Permit six (6) months after the date of decision.

**17.12.120: APPEALS:**

**A. Appeals Of Decisions Of The Planning Director To The Board Of County Commissioners:**

1. **Authority:** The Board shall have the authority to hear and decide appeals of decisions made by the Planning Director, in accordance with this chapter.

2. **Appeal, Contents:** Any aggrieved party may file an appeal with the Board. The appeal must be in writing, clearly specify which part of the decision is being appealed, state why the decision is improper, state the date the decision was made, and contain all relevant supporting materials. The appeal must be filed not more than ten (10) calendar days after the date the aggrieved party was notified of the final decision of the Planning Director.
  3. **Hearing, Notice:** The Board shall schedule a hearing on the appeal at its next practicable meeting and in accordance with all applicable notice requirements, and in no case not more than sixty-five (65) calendar days after receipt of the appeal. Notice setting forth the date, time and place of the hearing shall be sent to the appellant.
  4. **Appeal Hearing Procedure:**
    - a. The Board shall consider the appeal and act to affirm, modify or reverse the decision made by the Planning Director.
    - b. In deciding an appeal of the Planning Director's decision, the Board shall grant to the Planning Director's decision a presumption of correctness. The appellant has the burden of demonstrating that the Planning Director's decision was made in error.
    - c. The Board shall hear and consider evidence and facts from the testimony of any person at the public hearing, and shall consider written communications from any person submitted to the Board prior to the appeal hearing. The Board shall make a determination on the appeal at the public hearing in accordance with this chapter.
  5. Within five (5) business days of the Board's appeal hearing, the Planning Director or the Board shall provide written notice of the Board's decision to the appellant.
  6. The decision of the Board is a final decision for the purpose of judicial review.
- B. **Appeals Of Decisions Of The Board Of County Commissioners:** Any aggrieved party who is aggrieved by a final decision of the Board may appeal that decision to the district court by filing a petition for judicial review within twenty-five (25) calendar days after the date of the decision.

**17.12.130: TIME REQUIREMENTS TO BE SPECIFIED IN CONDITIONS ON SPECIAL USE PERMITS; LIMITATION ON EXTENSION:**

- A. In granting any Special Use Permit, the Board may, as a condition, specify a reasonable time within which use under such Special Use Permit shall be begun. Failure to meet such time period shall result in revocation of the Special Use Permit unless, upon application to the Board and on good cause shown, the Board extends the time period originally set. Application of such extension shall be filed not less than thirty (30) calendar days prior to the date of expiration of the time period. If the Board does not specify a reasonable time period, all Special Use Permits shall expire three (3) years following approval if the use has not started. If revocation procedures are commenced, the revocation procedures set forth in Section 17.12.110 shall apply.

**17.12.140: CONTROL OF POTENTIALLY ADVERSE EFFECTS:**

- A. As appropriate to the particular type of Special Use Permit and the circumstances of the particular case, due consideration shall be given to potentially adverse effects generally on adjoining and nearby properties, the area, the neighborhood, or the county, of the use as proposed, or its location,

construction, design, character, scale or manner of operation. Where such potentially adverse effects are found, consideration shall be given to special remedial measures appropriate in the particular circumstances of the case, including screening or buffering, landscaping, control of manner or hours of operation, alteration of proposed design or construction of buildings, relocation of proposed open space or alteration of use of such space, or such other measures as are required to assure that such potential adverse effects will be compatible and harmonious with other development in the area to a degree which will avoid substantial depreciation of the value of nearby property.

**17.12.150: CONDITIONS AND SAFEGUARDS:**

- A. The Board shall have authority to attach to the grant of a Special Use Permit such conditions and safeguards as may be necessary for the purposes of this chapter in the particular case. Such conditions and safeguards, if attached to the grant of a Special Use Permit, shall be based upon and consistent with the general standards, and considerations and standards applicable to the type of Special Use Permit involved as set out in this chapter, and to other provisions relating to the particular type of permit. The requirement for any such conditions or safeguards shall be supported by stated reasons therefor, based upon such consideration and standards, and no such condition or safeguard shall establish special limitations or requirements beyond those reasonably necessary for the accomplishment of the purpose for which attached. Failure to comply with conditions and safeguards, when attached to the grant of a Special Use Permit, shall be deemed a violation of this chapter, and may result in the suspension or revocation, or both, of the Special Use Permit under sections 17.12.100 and 17.12.110 of this chapter.

**17.12.160: COMPLIANCE WITH CONDITIONS; RESPONSIBILITY OF PERMITTEE TO SUBMIT WRITTEN REPORT:**

- A. The responsibility for compliance with any conditions or safeguards attached to an approved Special Use Permit shall lie with the permittee. For all approved Special Use Permits, the permittee shall submit a written compliance report to the Planning Department not later than six (6) months following the approval of the Special Use Permit, outlining the status of compliance with any such conditions or safeguards attached to an approved Special Use Permit. Thereafter, the permittee shall submit annually a written compliance report to the Planning Department outlining the status of any conditions or safeguards attached to an approved Special Use Permit.

**17.12.170: MODIFICATIONS TO APPROVED SPECIAL USE PERMITS:**

- A. If the permittee requests any modification to the permittee's approved Special Use Permit, the Board shall make a decision regarding the requested modification.

**17.12.180: RENEWAL PROCEDURES FOR SPECIAL USE PERMITS WHICH REQUIRE RENEWAL:**

- A. No later than sixty (60) calendar days before Special Use Permit expires, the permittee shall apply for renewal of the permit. If the permittee fails to apply for the renewal, it shall expire and the use shall be removed or discontinued. To apply for renewal, the permittee shall provide to the Planning Department, on forms and in a manner prescribed by the Planning Department, the following:
  - 1. A renewal application;

2. A signed statement indicating that conditions of the original approval have not changed;
  3. A notarized statement from the property owner, if ownership is other than the permittee, authorizing the permittee to continue the use on the property; and
  4. Renewal fee, if applicable.
- B. When the permittee has supplied all necessary information, the Planning Department shall set a date, time and place for public hearing and issue notice of such hearing to the permittee in accordance with this chapter.
- C. Completion Before Processing: For purposes of establishing time limitation on processing, no renewal application shall be deemed to have been filed unless and until the renewal application shall have been completed, and all plans, reports or other information, exhibits, or documents required by this chapter shall have been provided, and all fees, due at the time of filing, shall have been paid.
- D. When the permittee has supplied all necessary information, the Planning Director shall set a public hearing on the renewal application in accordance with the procedures set forth in Section 17.12.070 of this chapter. The Board shall review the particular facts and circumstances relative to the renewal application and shall weigh the factors set forth in Section 17.12.080 when making its determination.

**17.12.190: BUILDING AND CONSTRUCTION PERMITS:**

- A. Any property owner or authorized agent who intends to construct, enlarge, alter, repair, or change the occupancy or use of a building or structure or to cause any such work to occur for any commercial or public use which requires a Special Use Permit, shall obtain any required building and construction permits from the Building and Safety Department, and obtain all required inspections and a certificate of occupancy in accordance with Nye County Code Title 15, Chapter 15.16.
- B. All new commercial construction shall be built to International Building Code/International Fire Code ("IBC/IFC") standards adopted at the time of the new commercial construction. Any exceptions (for example a commercial coach) must be specifically approved in the Special Use Permit.

**17.12.200: PLANNING REVIEW REQUIRED:**

- A. For areas outside of the Pahrump Regional Planning District, a Planning Review ("PR") application shall be submitted to the Planning Department prior to the construction of any commercial building or garage, including the placement of a mobile or manufactured home; and any construction that involves modification or expansion of an existing commercial building or garage; or prior to establishing any other land use which may not require a building or construction permit. A Planning Review application approval is valid for one hundred eighty (180) calendar days from the date of approval, and expires after one hundred eighty (180) calendar days if work has not commenced for the proposed use or plan of development for which the Planning Review was obtained. The Planning Department may extend a Planning Review application not more than one time for an additional one hundred eighty (180) calendar days for good cause shown. Upon the issuance of a building or construction permit or approval to construct from other federal, state



or county agencies, the Planning Review shall track along the same expiration time frames and policies as the building permit or other approval.

**17.12.210: RELATION OF SPECIAL USE PERMITS TO BUILDING OR OCCUPANCY PERMITS AND USES NOT REQUIRING BUILDING OR OCCUPANCY PERMITS:**

- A. Where building or occupancy permits are required by other codes or ordinances of Nye County, no such building or occupancy permits shall be issued where this chapter requires Special Use Permits unless and until any and all such Special Use Permits required have been obtained. Where uses or occupancies do not require building or occupancy permits, but are otherwise subject to the requirements of this chapter, no such use or occupancy shall be initiated or maintained unless and until any and all Special Use Permits required herein, in relation thereto, have been obtained.

**17.12.220: PLANNING DEPARTMENT REPORT REQUIRED:**

- A. As appropriate to the nature of the Special Use Permit involved and the particular circumstances of the case, the Planning Department shall report to the Board on the following standards in addition to any other standards and requirements set forth concerning the type of Special Use Permit being considered:
1. Ingress and Egress: The adequacy of ingress and egress to the property and structures and uses thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency, shall require the approval of the local fire department.
  2. Off Street Parking And Loading: Due consideration shall be given to off street parking and loading facilities as related to adjacent streets, with particular reference to automotive and pedestrian safety and convenience, internal traffic flow and control, arrangement in relation to access in case of fire or other emergency, and screening and landscaping. Any proposed on-street parking areas shall require the approval of the Public Works Director.
  3. Refuse And Service Areas: Due consideration shall be given to the location, scale, design, and screening of refuse and service areas; to the manner in which refuse is to be stored; to the manner of refuse collection, deliveries, shipments, or other service activities, in relation to the location and nature of uses on adjoining properties; and the location and character of adjoining public ways; and shall be approved by the local solid waste disposal authority.
  4. Lighting: Due consideration shall be given to the proposed lighting for the premises, with particular reference to traffic safety, glare, and compatibility and harmony with adjoining and nearby property and the character of the area; and shall be compliant with nationally recognized dark-sky standards, any exceptions must be approved by the Planning Director or his or her authorized designee.
  5. Utilities: Due consideration shall be given to utilities required, with particular reference to availability and capacity of systems, location of connections, and potentially adverse appearance or other adjoining and nearby property and the character of the area; and shall require the approval of the applicable utility service provider.
  6. Drainage: Due consideration shall be given to provision for drainage, with particular reference to the effect on adjoining and nearby properties and on general drainage systems in the area;

and shall comply with the requirements contained in Nye County Code Title 15, Chapter 15.12 "Flood Damage Prevention."

7. Roads: Due consideration shall be given to the provision of paved, double layer chip sealed, or roads treated with a dust palliative, or compliance with Nye County Code Title 12, Chapter 12.12 "Damage Caused to Public Roads."

**17.12.230: PERMITS APPLY TO PROPERTY AND PERSON:**

- A. When granted, a Special Use Permit, together with any conditions or safeguards attached thereto, shall apply to the specific land, structure, or use for which it was issued as stated on the initial application, and shall apply to the particular permittee.
- B. In cases of property ownership transfers, the following procedures shall apply:
  1. In cases where the permittee and property owner are the same, if the property transfers ownership and the new property owner intends to continue the use authorized under the Special Use Permit, a new Special Use Permit application shall be filed with the Planning Department and the applicable procedures in this chapter shall apply.
  2. In cases where the permittee and the property owner are different, if the property transfers ownership, the new property owner must provide a notarized statement to the Planning Department authorizing the permittee to continue the use authorized pursuant to the existing Special Use Permit. If the new property owner does not authorize the permittee to continue the use, the Special Use Permit shall automatically expire and the special use shall be terminated.

**17.12.240: WITHDRAWAL OF SPECIAL USE PERMIT APPLICATION; EFFECT OF WITHDRAWAL:**

- A. An application for a Special Use Permit may be withdrawn by the applicant at any time prior to public hearing notices being sent and the time limitations set forth in Section 17.12.250 shall not apply. Any required processing fee is nonrefundable.

**17.12.250: PREVIOUSLY DISAPPROVED OR WITHDRAWN SPECIAL USE PERMIT APPLICATIONS:**

- A. An application for a Special Use Permit which was the subject of a previously disapproved application which proposed the same use on the same property or was withdrawn after public hearing notices had been sent, shall not be accepted until the following time periods have elapsed from the date of disapproval or withdrawal:
  1. After the first disapproval or withdrawal: Six (6) months; or
  2. After the second or a subsequent disapproval or withdrawal: Eighteen (18) months.
- B. The time periods described in subsections A(1) and A(2) of this section shall not become effective if, after consideration of the timing and circumstances of the disapproval or withdrawal, the Board specifically disapproved the application without prejudice or the Planning Director specifically approved the withdrawal without prejudice.

**17.12.260: CESSATION OF USE:**

A. A Special Use Permit shall automatically expire and become null and void without further action if the use is relocated to a different parcel or location. A Special Use Permit shall automatically expire and become null and void if any required licenses or permits for the use have expired. Additionally, a Special Use Permit shall automatically expire and become null and void without further action if the use is discontinued or ceases for six (6) consecutive months or more on the parcel or location where the use was being conducted, or twenty-four (24) consecutive months or more if the building or structure in which the use was being conducted has been damaged or partially destroyed by fire, flood, wind, or other calamity. As long as reconstruction has commenced within one year of the fire, flood, wind, or other calamity, the Special Use Permit shall not expire, providing reconstruction is continuous and any required license or building permits do not expire.

**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 \_\_\_\_\_, 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, Chair  
Nye County Board of  
County Commissioners

ATTEST: \_\_\_\_\_  
Sandra L. Merlino  
Clerk and Ex-Officio  
Clerk of the Board





Beatty Town Advisory Board  
PO Box 837  
Beatty, Nevada 89003  
775-553-2050



May 23, 2018

Lorinda Wichman, Commissioner  
lawichman@gmail.com

Commissioner Wichman,

On May 14, 2018, the Beatty Town Advisory Board held a public workshop regarding the proposed Special Use Permit (SUP) Bill 2018-03. The public opinion regarding this type of legislation remains the same as it was in 2015; it is neither desired nor necessary at this time.

The reasons cited by the public were also in keeping with the 2015 discussion and this modified bill created the same public concerns; negative economic impact, and growth inhibition/restriction. Also, there were concerns about some of the language in this new draft; it is vague as to its applicability, and it appears very subjective in its SUP requirement determination process. The public expressed that in cases where Nye County Code, NRS, and State agency regulations are in place, the content of the bill is redundant, subjective and inappropriate for their community.

The Advisory Board, acting as the representatives of the Community ask that you, as our representative on the BOCC, do not vote to pass Bill 2018-03, should it come before the Board of County Commissioners at its public hearing scheduled for Tuesday, June 5, 2018, at 11:00 am in Tonopah.

We want to recognize and thank County Manager Tim Sutton and Planning Director Brett Waggoner for showing Beatty residents that their opinions and concerns are important to Nye County government by attending our Workshop. Director Waggoner is a wonderful resource; he listened and answered questions with patience, respect and professionalism. Mr. Sutton made himself available to the residents in attendance and answered questions offline and spent time with people one on one.

If you have any questions, please contact the Town Office or one of the Beatty Town Advisory Board members directly.

Thank you,

Dick Gardner  
Chair

Kelly Carroll  
Vice Chair

Erika Gerling  
Treasurer

Crystal Taylor  
Member

Randy Reed  
Member

cr/BTAB

cc via email:

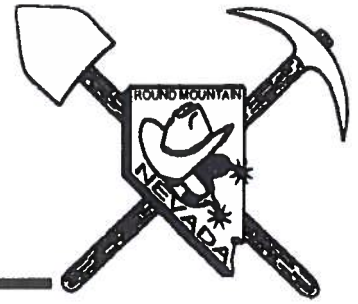
Brett Waggoner, Commissioner Borasky, Commissioner Koenig, Commissioner Cox, Commissioner Schinhofen, Timothy Sutton, Lorina Dellinger, Towns of; Current Creek, Duckwater, Gabbs, Lone, Amargosa Valley, Manhattan, Mercury, Round Mountain, Sunny Side, Smokey Valley, Tonopah

# TOWN OF ROUND MOUNTAIN

P.O. Box 1369

Round Mountain, Nevada 89045-1369

(775) 377-2508 Fax (775) 377-2631



June 1, 2018

Lorinda Wichman  
Nye County Commissioner  
[lawichman@gmail.com](mailto:lawichman@gmail.com)

Commissioner Wichman,

At the May 22, 2018 Round Mountain Town Board Meeting, the Board unanimously voted to continue to remain with their 2015 stance and oppose Nye County Bill No. 2018-03 - Special Use Permits.

We strongly feel that the ordinance will deter or delay potential new businesses coming to our area or delay the expansion of existing businesses, if they are required to present before the Town Board and then required to present before Nye County and Board of County Commissioners.

Please let me know if you have any questions.

Thank you for the opportunity to submit our comments.

Respectfully submitted,

Pearl Olmedo  
Town Manager

Email cc: Round Mountain Town Board, Lorina Dellinger, Timothy Sutton, John Koenig, Dan Schinhofen, Andrew Borasky, Donna Cox, Town of Tonopah, Beatty Town.

**From:** [Brett Waggoner](#)  
**To:** [Samantha Tackett](#)  
**Cc:** [Melissa Godfrey](#)  
**Subject:** Fw: Nye County Bill No. 2018-03.  
**Date:** Monday, June 4, 2018 12:05:06 PM

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Sam,

This came in as well. Please include this in the backup.

Respectfully,

Brett Waggoner  
Director of Planning - Nye County

----- Original message-----

**From:** Celeste Sandoval  
**Date:** Mon, Jun 4, 2018 11:50 AM  
**To:** DL Planning;  
**Cc:**  
**Subject:**FW: Nye County Bill No. 2018-03.

From the Planning inbox

**From:** Peggy Phelan [mailto:pphelan@clinecellars.com]  
**Sent:** Friday, June 01, 2018 1:24 PM  
**To:** Planning <Planning@co.nye.nv.us>  
**Cc:** Fred Cline <fcline@clinecellars.com>  
**Subject:** Nye County Bill No. 2018-03.

June 1, 2018

June 1, 2018

TO: Brent Waggoner  
  
FROM: Fred Cline  
  
RE: Proposed - Nye County Bill No. 2018-03.

I am unable to attend the Public Hearing on June 5<sup>th</sup>, so my comments for the record (below) are being submitted via e-mail.

My wife Nancy and I own several properties in Tonopah on Main Street, including the Mizpah Hotel, Tonopah Brewing Company, and under development the former Belvada Hotel and a hostel. We have also secured several residential units in Tonopah used primarily by our employees.

I am writing to strongly object to the proposed measure. It is not needed in Tonopah. The issues you bring forth may apply in Pahrump, but they are non-existent in Tonopah.

Regulations such as this place ongoing burdens on property owners and impact values. Specifically, I would like to address the category "Project of Regional Significance", which is currently defined as any project that would create one hundred vehicle trips per day or more, twenty or more employees, twenty or more housing units, or fifty acre feet or more of annual water usage.

This definition alone could trigger Traffic Impact Studies (cost thousands of dollars, take months to complete) plus water metering and reporting. The additional dollars and time required to clear these hurdles will make some projects unfeasible.

The proposal gives an incredible amount of power to one individual, the Planning Director. As a citizen, I find this unacceptable.

Rural Nevada needs projects of regional significance. We are interested in doing more positive business in Nevada, but these types of regulatory hurdles will make me look elsewhere. I strongly object to the unnecessary overreach of this regulation.



# TOWN OF TONOPAH

TONOPAH, NEVADA 89049

140 S. Main Street  
P.O. Box 151

Telephone: (775) 482-6336  
Fax: (775) 482-3778  
TDD: 711

May 10, 2018

Lorinda Wichman  
Nye County Board of  
County Commissioners

Via email  
[lawichman@gmail.com](mailto:lawichman@gmail.com)

Re: Proposed Bill No. 2018-03 – Special Use Permits

Dear Commissioner Wichman:

Please be advised that during the Tonopah Town Board meeting held on May 9, 2018, after hearing from the public and Brett Waggoner, Nye County Planning Director, the Board voted to oppose the adoption of this proposed ordinance. I appreciated your attendance and input at the meeting.

Sincerely,



Chris Mulkerns  
Administrative Manager