

NYE COUNTY AGENDA INFORMATION FORM

Action Presentation Presentation & Action

Department: Nye County Planning		Agenda Date:
Category: Timed Agenda Item – 11:00 a.m.		August 21, 2018
Contact: Brett Waggoner	Phone: 775-751-4249	Continued from meeting of:
Return to: Brett Waggoner	Location: Pahrump Planning	Phone: 775-751-4249
Action requested: (Include what, with whom, when, where, why, how much (\$)) and terms)		
Public Hearing, discussion and deliberation to: 1) Adopt, amend and adopt, or reject Nye County Bill No. 2018-09: A Bill proposing to amend Nye County Code Section 17.04.200.A.3 Building Separation, relating to the requirement to have a minimum of ten (10) feet of separation between all buildings on a single parcel in a residential zoning district; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto; and 2) Set an effective date.		
Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)		
Staff recommends adoption with an effective date of September 10, 2018.		
Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.		
Expenditure Impact by FY(s): (Provide detail on Financial Form)		
<input type="checkbox"/> No financial impact		

Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date:
2.	Date	7. HR	Date:
3.	Date	8. Legal	Date: <i>RB</i>
4.	Date	9. Finance	Date: <i>N/A</i>
5.	Date	10. County Manager	<input checked="" type="checkbox"/> Place on Agenda <i>5</i>

ITEM # *10*

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

Meeting Date: August 21, 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. 2018-09: A Bill proposing to amend Nye County Code Section 17.04.200.A.3 Building Separation, relating to the requirement to have a minimum of ten (10) feet of separation between all buildings on a single parcel in a residential zoning district; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto; and 2) Set an effective date.

GENERAL INFORMATION SUMMARY

BACKGROUND: The primary purpose of this change is to allow a reduction in the required distance between residential buildings on the same lot (for example, the distance between a residence and a detached garage; or the distance between a residence and a storage building; or between a garage and a storage building). Currently, the code requires a minimum of ten (10) feet between all buildings on a lot. That means a detached garage must be at least 10 feet from the residence. This requirement has resulted in numerous instances over the years where homeowners, contractors, builders, etc., either could not get approval of plans, or were required to amend plans to accommodate the 10-foot separation. This has resulted, in some cases, where the applicant could not be approved for a new garage, storage building, workshop, etc., or, had to place the building in a less desirable and less practical location. This code amendment will solve this issue, while not being detrimental to health and safety since all building and fire codes must still be complied with.

RPC MINUTES

For possible action: Discussion, deliberation and possible action to recommend to the Board of County Commissioners to adopt, amend and adopt, or reject a Bill proposing to amend Nye County Code Chapter 17.04, the Zoning Ordinance of the Pahrump Regional Planning District, by amending NCC 17.04.200.A.3 Building Separation, relating to the requirement to have a minimum of ten (10) feet separation between all buildings on a single parcel in a residential zoning district. **(This item is a recommendation by the Pahrump Regional Planning Commission to the Board of County Commissioners. Final Action on this item will be taken by the Board of County Commissioners at a future public hearing.)**

Mr. Osborne reviewed the proposed changes. Code currently requires 10 feet between buildings, the proposal is to change it to 5 feet.

Public comment opened at 6:28 pm.

Dwight Lilly stated he thinks this is restricting peoples properties, there hasn't been restrictions like this in the past and asked the commission to reject the proposal.

Public comment closed at 6:29 pm.

Commissioner Koenig stated to Mr. Lily the current code is a 10 foot separation and the proposal is to make it 5 feet.

Commissioner Hafen stated this is less restrictive than current code.

Commissioner Blundo motioned to recommend adoption to the BOCC. Seconded by Commissioner Fowler.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Derek Fowler, Gary Bennett, Gregory T. Hafen II, Leah-Ann DeAnda, Leo Blundo.

RECOMMENDATION

Recommended BOCC Motion: "I move to **adopt** Bill 2018-09 with an effective date of September 10, 2018."

BILL NO. 2018-09

NYE COUNTY ORDINANCE NO. _____

SUMMARY: A Bill proposing to amend Nye County Code Section 17.04.200.A.3 Building Separation, relating to the requirement to have a minimum of ten (10) feet of separation between all buildings on a single parcel in a residential zoning district; 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 SECTION 17.04.200.A.3 BUILDING SEPARATION, RELATING TO THE REQUIREMENT TO HAVE A MINIMUM OF TEN (10) FEET OF SEPARATION BETWEEN ALL BUILDINGS ON A SINGLE PARCEL IN A RESIDENTIAL ZONING DISTRICT; AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

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

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety, morals or the general welfare of the 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 IS HEREBY AMENDED AS FOLLOWS, with **Deletions** shown in strike-through red font, and **additions and modifications** shown in underscored blue font:

17.04.200: RESIDENTIAL DISTRICTS:

A. General Provisions for Residential Districts:

1. **Zone Map Amendment Required:** All new developments in residential zoning districts shall be subject to the zone map amendment procedure as set forth in article VIII of this chapter.
- a. **Development Agreement Required:** All approved subdivision developments in residential zoning districts greater than four (4) dwelling units shall, as part of the subdivision approval process, and at the board's sole

discretion, enter into a development agreement pursuant to title 16, chapter 16.32 of this code as a condition of zone map amendment approval.

2. Site Development Plan Required: All developments in the residential zoning districts greater than four (4) dwelling units shall comply with the site development plan submittal requirements in article IX of this chapter. Such site plan may be submitted as part of an application for a tentative map.
3. Building Separation: All buildings located on a single parcel within a residential zoning district must be separated by a minimum of ~~ten feet (10')~~ ~~five feet (5')~~ unless a greater separation is required within a specific residential district. Buildings on a single parcel within a residential zoning district may be allowed to be separated by less than five feet (5') if the buildings are in compliance with all applicable requirements of the adopted building and fire codes and the applicant obtains approval of an administrative waiver.
4. Off Street Parking: Off street parking in multi-family residential zones shall meet the requirements of article VI of this chapter. All off street parking shall be in compliance with the Americans with disabilities act.
5. Landscaping: Landscaping requirements in residential and multi-family residential zones shall meet the requirements of article VI of this chapter.
6. Lighting: Lighting requirements in residential zones shall meet the requirements of article VI of this chapter.
7. Screening, Walls And Fences: Screening, walls and fences in residential zones shall meet the requirements of article VI of this chapter.
8. Signage: Signage in residential zones shall meet the requirements of article VI of this chapter.
9. Manufactured Homes: Notwithstanding any other provisions in this code, manufactured homes are hereby recognized as a "permissive use" in all zoning districts which recognize single-family dwellings as a "permissive use", provided that all manufactured homes outside of mobile home parks must be permanently affixed to a foundation and converted to real property, except when located within an RH zone. In addition, manufactured homes located within a VR zone must be in conformance with the following:
 - a. The manufactured home shall be placed on a foundation permanently affixed to the residential lot and qualify and constitute real property, as established by chapter 361 of the Nevada Revised Statutes.
 - b. Any elevated foundations shall be masked architecturally in a manner to blend and harmonize with exterior siding materials utilized on the manufactured home.
 - c. As provided in the Nevada Revised Statutes, the provisions of this section do not abrogate recorded restrictive covenants prohibiting manufactured homes nor do the provisions apply within the boundaries of a historic district established pursuant to Nevada Revised Statutes 384.005 or 384.100.
10. Home Occupations: Home occupations, home based businesses and residential industry are permissive in residential districts and must comply with article VI of this chapter.
11. Garage Sales: All garage sales are limited to twelve (12) days during any twelve (12) consecutive month period, and may not operate for more than three (3) consecutive days during each occurrence.
12. Temporary Living Facilities: Temporary living facilities may be permitted under certain conditions subject to the approval of a temporary use permit.
13. Lot Size Calculations: All lot size calculations shall be measured as net lot area.

14. Prohibited Uses: Any use not listed within a specific zoning district shall not be permitted within such zoning district until such time as a zoning ordinance text amendment has been approved in conformance with article VIII of this chapter.

15. Projections Into Required Yards, Residential Districts:

- a. Awnings, open fire balconies, fire escape stairs, window type refrigeration units not exceeding one and one-half (1 1/2) tons or one and one-half (1 1/2) horsepower rating, suspended or roof evaporative coolers, and forced air furnaces, may project not more than five feet (5') over any required yard, provided that they shall be no closer than two feet (2') to any lot line.
- b. Cornices and eaves may project over any required yard, provided that they shall be no closer than two feet (2') to any lot line.
- c. Sills, belt courses and similar ornamental features may project not more than six inches (6") over or into any required yard.
- d. Unroofed terraces, patios, steps or similar features may project into any required yard, provided that projections into required front yards shall not exceed ten feet (10'). Roofed or covered terraces, patios, steps or similar features may project into the required rear yard no closer than ten feet (10') to the rear lot line, provided two (2) sides of the covered feature remain open.
- e. Fireplaces may be allowed to encroach into required yards no closer than two feet (2') to any lot line.
- f. Carports may be allowed to encroach into required side yards, provided that two (2) sides of the carport remain open, that no portion of the carport structure is closer than three feet (3') to any side lot line, and all drainage from the roof of the structure shall be onto the property itself.
- g. Ground mounted heating and cooling systems may protrude no more than three feet (3') into required side and rear yards.
- h. Swimming pools may protrude into required side and rear yards, but must be no less than five feet (5') from the wall of the pool to the property line.

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

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

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, Chairman
Nye County Board of
County Commissioners

ATTEST: _____

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

BILL NO. 2018-09

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Proposed on the _____ day of _____, 2018

Proposed by: Commissioner _____.

Adopted on the _____ day of _____, 2018

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: _____

John Koenig, Chairman
Nye County Board of
County Commissioners

ATTEST: _____

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