

NYE COUNTY AGENDA INFORMATION FORM

Action Presentation Presentation & Action

Department: Planning		Agenda Date:
Category: Timed Agenda Item – 10:00 a.m.		June 16, 2020
Contact: Brett Waggoner		Phone: 775-751-4249 Continued from meeting of: May 19, 2020
Return to: Brett Waggoner	Location: Pahrump Planning	Phone:
<p>Action requested: (Include what, with whom, when, where, why, how much (\$) and terms)</p> <p>Public Hearing, discussion and deliberation to: 1) Adopt, amend and adopt, or reject Nye County Bill No. 2020-04: A Bill proposing to amend Nye County Code Title 17, titled Comprehensive Land Use Planning and Zoning by adding Chapter 17.12, titled Craft Distillery, Brewery, Brew Pub, Cidery, Meadery and Winery Zoning Requirements, to establish the zoning, land use and development requirements applicable to distilleries, micro-distilleries, cideries, microbreweries, brew pubs, meaderies and wineries within Nye County, including those areas within the Pahrump Regional Planning District; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.</p>		
<p>Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)</p> <p>Staff recommends adoption with an effective date of July 6, 2020.</p>		
<p>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.</p>		
<p>Expenditure Impact by FY(s): (Provide detail on Financial Form)</p> <p><input checked="" type="checkbox"/> No financial impact</p>		

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	<input type="checkbox"/> Place on Agenda

ITEM # 12

NYE COUNTY ORDINANCE NO._____

SUMMARY: A Bill proposing to ~~add~~amend Nye County Code Title 17, titled Comprehensive Land Use Planning and Zoning, by adding Chapter 17.12, titled Craft Distillery, Brewery, Brew Pub, Cidery, Meadery and Winery Zoning Requirements, to establish the zoning, land use and development requirements applicable to distilleries, micro-distilleries, cidery, microbreweries, brew pubs, meaderies and wineries within Nye County, including those areas within the Pahrump Regional Planning District.

TITLE: A BILL PROPOSING TO ~~ADD~~AMEND NYE COUNTY CODE TITLE 17, TITLED COMPREHENSIVE LAND USE PLANNING AND ZONING, BY ADDING CHAPTER 17.12, TITLED CRAFT DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY ZONING REQUIREMENTS, TO ESTABLISH THE ZONING, LAND USE AND DEVELOPMENT REQUIREMENTS APPLICABLE TO DISTILLERIES, MICRO-DISTILLERIES, CIDERY, MICROBREWERIES, BREW PUBS, MEADERIES AND WINERIES WITHIN NYE COUNTY, INCLUDING THOSE AREAS WITHIN THE PAHRUMP REGIONAL PLANNING 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, the Nye County Board of Commissioners (Board) is authorized to amend the Nye County Code relating to Planning and Zoning; and

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:

Chapter 17.12
CRAFT DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY
ZONING REQUIREMENTS

17.12.010: INTENT; GENERALLY:

17.12.020: DEFINITIONS:

17.12.030: REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT:

17.12.040: BREW PUB, BREWERY, CRAFT DISTILLERY, CIDERY, MEADERY AND
WINERY ESTABLISHMENT ZONING REQUIREMENTS:

17.12.045: BREW PUB:

17.12.050: BREWERY:

17.12.055: CRAFT DISTILLERY:

17.12.060: CIDERY, MEADERY AND WINERY:

17.12.065: ALCOHOLIC BEVERAGE LICENSE; MANUFACTURING; COMPLIANCE:

17.12.070: CINEMAS:

17.12.075: STORAGE OF ALCOHOLIC BEVERAGES; RESIDENTIAL:

17.12.080: COMPLIANCE PERIOD:

17.12.030: DISTILLERIES, MICRODISTILLERIES, MICROBREWERY, WINERY
ESTABLISHMENT ZONING REQUIREMENTS:

17.12.040: REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT AND PRIVILEGE
LICENSE:

17.12.050: REQUIREMENT TO DEVELOP A CURRICULUM FOR ALCOHOLIC
BEVERAGE AWARENESS PROGRAM:

17.12.010: INTENT; GENERALLY:

The intent of this Chapter is to establish the zoning, land use and development requirements applicable to agritourism establishments, including distilleries, micro-distilleries, cidery, microbreweries, brew pubs and wineries within Nye County, including those areas within the Pahrump Regional Planning District.

17.12.020: DEFINITIONS:

The following definitions are in addition to the definitions set forth in NCC of this title. Unless the context clearly indicates a different meaning, the definitions below shall govern the construction, meaning, and application of words and phrases used in this Chapter:

ALCOHOL: A product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

ALCOHOLIC BEVERAGE, LIQUOR or SPIRITS: Any malt beverage or spirituous vinous or malt liquor which contains one percent or more ethyl alcohol by volume.

A. Beer, ale, porter, stout and other similar fermented beverages, including sake and similar products, of any name or description containing one half of one percent or more alcohol

~~by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.~~

~~B. Any beverage obtained by the fermentation of the natural content of fruits or other agricultural products containing sugar, of not less than one half of one percent of alcohol by volume.~~

~~C. Any distilled spirits commonly referred to as ethyl alcohol, ethanol or spirits of wine in any form, including all dilutions and mixtures thereof from whatever process produced.~~

BOARD: Nye County Liquor and Licensing Board

BREW PUB: An establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230 and NRS 369.180.

BREWERY: A brewery is an establishment which manufactures malt beverages but does not sell those malt beverages at retail ~~to the public~~.

CATERING LIQUOR: A business which:

- A. Prepares food at a licensed location for delivery or service to consumers ~~in the town~~, and may, in conjunction therewith, provide the service of alcoholic beverages; or
- B. Delivers or serves alcoholic beverages from a licensed location to consumers ~~in the town~~ or at a banquet-reception hall ~~located in the town~~ which is operated by the catering liquor business.

CIDER: Fermented apples or other fruit juices often made sparkling by carbonation or fermentation in a sealed container.

CRAFT DISTILLERY: An establishment which manufactures distilled spirits from agricultural raw materials through distillation and ~~is authorized to sell~~sells those distilled spirits pursuant to the provisions of NRS Chapter 597.235

DEMONSTRATION MEAL: An event held at a restaurant with bar or resort hotel wherein a special meal is prepared and served, with or without a fee, to invited guests only, is not open to the public and wherein beers, wines, or spirit-based products are sampled at various stages of the meal and made available for sale for off-premises consumption at the time of the event.

DIRECTOR: The Nye County Planning Director.

DISTILLATION: The process of producing or purifying spirituous liquor by successive evaporation and condensation.

ESTATE DISTILLERY: An establishment which:

- A. Manufactures distilled spirits from agricultural raw materials through distillation, provided that eighty-five (85) percent of such agricultural raw materials, in the aggregate, were grown on land within this State which is owned or controlled by the owner of the distillery; and

B. Is authorized to sell those distilled spirits pursuant to the provisions of this Chapter.

IMPORTER ~~OF INTOXICATING LIQUOR~~: ~~A person who brings intoxicating liquor into Nye County.~~ Any person who, in the case of liquors which are brewed, fermented, or produced outside the State, is first in possession thereof within the State after completion of the act of importation.

INSTRUCTIONAL WINE-MAKING FACILITY: Any facility that, for a fee, provides a person of legal age with instruction and the opportunity to participate directly in the process of wine making on the premises of the facility. ~~NRS 597.245~~ The term does not include:

- A. A wine maker or winery that is licensed pursuant to NRS Chapter 369, ~~as may be amended or renumbered~~.
- B. A university, state college or community college that is part of the Nevada System of Higher Education or any other postsecondary educational institution that is licensed by a federal or state agency and is accredited by a nationally recognized educational accrediting association

LIQUEUR: A distilled liquor produced by combining a base spirit with fruits or herbs and sweetened with sugar syrup; usually considered an after-meal drink.

LIQUOR: For purposes of this Chapter, Liquor shall be defined as beer, wine, gin, whiskey, cordials, ethyl alcohol, rum, cider or mead, and every liquid containing one-half of one percent of alcohol by volume and which is used for beverages purposes.

LIQUOR MANUFACTURER: An establishment where the primary business is the manufacture, production, and bottling of alcoholic liquor and spirit-based products of all kinds, including brewing, distilling, and rectifying activities. A liquor manufacturer licensee is subject to all federal and state laws and regulations applicable to such business activities.

LIQUOR SALES ESTABLISHMENT: Liquor sales establishments shall be organized into the following classes:

- A. Class I, Packaged Liquor Sales Establishment: Any establishment selling liquor to individuals in its original corked or unopened package for consumption off premises and includes convenience-liquor-grocery stores and other similar types of stores.
- B. Class II, Retail Liquor Sales Establishment; ~~—~~Bar: Any establishment selling ~~at~~ retail liquor by the drink for consumption on premises, and in a bar setting, which may or may not include a restaurant as an accessory use.
- C. Class III, Special Club Liquor Sales Establishment: Any establishment dispensing liquor by the drink for consumption on premises only, and which is restricted in use to members and guest(s) accompanied by a member.
- D. Class IV, Liquor manufacturer: Any establishment that manufactures liquor for sale to the public which includes distilleries, wineries, cideries, ~~—~~meaderies and breweries.

E. Class V, Wholesale ~~sales or delivery of liquor~~ Dealer, as defined in this Chapter below.

F. Class VI, Special Events Liquor License, as defined in this Chapter below.

LIQUOR TASTING LICENSE: A liquor tasting license allows a person to serve samples of intoxicating liquors inside a grocery store or other establishment. They must possess a valid package liquor license and must have at least 10,000 square feet of public space.

MALT BEVERAGE: Beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

MEAD: A fermented beverage made of water and honey, malt and yeast.

NONPROFIT CLUB: A nonprofit organization classified in one of the categories defined in Section 501 of the United States Internal Revenue Code as being exempt from payment of federal income tax, that owns, rents or leases a building or space suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, but does not include associations organized for any commercial or business purpose.

OFF-SALE: The sale of alcoholic beverages in original sealed or corked containers for consumption off the premises where the same are sold or provided free of charge.

ON-SALE: The sale or serving of alcoholic beverages for consumption on the premises where the same are sold or provided free of charge.

OPERATION: The conduct of any business regulated or licensed by this Chapter.

PROCESS OF WINE MAKING: The usual and customary steps taken to produce wine, which may include, without limitation:

- A. Growing, buying and importing agricultural products and ingredients.
- B. Selecting, preparing and processing agricultural products and ingredients.
- C. Barreling, fermenting, aging, filtering, bottling, labeling, racking, warehousing and storing.
- D. Importing bulk wine or juice from a bonded winery in another state, to be fermented into wine or, if already fermented, to be blended with other wine and aged in a suitable cellar.

RESORT HOTEL: A building or group of buildings kept, used, maintained, advertised, and held out to the public to be a hotel where sleeping accommodations are offered to transient guests, which has a minimum of two hundred (200) rooms used for sleeping accommodations, and which has a minimum of the following amenities, all of which are directly connected to the building or group of buildings upon the premises:

- A. One main bar with more than thirty (30) permanent seats wherein alcoholic liquors are dispensed by the drink to customers at such bar; and
- B. One service bar wherein alcoholic liquors is-are prepared for service only at tables and not direct to customers at such bar; and

C. Entertainment which includes at least one of the following:

1. One facility with at least twenty-five (25) seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artist) on a regularly scheduled basis; or
2. One facility with at least one hundred (100) seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artists) on a semi-regular basis (at least six (6) times per year).

D. One restaurant with permanent seating capacity for more than sixty (60) patrons that is open to the public twenty-four (24) hours a day, seven days per week; and

E. Room service to all rooms, including, without limitation, service of meals; and

F. A recreational facility which includes at least one of the following:

1. Four (4) regulation tennis courts with locker rooms and attendant facilities;
2. One (1) swimming pool that is swimmable and adequate in relationship to the size of the resort hotel as approved by the Board;
3. One (1) regular golf course consisting of at least nine holes comprising at least twenty-five (25) acres;
4. One (1) gymnasium with dimensions of at least forty (40) feet in width, sixty (60) feet in length, and twenty (20) feet in height and equipped with exercise equipment; or
5. Any other type of recreational facility as approved by the Board.

G. A gaming area within the building or group of buildings. When determining whether a particular applicant complies with the resort hotel definition, the Board may consider:

1. The physical layout of buildings and facilities; and
2. The unity of title and ownership of the buildings or group of buildings; and
3. The operation and management relationship of gaming to hotel administration; and
4. The proximity of the proposed resort hotel to residential development.

SPECIAL EVENTS LIQUOR PERMITLICENSE: A permitlicense which authorizes the permitteelicensee to sell, serve, or give away alcoholic beverages for consumption only on the premises for which the permitlicense is issued and only for such time as specified on the permitlicense, but not to exceed nine (9) consecutive calendar days. The permitlicense which must be approved by the Director is limited to one (1) per applicant per calendar quarter.

SPIRITS-BASED PRODUCTS: A distillate obtained from the fermentation of the natural contents of fruits or other agricultural products containing natural or added sugar and which

contains not more than ten percent of alcohol by volume. For purposes of this Chapter, spirits-based products must shall be in the same Liquor Sales Establishment class classification as beer and wine.

TASTING ROOM: Part of a winery or brewery, typically located on the premises of the winery or brewery's production facilities, at which guests may sample the winery or brewery's products.

TECHNIQUES OF ALCOHOL MANAGEMENT: TAM is a nationally recognized alcohol awareness training program used in Nevada.

TAVERN: An establishment primarily engaged in selling or serving alcoholic beverages at retail by the drink to the general public for on-premises consumption, with the ability to request approval for the following ancillary activities: a dance hall, live entertainment, food service, and restricted gaming.

WHOLESALE DEALER DISTRIBUTOR OF LIQUOR: Any person who sells or distributes intoxicating liquors to package or retail outlets, licensed to sell liquor as it is originally packaged to retail liquor stores or to another licensed wholesaler.

WINE: Any alcoholic beverage obtained by the fermentation of the natural content of fruits or other agricultural products containing sugar.

WINERY: A business which produces, bottles, blends or ages wine, or that imports wine or juice from a winery located in another state to be fermented into wine, and that:

- A. Has been issued a winemaker's license in accordance with NRS 369.200; and
- B. Is bonded and permitted in accordance with NRS 597.240.

17.12.020: DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY ZONING REQUIREMENTS:

~~Distillery, Brewery, Brew Pub, Cidery, Meadery and Winery establishments, shall be allowed within the light industrial (LI), heavy industrial (HI), general commercial (GC), commercial manufacturing (CM), and business opportunity overlay (BO) zones if located within the Pahrump regional planning district or in any other area outside of the Pahrump regional planning district that permits general commercial, manufacturing, light industrial and/or heavy industrial uses, subject to compliance with the distance separation requirements and other restrictions contained herein and upon the approval of a special use permit as required in this Chapter.~~

17.12.030: REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT

Any Craft Distillery, Brewery, Brew Pub, Cidery, Meadery or Winery establishment to include liquor manufacturers, distributors, importers, and wholesalers shall require the approval, and be conducted in compliance with the terms and conditions of a special use permit.

A. Administration and Enforcement:

1. Designation of Planning Authority: For purposes of the administration of special use permits as provided for in this Chapter, the Board of County Commissioners shall be designated as the planning authority for all areas in Nye County, to include those areas located within the Pahrump Regional Planning District.
2. Penalties: Any person violating any provision of this Chapter is guilty of a misdemeanor and is subject to a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) and/or imprisonment in the County jail for a period not to exceed six (6) months. Any act that is prohibited, or the result from the failure to perform required acts, shall constitute a violation of this Chapter. Any person is guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed or continued.
3. Abatement Proceedings: In addition to any penalties that may be imposed, any use of property, or the establishment of any building, structure or use contrary to the provisions of this Chapter or in violation of any condition attached to the granting of a special use permit, the County may commence proceedings for the abatement in accordance with this code or state law, or may pursue other remedies as provided by law.
4. Revocation of Special Use Permit: Failure to abide by and faithfully comply with the provisions of this Chapter with respect to use, development standards, or maintenance requirements, with any other requirement of this code, with any applicable requirement of the Nevada Revised Statutes or Nevada Administrative Code, or with any and all conditions attached to the granting of any land use application hereunder is unlawful and a public nuisance, and shall constitute grounds for the revocation of the same, or any permit or license issued in conjunction with the application.
 - a. Upon discovery of such a violation, the County may commence proceedings for the revocation thereof in accordance with applicable provisions of this code or may pursue other remedies as provided by law. If the Board determines that there is sufficient cause to revoke the application or permit, a public hearing shall be scheduled before the Board, at which time the property owner or other interested party may show cause as to why the permit should or should not be revoked. If the Board revokes the permit, it shall specify for the record the reasons for its action.
 - b. The revocation of a business license, or the revocation of permits, which are no longer appealable, to conduct a use or the failure to obtain or maintain a valid certificate of registration/license issued by the State of Nevada shall cause any special use permit to become invalid without the hearing specified in subsection A(4)(a) of this section.
5. Term of Special Use Permit: Any special use permit issued herein shall remain in effect provided the establishment is in compliance with all conditions of the special use permit

and the establishment continues to maintain a valid Nye County liquor license (NCC 5.04.050). Failure to maintain a valid liquor license for the premises shall cause any special use permit issued herein to become void and invalid.

6. Non-transferability of Special Use Permit: Any special use permit approved by the Board shall be specific to the establishment business owner as specified on the permit. Any change in ownership in the establishment shall require the submission of an application by the new owner(s) prior to the transfer of ownership. The Board shall consider if the change in ownership materially affects the suitability of the operations considered upon issuance of the special use permit to the previous business owner. The issuance of a special use permit to a new business owner shall be valid until the expiration of the term of the special use permit issued to the previous business owner, which shall be required to be renewed as set forth herein.

7. Cumulative Remedies: All remedies provided herein shall be cumulative and not exclusive.

A. Application Process:

1. Form: Applications for a special use permit shall be submitted to the Director on a form or format as specified by the Director. In addition to any other information as may be required by the Director, each applicant must submit the following:

- a. If the application is submitted by an agent for the property owner, the application must include a signed affidavit from the owner that the owner knows that the proposed use of the property is for a Liquor Sales Establishment;
 - b. A site plan showing the location of any existing or proposed buildings or structures, vehicular access, parking areas, landscaping, and demonstrating how the proposed facility meets all security requirements;
 - c. A statement that the proposed site is not within one thousand (1,000) feet of a public or private school, any community use including a church/synagogue, childcare facility, public library, community recreation facility, or park.
 - d. Must submit a certificate and straight line drawing prepared by a professional land surveyor, licensed in the state of Nevada, which depicts the distance to property boundary lines within one thousand five hundred (1,500) feet of any established community use which includes a: church/synagogue, school, childcare facility, public library, community recreation facility, or park.
 - e. Any other documents the applicant desires to be considered by the Board in consideration of the conditions of approval as set forth herein.

2. Public Hearing Notice Requirements: Upon the filing of a complete application for a special use permit, the County shall give notice setting forth the time, place and purpose of such hearing. Notice of such hearing must be mailed at least ten (10) calendar days prior to the hearing to:

- a. The applicant;
- b. Each owner of real property, as listed on the County assessor's records, located within three hundred (300) feet of the property in question;
- c. The owner, as listed on the County assessor's records, of each of the thirty (30) separately owned parcels nearest the property in question;
- d. Any advisory board which has been established for the affected area by the governing body;
- e. If a military installation is located within three thousand (3,000) feet of the property in question, the commander of that military installation;
- f. If an Indian reservation is located within three thousand (3,000) feet of the property in question, the chief and council of the Indian reservation and the United States Department of the Interior Bureau of Indian Affairs (BIA); and
- g. The Nye County Sheriff, ~~Nye~~ County Emergency Medical Services, and Nye County fire department.

B. Standards for Approval

- 1. 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.; or
- 2. Will not be hazardous or disturbing to existing or future neighboring uses.; or
- 3. 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.; or
- 4. Capability to provide safe and secure packaging of liquor products that would assist in reducing the exposure of children to the dangers of liquor.; or
- 5. Whether the design of the Liquor Sales Establishment maintains a professional appearance and is compatible with existing uses or future uses in the proposed area of development.; or
- 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.; or
- 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.

C. Mandatory Conditions of Approval: The Board may impose conditions of approval that are more restrictive than those required by this section in the sole discretion of the Board. The

approval of any special use permit authorizing the operation of a Liquor Sales Establishment must contain at a minimum the following conditions:

1. Certificate Required Prior To Commencing Operations: The special use permit grantee must provide to the Director a copy of the registration certificate issued by the State of Nevada and any Federal licenses prior to commencing operations.
2. Must Meet Local, State and Federal Law Requirements: The Liquor Sales Establishment must continue to meet all requirements for a Liquor Sales Establishment to qualify for and maintain its certificate of registration as set forth by state law.
3. Must Comply with Operating Procedures: The Liquor Sales Establishment must comply with all operating procedures required by state, local and federal laws and ordinances.
4. Prohibit Consumption of Liquor: The Liquor Sales Establishment must prohibit staff from consuming liquor on the premises.
5. Signage for Liquor Sales Establishments: If the Liquor Sales Establishment has on site signage, the signage shall be limited to one wall sign not to exceed two (2) square feet in size. On site signs shall not exceed twenty-five (25) square feet in size. All signage must obtain approval from the state and the County.
6. Age Restrictions: The establishment must prohibit anyone under the age of twenty-one (21) years on the premises unless allowed by state law.
7. Enclosed Facilities: All production, distilling of liquor that a facility carries out or causes to be carried out must take place in an enclosed facility.
8. Display of Liquor: The Liquor Sales Establishment must prevent liquor or paraphernalia from being displayed or kept in a manner that is visible from outside the facility.
9. Security Systems: The Liquor Sales Establishment must install security surveillance cameras that monitor all entrances, along with the interior and exterior of the premises. Recordings from these cameras must be maintained in a retrievable manner for at least sixty (60) days from the date recorded. Surveillance systems shall include a lighting system.
10. Burglary Alarm Systems: The Liquor Sales establishment must install and maintain in good working condition robbery and burglary alarm systems.
11. Interior Signage: The Liquor Sales Establishment must post a legible sign inside the facility stating that:
 - a. The use or distribution of liquor to minors is against the law.
 - c. No one under the age of twenty-one (21) years old is permitted on the premises without an adult at all times.

d. NOTICE TO ALL CUSTOMERS

THE OWNER OR SALESPERSON OF THIS PREMISES HAS THE RIGHT TO REFUSE TO SELL OR SERVE ALCOHOLIC BEVERAGES TO ANYONE WHO APPEARS TO BE UNDER THE INFLUENCE OF ALCOHOL TO SUCH AN EXTENT THAT HE IS UNABLE TO EXERCISE CARE FOR HIS OWN HEALTH OR SAFETY, OR THE HEALTH OR SAFETY OF OTHERS.

NYE COUNTY LIQUOR AND LICENSING BOARD

e. During all of the period of time for which a license has been issued authorizing the sale of alcoholic beverages, the license shall be posted and at all times displayed in a conspicuous place in the room where such business is carried on so that all persons visiting such place may readily see and read the same per NCC 5.04.170.

D. Liquor Sales Establishment Location Restrictions: All facilities for Liquor Sales Establishments must be located a distance of at least one thousand (1,000) feet from any property line of a parcel that has an established public or private school, and shall not be located within one thousand five hundred (1,500) feet of any property line of a parcel that has any other established community facility at the time of issuance of the special use permit.

E. Security and Screening Standards for the production of alcoholic beverage makers:

1. The requirements in Nevada Revised Statutes 369 are hereby adopted by reference.
2. Liquor may only be distilled, in an indoor area equipped with locks or other security devices that permit access only by those authorized by state law to produce alcohol.
3. Liquor is not allowed to be produced/distilled in a location or manner that is visible from any area normally accessible to the general public or from any point off the parcel.
4. All requirements, standards and conditions for the Liquor Sales Establishment in state statute and regulations must be met at all times.

G. Extensions of Time: Any grantee of a special use permit may request an extension of time by submitting the required application form and processing fee to the planning department prior to the expiration date. All applications for an extension of time shall be processed as a public hearing and all decisions shall be made by the Board of County Commissioners. (Ord. 511, 2017)

17.12.040: BREW PUB, BREWERY, CRAFT DISTILLERY, CIDERY, MEADERY and WINERY ESTABLISHMENT ZONING REQUIREMENTS:

Brew Pub, Brewery, Craft Distillery, Cidery, Meadery and Winery establishments, to include liquor manufacturers, distributors, importers, and wholesalers, shall be allowed within the light

industrial (LI), heavy industrial (HI), General Commercial (GC), Neighborhood Commercial (NC) Calvada Commercial (CC), Town Center (TC), Commercial Manufacturing (CM) zones if located within the Pahrump Regional Planning District. Cideries, Meaderies and Wineries may also be allowed in Business Overlay (BO) Business Overlay (BO) zone if located within the Pahrump Regional Planning District. In any other area outside of the Pahrump Regional Planning District that permits general commercial, manufacturing, light industrial and/or heavy industrial uses, subject to compliance with the distance separation requirements and other restrictions contained in this Chapter and upon the approval of a special use permit as required in this Chapter.

17.12.045: BREW PUB

A Brew Pub is authorized for the manufacture and sale of malt beverages at an establishment provided that the owner or operator of such establishment maintains in a primary capacity, at the same location, a Brew Pub license pursuant to NCC 5.04.060:

(A) A Brew Pub license shall only be issued subject to the following conditions:

- (1) That the manufacture and sale of the malt beverages produced at the location shall comply with all relevant State and Federal laws regarding the manufacture and sale of malt beverages;
- (2) The manufacture and sale of malt beverages may only occur as an ancillary activity to the activities permitted by the primary license; and
- (3) Prior to issuance of a Brew Pub license by the Board, the applicant shall present proof of State licensure of the establishment as a Brew Pub.

(B) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, the holder of a Brew Pub license may dispense beer or cider in a container sold or provided by the licensee, or a sanitary container provided by the customer, with a maximum capacity which does not exceed one (1) gallon subject to the following conditions:

- (1) The licensee or the licensee's employee fills the container at the time the beer or cider is sold;
- (2) The container is thereafter sealed with a plastic adhesive or tamper-evident seal; and
- (3) The beer or cider is not consumed on the licensee's premises.

(C) Any brew pub or tavern license in existence prior to the adoption of the ordinance codified in this Section may continue to operate as currently licensed unless the operation of the establishment is discontinued for a period of greater than twelve (12) consecutive months. Upon the expiration of a period of discontinuance for greater than twelve (12) months, the

establishment must obtain and maintain alcoholic beverage licenses pursuant to the applicable regulations then in effect.

17.12.050: BREWERY

A Brewery is authorized for the manufacture, sale and distribution of malt beverages at an establishment provided that the owner or operator of such establishment maintains in a primary capacity, at the same location, a license pursuant to NCC 5.04.060:

(A) A Brewery license shall only be issued subject to the following conditions:

- (1) That the manufacture and sale of the malt beverages produced at the location shall comply with all relevant State and Federal laws regarding the manufacture and sale of malt beverages;
- (2) The manufacture and sale of malt beverages may only occur as an ancillary activity to the activities permitted by the primary license; and
- (3) Prior to issuance of a brewery license by the Board, the applicant shall present proof of State licensure of the establishment as a Brewery.

17.12.055: CRAFT DISTILLERY

(A) A Craft Distillery is authorized for the manufacture, sale and distribution of distilled beverages at an establishment, but only if the owner or operator of the establishment maintains, in a primary capacity, at the same location, a license pursuant to NCC 5.04.060 and any and all licenses necessary under NRS Chapter 369 that authorize that activity. A license under this Section is subject to the following conditions and requirements, in addition to any and all others that apply:

- (1) In order to qualify for a license under this Section, the applicant must first present proof of State licensure of the establishment under NRS Chapter 369.
- (2) The manufacture and sale of distilled beverages produced at the location shall comply with all relevant State and Federal laws regarding the manufacture and sale of distilled beverages.

(B) In connection with the sale of beverages for on-premises consumption, a Liquor Sales Establishment licensed under this Section shall comply with the following requirements and limitations regarding such sales:

- (1) The sale of beverages is limited to distilled beverages that have been produced at the establishment.

(2) The operator or licensee must submit to the Board for approval, on an annual basis, a proposed event schedule where on-premises consumption will take place, which must include the following:

- (a) Dates, hours, and descriptions of the proposed events.
- (b) The approximate number of persons expected to attend each event.
- (c) An attestation that only those ages twenty-one (21) years and older may be in attendance.

(C) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, a Liquor Sales Establishment with a Craft Distillery alcoholic beverage license may, pursuant to NRS 597.235:

- (1) Serve to consumers samples of its manufactured distilled beverages; and
- (2) Sell to consumers, for off-site consumption, its manufactured distilled beverages.

17.12.060 CIDERY, MEADERY AND WINERY:

(A) A Cidery, Meadery or Winery is authorized for the manufacture, sale and distribution of cider, mead andor wine at an establishment, but only if the owner or operator of the establishment maintains, in a primary capacity, at the same location, a license pursuant to NCC 5.04.060 and any and all licenses necessary under NRS Chapter 369 that authorize that activity. A license under this Section is subject to the following conditions and requirements, in addition to any and all others that apply.:

- (1) In order to qualify for a license under this Section, the applicant must first present proof of State licensure of the establishment under NRS Chapter 369.
- (2) The manufacture and sale of distilled beverages produced at the location shall comply with all relevant State and Federal laws regarding the manufacture and sale of distilled beverages.

(B) In connection with the sale of beverages for on-premises consumption, a Liquor Sales Establishment licensed under this Section shall comply with the following requirements and limitations regarding such sales:

- (1) The sale of beverages is limited to cider, mead and wine that have been produced at the establishment.

(2) The operator or licensee must submit to the Board for approval, on an annual basis, a proposed event schedule where on-premises consumption will take place, which must include the following:

- (a) Dates, hours, and descriptions of the proposed events.
- (b) The approximate number of persons expected to attend each event.
- (c) An attestation that only those ages twenty-one (21) years and older may be in attendance.

(C) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, a Liquor Sales Establishment with a Cidery, Meadery or Winery license may, pursuant to NRS 597.235:

- (1) Serve to consumers samples of its manufactured cider, mead or wine; and
- (2) Sell to consumers, for off-site consumption, its cider, mead or wine.

17.12.065: ALCOHOLIC BEVERAGE LICENSE; -MANUFACTURING; -COMPLIANCE

Pursuant to this Chapter, Aa Class IV liquor manufacturer's license authorizes the manufacture, production and bottling of alcoholic beverages of all kinds, including the brewing, distilling and rectifying activities associated therewith. The holder of such a license is subject to all Federal and State statutes and regulations including Title 26 Subtitle E of the Internal Revenue Code applicable to those activities.

17.12.070: CINEMAS

(A) For the purposes of this SectionChapter, "Cinema" (or "Movie Theatre") means a theatre at which motion pictures are displayed for an audience on a screen. A Cinema with seating in excess of two hundred (200) permanent theatre seats and five thousand (5,000) square feet of gross floor area may be licensed for the retail sale of alcoholic beverages pursuant to this Section with a license pursuant to NCC Title 5.

(B) A person may apply for a liquor license for the sale of alcoholic beverages at a Cinema pursuant to this Section.

(C) A person that obtains a liquor license for a Cinema shall comply with the following conditions:

1. A licensee shall only allow the sale of alcoholic beverages in an area that is designated for the service of alcoholic beverages and separated sufficiently to prevent access to the designated area by minors; and
2. A licensee shall not designate any such separated area within the Cinema as a "bar" or "lounge; and"
3. Nothing in this Section prohibits a minor from entering or remaining in an area designated for the service of alcoholic beverages as long as the minor is continuously accompanied by the minor's parent or legal guardian; and
4. A licensee shall not permit alcoholic beverages in any arcade, or retail sales area; and
5. The sale of alcoholic beverages shall be incidental to the primary business or activity of the Cinema. For purposes of this subsection, "sales of alcoholic beverages must be incidental to" means that the sale of alcoholic beverages is subordinate to and plays a supporting role to the primary business or activity at the Cinema. The incidental sales of alcoholic beverages is evidenced by satisfaction of one or more of the following: 1) alcoholic beverage sales of less than twenty-five (25) percent of the total gross sales of the establishment during any renewal period; 2) a review of the space used by the activities which does not evidence a use of the space as primarily for the sale of alcoholic beverages; 3) a review of the promotional materials used for the activity which does not evidence a use of the space as primarily for the sale of alcoholic beverages; or 4) a review of the employees, and the time commitments by such employees utilized for the activities, which does not evidence a use of the space as primarily for the sale of alcoholic beverages.
6. The licensee shall only sell alcoholic beverages to patrons possessing a ticket for a motion picture on the date of the ticket.

(D) Notwithstanding any other provision of this Code, provided that the licensee complies with the provisions of this Chapter and all conditions of the liquor license issued, persons under twenty-one (21) years of age may enter a Cinema licensed for the sale of alcoholic beverages and the licensee may sell alcoholic beverages at such establishment to those individuals that are twenty-one (21) years of age or older even though persons under twenty-one (21) years of age are present within the cinema.

17.12.075:

17.12.075: STORAGE OF ALCOHOLIC BEVERAGES: -RESIDENTIAL

Except as otherwise stated in this Chapter, it is unlawful for any person to store alcoholic beverages on the premises of any residence subject to this Chapter if intended to be for a commercial establishment. Under no circumstances will a license be issued to a commercial establishment who intends to store alcoholic beverages at a residence.

17.12.080 – COMPLIANCE PERIOD

To preserve public health and safety, current license holders will have until 2025 to come into compliance. In the event a liquor license was granted within thirty (30) days of this ordinance being enacted, the licensee will have until 2025 or the license renewal date, whichever is longer.

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 6th day of July, 2020.

Proposed on the _____ day of _____, 2020.

Proposed by: Commissioner _____.

Adopted on the _____ day of _____, 2020

Vote: Ayes: _____ Commissioners:

Nays: _____ Commissioners:

Absent: _____ Commissioners:

BY:

ATTEST:

John Koenig, Chairman
Nye County Board of
County Commissioners

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

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 _____, 2020.~~

~~PROPOSED on the _____ day of _____, 2020.~~

~~PROPOSED by COMMISSIONER _____~~

~~PASSED on the _____ day of _____, 2020.~~

~~VOTE: _____ AYES: _____ NAYS: _____~~

~~ABSENT: _____~~

~~ABSTENTIONS: _____~~

~~BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF NYE, STATE
OF NEVADA~~

~~By: _____
John Koenig, Chair~~

~~ATTEST:~~

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

~~This ordinance shall be in force and effect from and after the _____ day of the month of _____ of the year 2020.~~

NYE COUNTY ORDINANCE NO.557

SUMMARY: An ordinance amending Nye County Code Title 17, titled Comprehensive Land Use Planning and Zoning, by adding Chapter 17.12, titled Craft Distillery, Brewery, Brew Pub, Cidery, Meadery and Winery Zoning Requirements, to establish the zoning, land use and development requirements applicable to distilleries, micro-distilleries, cidery, microbreweries, brew pubs, meaderies and wineries within Nye County, including those areas within the Pahrump Regional Planning District.

TITLE: AN ORDINANCE AMENDING NYE COUNTY CODE TITLE 17, TITLED COMPREHENSIVE LAND USE PLANNING AND ZONING, BY ADDING CHAPTER 17.12, TITLED CRAFT DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY ZONING REQUIREMENTS, TO ESTABLISH THE ZONING, LAND USE AND DEVELOPMENT REQUIREMENTS APPLICABLE TO DISTILLERIES, MICRO-DISTILLERIES, CIDERY, MICROBREWERIES, BREW PUBS, MEADERIES AND WINERIES WITHIN NYE COUNTY, INCLUDING THOSE AREAS WITHIN THE PAHRUMP REGIONAL PLANNING 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, the Nye County Board of Commissioners (Board) is authorized to amend the Nye County Code relating to Planning and Zoning; and

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 underlined blue font:

Chapter 17.12
CRAFT DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY
ZONING REQUIREMENTS

17.12.010: INTENT; GENERALLY:

17.12.020: DEFINITIONS:

17.12.030: REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT:

17.12.040: BREW PUB, BREWERY, CRAFT DISTILLERY, CIDERY, MEADERY AND
WINERY ESTABLISHMENT ZONING REQUIREMENTS:

17.12.045: BREW PUB:

17.12.050: BREWERY:

17.12.055: CRAFT DISTILLERY:

17.12.060: CIDERY, MEADERY AND WINERY:

17.12.065: ALCOHOLIC BEVERAGE LICENSE; MANUFACTURING; COMPLIANCE:

17.12.070: CINEMAS:

17.12.075: STORAGE OF ALCOHOLIC BEVERAGES; RESIDENTIAL:

17.12.080: COMPLIANCE PERIOD:

17.12.010: INTENT; GENERALLY:

The intent of this Chapter is to establish the zoning, land use and development requirements applicable to agritourism establishments, including distilleries, micro-distilleries, cidery, microbreweries, brew pubs and wineries within Nye County, including those areas within the Pahrump Regional Planning District.

17.12.020: DEFINITIONS:

The following definitions are in addition to the definitions set forth in NCC of this title. Unless the context clearly indicates a different meaning, the definitions below shall govern the construction, meaning, and application of words and phrases used in this Chapter:

ALCOHOL: A product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

ALCOHOLIC BEVERAGE: Any malt beverage or spirituous vinous or malt liquor which contains one percent or more ethyl alcohol by volume.

BOARD: Nye County Liquor and Licensing Board

BREW PUB: An establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230 and NRS 369.180.

BREWERY: A brewery is an establishment which manufactures malt beverages but does not sell those malt beverages at retail.

CATERING LIQUOR: A business which:

- A. Prepares food at a licensed location for delivery or service to consumers, and may, in conjunction therewith, provide the service of alcoholic beverages; or
- B. Delivers or serves alcoholic beverages from a licensed location to consumers or at a banquet-reception hall which is operated by the catering liquor business.

CIDER: Fermented apples or other fruit juices often made sparkling by carbonation or fermentation in a sealed container.

CRAFT DISTILLERY: An establishment which manufactures distilled spirits from agricultural raw materials through distillation and is authorized to sell those distilled spirits pursuant to the provisions of NRS Chapter 597.235

DEMONSTRATION MEAL: An event held at a restaurant with bar or resort hotel wherein a special meal is prepared and served, with or without a fee, to invited guests only, is not open to the public and wherein beer, wine, or spirit-based products are sampled at various stages of the meal and made available for sale for off-premises consumption at the time of the event.

DIRECTOR: The Nye County Planning Director.

DISTILLATION: The process of producing or purifying spirituous liquor by successive evaporation and condensation.

ESTATE DISTILLERY: An establishment which:

- A. Manufactures distilled spirits from agricultural raw materials through distillation, provided that eighty-five (85) percent of such agricultural raw materials, in the aggregate, were grown on land within this State which is owned or controlled by the owner of the distillery; and
- B. Is authorized to sell those distilled spirits pursuant to the provisions of this Chapter.

IMPORTER: Any person who, in the case of liquors which are brewed, fermented, or produced outside the State, is first in possession thereof within the State after completion of the act of importation.

INSTRUCTIONAL WINE-MAKING FACILITY: Any facility that, for a fee, provides a person of legal age with instruction and the opportunity to participate directly in the process of wine making on the premises of the facility. The term does not include:

- A. A wine maker or winery that is licensed pursuant to NRS Chapter 369.
- B. A university, state college or community college that is part of the Nevada System of Higher Education or any other postsecondary educational institution that is licensed by a federal or state agency and is accredited by a nationally recognized educational accrediting association

LIQUEUR: A distilled liquor produced by combining a base spirit with fruits or herbs and sweetened with sugar syrup; usually considered an after-meal drink.

LIQUOR: For purposes of this Chapter, Liquor shall be defined as beer, wine, gin, whiskey, cordials, ethyl alcohol, rum, cider or mead, and every liquid containing one-half of one percent of alcohol by volume and which is used for beverages purposes.

LIQUOR MANUFACTURER: An establishment where the primary business is the manufacture, production, and bottling of alcoholic liquor and spirit-based products of all kinds, including brewing, distilling, and rectifying activities. A liquor manufacturer licensee is subject to all federal and state laws and regulations applicable to such business activities.

LIQUOR SALES ESTABLISHMENT: Liquor sales establishments shall be organized into the following classes:

- A. Class I, Packaged Liquor Sales Establishment: Any establishment selling liquor to individuals in its original corked or unopened package for consumption off premises and includes convenience-liquor-grocery stores and other similar types of stores.
- B. Class II, Retail Liquor Sales Establishment; Bar: Any establishment selling retail liquor by the drink for consumption on premises, and in a bar setting, which may or may not include a restaurant as an accessory use.
- C. Class III, Special Club Liquor Sales Establishment: Any establishment dispensing liquor by the drink for consumption on premises only, and which is restricted in use to members and guest(s) accompanied by a member.
- D. Class IV, Liquor manufacturer: Any establishment that manufactures liquor for sale to the public which includes distilleries, wineries, cideries, meaderies and breweries.
- E. Class V, Wholesale Dealer, as defined in this Chapter below.
- F. Class VI, Special Event Liquor License, as defined in this Chapter below.

LIQUOR TASTING LICENSE: A liquor tasting license allows a person to serve samples of intoxicating liquors inside a grocery store or other establishment. They must possess a valid package liquor license and must have at least 10,000 square feet of public space.

MALT BEVERAGE: Beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

MEAD: A fermented beverage made of water and honey, malt and yeast.

NONPROFIT CLUB: A nonprofit organization classified in one of the categories defined in Section 501 of the United States Internal Revenue Code as being exempt from payment of federal income tax, that owns, rents or leases a building or space suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, but does not include associations organized for any commercial or business purpose.

OFF-SALE: The sale of alcoholic beverages in original sealed or corked containers for consumption off the premises where the same are sold or provided free of charge.

ON-SALE: The sale or serving of alcoholic beverages for consumption on the premises where the same are sold or provided free of charge.

OPERATION: The conduct of any business regulated or licensed by this Chapter.

PROCESS OF WINE MAKING: The usual and customary steps taken to produce wine, which may include, without limitation:

- A. Growing, buying and importing agricultural products and ingredients.
- B. Selecting, preparing and processing agricultural products and ingredients.
- C. Barreling, fermenting, aging, filtering, bottling, labeling, racking, warehousing and storing.
- D. Importing bulk wine or juice from a bonded winery in another state, to be fermented into wine or, if already fermented, to be blended with other wine and aged in a suitable cellar.

RESORT HOTEL: A building or group of buildings kept, used, maintained, advertised, and held out to the public to be a hotel where sleeping accommodations are offered to transient guests, which has a minimum of two hundred (200) rooms used for sleeping accommodations, and which has a minimum of the following amenities, all of which are directly connected to the building or group of buildings upon the premises:

- A. One main bar with more than thirty (30) permanent seats wherein alcoholic liquors are dispensed by the drink to customers at such bar; and
- B. One service bar wherein alcoholic liquor is prepared for service only at tables and not direct to customers at such bar; and
- C. Entertainment which includes at least one of the following:
 1. One facility with at least twenty-five (25) seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artist) on a regularly scheduled basis; or
 2. One facility with at least one hundred (100) seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artists) on a semi-regular basis (at least six (6) times per year).
- D. One restaurant with permanent seating capacity for more than sixty (60) patrons that is open to the public twenty-four (24) hours a day, seven days per week; and
- E. Room service to all rooms, including, without limitation, service of meals; and

F. A recreational facility which includes at least one of the following:

1. Four (4) regulation tennis courts with locker rooms and attendant facilities;
2. One (1) swimming pool that is swimmable and adequate in relationship to the size of the resort hotel as approved by the Board;
3. One (1) regular golf course consisting of at least nine holes comprising at least twenty-five (25) acres;
4. One (1) gymnasium with dimensions of at least forty (40) feet in width, sixty (60) feet in length, and twenty (20) feet in height and equipped with exercise equipment; or
5. Any other type of recreational facility as approved by the Board.

G. A gaming area within the building or group of buildings. When determining whether a particular applicant complies with the resort hotel definition, the Board may consider:

1. The physical layout of buildings and facilities; and
2. The unity of title and ownership of the buildings or group of buildings; and
3. The operation and management relationship of gaming to hotel administration; and
4. The proximity of the proposed resort hotel to residential development.

SPECIAL EVENT LIQUOR LICENSE: A license which authorizes the licensee to sell, serve, or give away alcoholic beverages for consumption only on the premises for which the license is issued and only for such time as specified on the license, but not to exceed nine (9) consecutive calendar days. The license which must be approved by the Director is limited to one (1) per applicant per calendar quarter.

SPIRITS: A distillate obtained from the fermentation of the natural contents of fruits or other agricultural products containing natural or added sugar and which contains not more than ten percent of alcohol by volume. For purposes of this Chapter, spirits shall be the same Liquor Sales Establishment class as beer and wine.

TASTING ROOM: Part of a winery or brewery, typically located on the premises of the winery or brewery's production facilities, at which guests may sample the winery or brewery's products.

TECHNIQUES OF ALCOHOL MANAGEMENT: TAM is a nationally recognized alcohol awareness training program used in Nevada.

TAVERN: An establishment primarily engaged in selling or serving alcoholic beverages at retail by the drink to the general public for on-premises consumption, with the ability to request approval for the following ancillary activities: a dance hall, live entertainment, food service, and restricted gaming.

WHOLESALE DEALER: Any person licensed to sell liquor as it is originally packaged to retail liquor stores or to another licensed wholesaler.

WINE: Any alcoholic beverage obtained by the fermentation of the natural content of fruits or other agricultural products containing sugar.

WINERY: A business which produces, bottles, blends or ages wine, or that imports wine or juice from a winery located in another state to be fermented into wine, and that:

- A. Has been issued a winemaker's license in accordance with NRS 369.200; and
- B. Is bonded and permitted in accordance with NRS 597.240.

17.12.030: REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT

Any Craft Distillery, Brewery, Brew Pub, Cidery, Meadery or Winery establishment to include liquor manufacturers, distributors, importers, and wholesalers shall require the approval, and be conducted in compliance with the terms and conditions of a special use permit.

A. Administration and Enforcement:

1. **Designation of Planning Authority:** For purposes of the administration of special use permits as provided for in this Chapter, the Board of County Commissioners shall be designated as the planning authority for all areas in Nye County, to include those areas located within the Pahrump Regional Planning District.
2. **Penalties:** Any person violating any provision of this Chapter is guilty of a misdemeanor and is subject to a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) and/or imprisonment in the County jail for a period not to exceed six (6) months. Any act that is prohibited, or the result from the failure to perform required acts, shall constitute a violation of this Chapter. Any person is guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed or continued.
3. **Abatement Proceedings:** In addition to any penalties that may be imposed, any use of property, or the establishment of any building, structure or use contrary to the provisions of this Chapter or in violation of any condition attached to the granting of a special use permit, the County may commence proceedings for the abatement in accordance with this code or state law, or may pursue other remedies as provided by law.
4. **Revocation of Special Use Permit:** Failure to abide by and faithfully comply with the provisions of this Chapter with respect to use, development standards, or maintenance requirements, with any other requirement of this code, with any applicable requirement of the Nevada Revised Statutes or Nevada Administrative Code, or with any and all conditions attached to the granting of any land use application hereunder is unlawful and a public nuisance, and shall constitute grounds for the revocation of the same, or any permit or license issued in conjunction with the application.

- a. Upon discovery of such a violation, the County may commence proceedings for the revocation thereof in accordance with applicable provisions of this code or may pursue other remedies as provided by law. If the Board determines that there is sufficient cause to revoke the application or permit, a public hearing shall be scheduled before the Board, at which time the property owner or other interested party may show cause as to why the permit should or should not be revoked. If the Board revokes the permit, it shall specify for the record the reasons for its action.
- b. The revocation of a business license, or the revocation of permits, which are no longer appealable, to conduct a use or the failure to obtain or maintain a valid certificate of registration/license issued by the State of Nevada shall cause any special use permit to become invalid without the hearing specified in subsection A(4)(a) of this section.

5. Term of Special Use Permit: Any special use permit issued herein shall remain in effect provided the establishment is in compliance with all conditions of the special use permit and the establishment continues to maintain a valid Nye County liquor license (NCC 5.04.050). Failure to maintain a valid liquor license for the premises shall cause any special use permit issued herein to become void and invalid.

6. Non-transferability of Special Use Permit: Any special use permit approved by the Board shall be specific to the establishment business owner as specified on the permit. Any change in ownership in the establishment shall require the submission of an application by the new owner(s) prior to the transfer of ownership. The Board shall consider if the change in ownership materially affects the suitability of the operations considered upon issuance of the special use permit to the previous business owner. The issuance of a special use permit to a new business owner shall be valid until the expiration of the term of the special use permit issued to the previous business owner, which shall be required to be renewed as set forth herein.

7. Cumulative Remedies: All remedies provided herein shall be cumulative and not exclusive.

A. Application Process:

1. Form: Applications for a special use permit shall be submitted to the Director on a form or format as specified by the Director. In addition to any other information as may be required by the Director, each applicant must submit the following:
 - a. If the application is submitted by an agent for the property owner, the application must include a signed affidavit from the owner that the owner knows that the proposed use of the property is for a Liquor Sales Establishment;
 - b. A site plan showing the location of any existing or proposed buildings or structures, vehicular access, parking areas, landscaping, and demonstrating how the proposed facility meets all security requirements;

- c. A statement that the proposed site is not within one thousand (1,000) feet of a public or private school, any community use including a church/synagogue, childcare facility, public library, community recreation facility, or park.
- d. Must submit a certificate and straight line drawing prepared by a professional land surveyor, licensed in the state of Nevada, which depicts the distance to property boundary lines within one thousand five hundred (1,500) feet of any established community use which includes a: church/synagogue, school, childcare facility, public library, community recreation facility, or park.
- e. Any other documents the applicant desires to be considered by the Board in consideration of the conditions of approval as set forth herein.

2. Public Hearing Notice Requirements: Upon the filing of a complete application for a special use permit, the County shall give notice setting forth the time, place and purpose of such hearing. Notice of such hearing must be mailed at least ten (10) calendar days prior to the hearing to:

- a. The applicant;
- b. Each owner of real property, as listed on the County assessor's records, located within three hundred (300) feet of the property in question;
- c. The owner, as listed on the County assessor's records, of each of the thirty (30) separately owned parcels nearest the property in question;
- d. Any advisory board which has been established for the affected area by the governing body;
- e. If a military installation is located within three thousand (3,000) feet of the property in question, the commander of that military installation;
- f. If an Indian reservation is located within three thousand (3,000) feet of the property in question, the chief and council of the Indian reservation and the United States Department of the Interior Bureau of Indian Affairs (BIA); and
- g. The Nye County Sheriff, Nye County Emergency Medical Services, and Nye County fire department.

B. Standards for Approval

1. 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.; or
2. Will not be hazardous or disturbing to existing or future neighboring uses.; or
3. 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.; or

4. Capability to provide safe and secure packaging of liquor products that would assist in reducing the exposure of children to the dangers of liquor.; or
5. Whether the design of the Liquor Sales Establishment maintains a professional appearance and is compatible with existing uses or future uses in the proposed area of development.; or
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.; or
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.

C. Mandatory Conditions of Approval: The Board may impose conditions of approval that are more restrictive than those required by this section in the sole discretion of the Board. The approval of any special use permit authorizing the operation of a Liquor Sales Establishment must contain at a minimum the following conditions:

1. Certificate Required Prior To Commencing Operations: The special use permit grantee must provide to the Director a copy of the registration certificate issued by the State of Nevada and any Federal licenses prior to commencing operations.
2. Must Meet Local, State and Federal Law Requirements: The Liquor Sales Establishment must continue to meet all requirements for a Liquor Sales Establishment to qualify for and maintain its certificate of registration as set forth by state law.
3. Must Comply with Operating Procedures: The Liquor Sales Establishment must comply with all operating procedures required by state, local and federal laws and ordinances.
4. Prohibit Consumption of Liquor: The Liquor Sales Establishment must prohibit staff from consuming liquor on the premises.
5. Signage for Liquor Sales Establishments: If the Liquor Sales Establishment has on site signage, the signage shall be limited to one wall sign not to exceed two (2) square feet in size. On site signs shall not exceed twenty-five (25) square feet in size. All signage must obtain approval from the state and the County.
6. Age Restrictions: The establishment must prohibit anyone under the age of twenty-one (21) years on the premises unless allowed by state law.
7. Enclosed Facilities: All production, distilling of liquor that a facility carries out or causes to be carried out must take place in an enclosed facility.
8. Display of Liquor: The Liquor Sales Establishment must prevent liquor or paraphernalia from being displayed or kept in a manner that is visible from outside the facility.

9. Security Systems: The Liquor Sales Establishment must install security surveillance cameras that monitor all entrances, along with the interior and exterior of the premises. Recordings from these cameras must be maintained in a retrievable manner for at least sixty (60) days from the date recorded. Surveillance systems shall include a lighting system.

10. Burglary Alarm Systems: The Liquor Sales establishment must install and maintain in good working condition robbery and burglary alarm systems.

11. Interior Signage: The Liquor Sales Establishment must post a legible sign inside the facility stating that:

- a. The use or distribution of liquor to minors is against the law.
- c. No one under the age of twenty-one (21) years old is permitted on the premises without an adult at all times.
- d. NOTICE TO ALL CUSTOMERS

THE OWNER OR SALESPERSON OF THIS PREMISES HAS THE RIGHT TO REFUSE TO SELL OR SERVE ALCOHOLIC BEVERAGES TO ANYONE WHO APPEARS TO BE UNDER THE INFLUENCE OF ALCOHOL TO SUCH AN EXTENT THAT HE IS UNABLE TO EXERCISE CARE FOR HIS OWN HEALTH OR SAFETY, OR THE HEALTH OR SAFETY OF OTHERS.

NYE COUNTY LIQUOR AND LICENSING BOARD

e. During all of the period of time for which a license has been issued authorizing the sale of alcoholic beverages, the license shall be posted and at all times displayed in a conspicuous place in the room where such business is carried on so that all persons visiting such place may readily see and read the same per NCC 5.04.170.

D. Liquor Sales Establishment Location Restrictions: All facilities for Liquor Sales Establishments must be located a distance of at least one thousand (1,000) feet from any property line of a parcel that has an established public or private school, and shall not be located within one thousand five hundred (1,500) feet of any property line of a parcel that has any other established community facility at the time of issuance of the special use permit.

E. Security and Screening Standards for the production of alcoholic beverage makers:

- 1. The requirements in Nevada Revised Statutes 369 are hereby adopted by reference.
- 2. Liquor may only be distilled, in an indoor area equipped with locks or other security devices that permit access only by those authorized by state law to produce alcohol.
- 3. Liquor is not allowed to be produced/distilled in a location or manner that is visible from any area normally accessible to the general public or from any point off the parcel.

4. All requirements, standards and conditions for the Liquor Sales Establishment in state statute and regulations must be met at all times.
- G. Extensions of Time: Any grantee of a special use permit may request an extension of time by submitting the required application form and processing fee to the planning department prior to the expiration date. All applications for an extension of time shall be processed as a public hearing and all decisions shall be made by the Board of County Commissioners. (Ord. 511, 2017)

17.12.040: BREW PUB, BREWERY, CRAFT DISTILLERY, CIDERY, MEADERY AND WINERY ESTABLISHMENT ZONING REQUIREMENTS:

Brew Pub, Brewery, Craft Distillery, Cidery, Meadery and Winery establishments, to include liquor manufacturers, distributors, importers, and wholesalers, shall be allowed within the light industrial (LI), heavy industrial (HI), General Commercial (GC), Neighborhood Commercial (NC) Calvada Commercial (CC), Town Center (TC), Commercial Manufacturing (CM) zones if located within the Pahrump Regional Planning District. Cideries, Meaderies and Wineries may also be allowed in Business Overlay (BO) Business Overlay (BO) zone if located within the Pahrump Regional Planning District. In any other area outside of the Pahrump Regional Planning District that permits general commercial, manufacturing, light industrial and/or heavy industrial uses, subject to compliance with the distance separation requirements and other restrictions contained in this Chapter and upon the approval of a special use permit as required in this Chapter.

17.12.045: BREW PUB

A Brew Pub is authorized for the manufacture and sale of malt beverages at an establishment provided that the owner or operator of such establishment maintains in a primary capacity, at the same location, a Brew Pub license pursuant to NCC 5.04.060:

(A) A Brew Pub license shall only be issued subject to the following conditions:

- (1) That the manufacture and sale of the malt beverages produced at the location shall comply with all relevant State and Federal laws regarding the manufacture and sale of malt beverages;
- (2) The manufacture and sale of malt beverages may only occur as an ancillary activity to the activities permitted by the primary license; and
- (3) Prior to issuance of a Brew Pub license by the Board, the applicant shall present proof of State licensure of the establishment as a Brew Pub.

(B) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, the holder of a Brew Pub license may dispense beer or cider in a container sold or provided by the licensee, or a sanitary container provided by the customer, with a maximum capacity which does not exceed one (1) gallon subject to the following conditions:

- (1) The licensee or the licensee's employee fills the container at the time the beer or cider is sold;
- (2) The container is thereafter sealed with a plastic adhesive or tamper-evident seal; and
- (3) The beer or cider is not consumed on the licensee's premises.

(C) Any brew pub or tavern license in existence prior to the adoption of the ordinance codified in this Section may continue to operate as currently licensed unless the operation of the establishment is discontinued for a period of greater than twelve (12) consecutive months. Upon the expiration of a period of discontinuance for greater than twelve (12) months, the establishment must obtain and maintain alcoholic beverage licenses pursuant to the applicable regulations then in effect.

17.12.050: BREWERY

A Brewery is authorized for the manufacture, sale and distribution of malt beverages at an establishment provided that the owner or operator of such establishment maintains in a primary capacity, at the same location, a license pursuant to NCC 5.04.060:

(A) A Brewery license shall only be issued subject to the following conditions:

- (1) That the manufacture and sale of the malt beverages produced at the location shall comply with all relevant State and Federal laws regarding the manufacture and sale of malt beverages;
- (2) The manufacture and sale of malt beverages may only occur as an ancillary activity to the activities permitted by the primary license; and
- (3) Prior to issuance of a brewery license by the Board, the applicant shall present proof of State licensure of the establishment as a Brewery.

17.12.055: CRAFT DISTILLERY

(A) A Craft Distillery is authorized for the manufacture, sale and distribution of distilled beverages at an establishment, but only if the owner or operator of the establishment maintains, in a primary capacity, at the same location, a license pursuant to NCC 5.04.060 and any and all licenses necessary under NRS Chapter 369 that authorize that activity. A license under this Section is subject to the following conditions and requirements, in addition to any and all others that apply:

(1) In order to qualify for a license under this Section, the applicant must first present proof of State licensure of the establishment under NRS Chapter 369.

(2) The manufacture and sale of distilled beverages produced at the location shall comply with all relevant State and Federal laws regarding the manufacture and sale of distilled beverages.

(B) In connection with the sale of beverages for on-premises consumption, a Liquor Sales Establishment licensed under this Section shall comply with the following requirements and limitations regarding such sales:

(1) The sale of beverages is limited to distilled beverages that have been produced at the establishment.

(2) The operator or licensee must submit to the Board for approval, on an annual basis, a proposed event schedule where on-premises consumption will take place, which must include the following:

(a) Dates, hours, and descriptions of the proposed events.

(b) The approximate number of persons expected to attend each event.

(c) An attestation that only those ages twenty-one (21) years and older may be in attendance.

(C) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, a Liquor Sales Establishment with a Craft Distillery alcoholic beverage license may, pursuant to NRS 597.235:

(1) Serve to consumers samples of its manufactured distilled beverages; and

(2) Sell to consumers, for off-site consumption, its manufactured distilled beverages.

17.12.060 CIDERY, MEADERY AND WINERY:

(A) A Cidery, Meadery or Winery is authorized for the manufacture, sale and distribution of cider, mead or wine at an establishment, but only if the owner or operator of the establishment maintains, in a primary capacity, at the same location, a license pursuant to NCC 5.04.060 and any and all licenses necessary under NRS Chapter 369 that authorize that activity. A license under this Section is subject to the following conditions and requirements, in addition to any and all others that apply.:

(1) In order to qualify for a license under this Section, the applicant must first present proof of State licensure of the establishment under NRS Chapter 369.

(2) The manufacture and sale of distilled beverages produced at the location shall comply with all relevant State and Federal laws regarding the manufacture and sale of distilled beverages.

(B) In connection with the sale of beverages for on-premises consumption, a Liquor Sales Establishment licensed under this Section shall comply with the following requirements and limitations regarding such sales:

(1) The sale of beverages is limited to cider, mead and wine that have been produced at the establishment.

(2) The operator or licensee must submit to the Board for approval, on an annual basis, a proposed event schedule where on-premises consumption will take place, which must include the following:

(a) Dates, hours, and descriptions of the proposed events.

(b) The approximate number of persons expected to attend each event.

(c) An attestation that only those ages twenty-one (21) years and older may be in attendance.

(C) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, a Liquor Sales Establishment with a Cidery, Meadery or Winery license may, pursuant to NRS 597.235:

(1) Serve to consumers samples of its manufactured cider, mead or wine; and

(2) Sell to consumers, for off-site consumption, its cider, mead or wine.

17.12.065: ALCOHOLIC BEVERAGE LICENSE; MANUFACTURING; COMPLIANCE

Pursuant to this Chapter, a Class IV liquor manufacturer's license authorizes the manufacture, production and bottling of alcoholic beverages of all kinds, including the brewing, distilling and rectifying activities associated therewith. The holder of such a license is subject to all Federal and State statutes and regulations including Title 26 Subtitle E of the Internal Revenue Code applicable to those activities.

17.12.070: CINEMAS

(A) For the purposes of this Chapter, "Cinema" (or "Movie Theatre") means a theatre at which motion pictures are displayed for an audience on a screen. A Cinema with seating in excess of two hundred (200) permanent theatre seats and five thousand (5,000) square feet of gross

floor area may be licensed for the retail sale of alcoholic beverages pursuant to this Section with a license pursuant to NCC Title 5.

(B) A person may apply for a liquor license for the sale of alcoholic beverages at a Cinema pursuant to this Section.

(C) A person that obtains a liquor license for a Cinema shall comply with the following conditions:

1. A licensee shall only allow the sale of alcoholic beverages in an area that is designated for the service of alcoholic beverages and separated sufficiently to prevent access to the designated area by minors; and
2. A licensee shall not designate any such separated area within the Cinema as a "bar" or "lounge; and"
3. Nothing in this Section prohibits a minor from entering or remaining in an area designated for the service of alcoholic beverages as long as the minor is continuously accompanied by the minor's parent or legal guardian; and
4. A licensee shall not permit alcoholic beverages in any arcade, or retail sales area; and
5. The sale of alcoholic beverages shall be incidental to the primary business or activity of the Cinema. For purposes of this subsection, "sales of alcoholic beverages must be incidental to" means that the sale of alcoholic beverages is subordinate to and plays a supporting role to the primary business or activity at the Cinema. The incidental sales of alcoholic beverages is evidenced by satisfaction of one or more of the following: 1) alcoholic beverage sales of less than twenty-five (25) percent of the total gross sales of the establishment during any renewal period; 2) a review of the space used by the activities which does not evidence a use of the space as primarily for the sale of alcoholic beverages; 3) a review of the promotional materials used for the activity which does not evidence a use of the space as primarily for the sale of alcoholic beverages; or 4) a review of the employees, and the time commitments by such employees utilized for the activities, which does not evidence a use of the space as primarily for the sale of alcoholic beverages.
6. The licensee shall only sell alcoholic beverages to patrons possessing a ticket for a motion picture on the date of the ticket.

(D) Notwithstanding any other provision of this Code, provided that the licensee complies with the provisions of this Chapter and all conditions of the liquor license issued, persons under twenty-one (21) years of age may enter a Cinema licensed for the sale of alcoholic beverages and the licensee may sell alcoholic beverages at such establishment to those individuals that are twenty-one (21) years of age or older even though persons under twenty-one (21) years of age are present within the cinema.

17.12.075: STORAGE OF ALCOHOLIC BEVERAGES; RESIDENTIAL

Except as otherwise stated in this Chapter, it is unlawful for any person to store alcoholic beverages on the premises of any residence subject to this Chapter if intended to be for a commercial establishment. Under no circumstances will a license be issued to a commercial establishment who intends to store alcoholic beverages at a residence.

17.12.080 – COMPLIANCE PERIOD

To preserve public health and safety, current license holders will have until 2025 to come into compliance. In the event a liquor license was granted within thirty (30) days of this ordinance being enacted, the licensee will have until 2025 or the license renewal date, whichever is longer.

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 6th day of July, 2020.

Proposed on the ____ day of _____, 2020.

Proposed by: Commissioner _____.

Adopted on the ____ day of _____, 2020

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. 2020-04

NYE COUNTY ORDINANCE NO._____

SUMMARY: A Bill proposing to add Nye County Code Title 17, titled Comprehensive Land Use Planning and Zoning, Chapter 17.12, titled Craft Distillery, Brewery, Brew Pub, Cidery, Meadery and Winery Zoning Requirements, to establish the zoning, land use and development requirements applicable to distilleries, micro-distilleries, cidery, microbreweries, brew pubs, meaderies and wineries within Nye County, including those areas within the Pahrump Regional Planning District.

TITLE: A BILL PROPOSING TO ADD NYE COUNTY CODE TITLE 17, TITLED COMPREHENSIVE LAND USE PLANNING AND ZONING, CHAPTER 17.12, TITLED CRAFT DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY ZONING REQUIREMENTS, TO ESTABLISH THE ZONING, LAND USE AND DEVELOPMENT REQUIREMENTS APPLICABLE TO DISTILLERIES, MICRO-DISTILLERIES, CIDERY, MICROBREWERY, BREW PUBS, MEADERIES AND WINERIES WITHIN NYE COUNTY, INCLUDING THOSE AREAS WITHIN THE PAHRUMP REGIONAL PLANNING 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, the Nye County Board of Commissioners (Board) is authorized to amend the Nye County Code relating to Planning and Zoning; and

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:

Chapter 17.12
CRAFT DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY
ZONING REQUIREMENTS

17.12.010: INTENT; GENERALLY:

17.12.020: DEFINITIONS:

17.12.030: REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT:

17.12.040: BREW PUB, BREWERY, CRAFT DISTILLERY, CIDERY, MEADERY AND
WINERY ESTABLISHMENT ZONING REQUIREMENTS:

17.12.045: BREW PUB:

17.12.050: BREWERY:

17.12.055: CRAFT DISTILLERY:

17.12.060: CIDERY, MEADERY AND WINERY:

17.12.065: ALCOHOLIC BEVERAGE LICENSE; MANUFACTURING; COMPLIANCE:

17.12.070: CINEMAS:

17.12.075: STORAGE OF ALCOHOLIC BEVERAGES; RESIDENTIAL:

17.12.080: COMPLIANCE PERIOD:

17.12.010: INTENT; GENERALLY:

The intent of this Chapter is to establish the zoning, land use and development requirements applicable to agritourism establishments, including distilleries, micro-distilleries, cidery, microbreweries, brew pubs and wineries within Nye County, including those areas within the Pahrump Regional Planning District.

17.12.020: DEFINITIONS:

The following definitions are in addition to the definitions set forth in NCC of this title. Unless the context clearly indicates a different meaning, the definitions below shall govern the construction, meaning, and application of words and phrases used in this Chapter:

ALCOHOL: A product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

ALCOHOLIC BEVERAGE: Any malt beverage or spirituous vinous or malt liquor which contains one percent or more ethyl alcohol by volume.

BOARD: Nye County Liquor and Licensing Board

BREW PUB: An establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230 and NRS 369.180.

BREWERY: A brewery is an establishment which manufactures malt beverages but does not sell those malt beverages at retail.

CATERING LIQUOR: A business which:

- A. Prepares food at a licensed location for delivery or service to consumers, and may, in conjunction therewith, provide the service of alcoholic beverages; or
- B. Delivers or serves alcoholic beverages from a licensed location to consumers or at a banquet-reception hall which is operated by the catering liquor business.

CIDER: Fermented apples or other fruit juices often made sparkling by carbonation or fermentation in a sealed container.

CLUB: An association of persons, incorporated or not, for the promotion of some common object, but not including associations organized for any commercial or business purpose, owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests.

CRAFT DISTILLERY: An establishment which manufactures distilled spirits from agricultural raw materials through distillation and is authorized to sell those distilled spirits pursuant to the provisions of NRS Chapter 597.235

DEMONSTRATION MEAL: An event held at a restaurant with bar or resort hotel wherein a special meal is prepared and served, with or without a fee, to invited guests only, is not open to the public and wherein beer, wine, or spirit-based products are sampled at various stages of the meal and made available for sale for off-premises consumption at the time of the event.

DIRECTOR: The Nye County Planning Director.

DISTILLATION: The process of producing or purifying spirituous liquor by successive evaporation and condensation.

ESTATE DISTILLERY: An establishment which:

- A. Manufactures distilled spirits from agricultural raw materials through distillation, provided that eighty-five (85) percent of such agricultural raw materials, in the aggregate, were grown on land within this State which is owned or controlled by the owner of the distillery; and
- B. Is authorized to sell those distilled spirits pursuant to the provisions of this Chapter.

IMPORTER: Any person who, in the case of liquors which are brewed, fermented, or produced outside the State, is first in possession thereof within the State after completion of the act of importation.

INSTRUCTIONAL WINE-MAKING FACILITY: Any facility that, for a fee, provides a person of legal age with instruction and the opportunity to participate directly in the process of wine making on the premises of the facility. The term does not include:

- A. A wine maker or winery that is licensed pursuant to NRS Chapter 369.
- B. A university, state college or community college that is part of the Nevada System of Higher Education or any other postsecondary educational institution that is licensed by a federal or

state agency and is accredited by a nationally recognized educational accrediting association

LIQUEUR: A distilled liquor produced by combining a base spirit with fruits or herbs and sweetened with sugar syrup; usually considered an after-meal drink.

LIQUOR: For purposes of this Chapter, Liquor shall be defined as beer, wine, gin, whiskey, cordials, ethyl alcohol, rum, cider or mead, and every liquid containing one-half of one percent of alcohol by volume and which is used for beverages purposes.

LIQUOR MANUFACTURER: An establishment where the primary business is the manufacture, production, and bottling of alcoholic liquor and spirit-based products of all kinds, including brewing, distilling, and rectifying activities. A liquor manufacturer licensee is subject to all federal and state laws and regulations applicable to such business activities.

LIQUOR SALES ESTABLISHMENT: Liquor sales establishments shall be organized into the following classes:

- A. Class I, Packaged Liquor Sales Establishment: Any establishment selling liquor to individuals in its original corked or unopened package for consumption off premises and includes convenience-liquor-grocery stores and other similar types of stores.
- B. Class II, Retail Liquor Sales Establishment; Bar: Any establishment selling retail liquor by the drink for consumption on premises, and in a bar setting, which may or may not include a restaurant as an accessory use.
- C. Class III, Special Club Liquor Sales Establishment: Any establishment dispensing liquor by the drink for consumption on premises only, and which is restricted in use to members and guest(s) accompanied by a member.
- D. Class IV, Liquor manufacturer: Any establishment that manufactures liquor for sale to the public which includes distilleries, wineries, cideries, meaderies and breweries.
- E. Class V, Wholesale Dealer, as defined in this Chapter below.

F. Class VI, Special Event Liquor License, as defined in this Chapter below.

F.G. Class VII, 72-Hour Special Event PermitLiquor License, as defined in this Chapter below.

LIQUOR TASTING LICENSE: A liquor tasting license allows a person to serve samples of intoxicating liquors inside a grocery store or other establishment. They must possess a valid package liquor license and must have at least 10,000 square feet of public space.

MALT BEVERAGE: Beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

MEAD: A fermented beverage made of water and honey, malt and yeast.An alcoholic beverage created by fermenting honey with water, sometimes with various fruits, spices, grains, or hops. The alcoholic content ranges from about 3.5% ABV to more than 20%. The defining characteristic of mead is that the majority of the beverage's fermentable sugar is derived from honey.

NONPROFIT CLUB: A nonprofit organization classified in one of the categories defined in Section 501 of the United States Internal Revenue Code as being exempt from payment of federal income tax, that owns, rents or leases a building or space suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, but does not include associations organized for any commercial or business purpose.

OFF-SALE: The sale of alcoholic beverages in original sealed or corked containers for consumption off the premises where the same are sold or provided free of charge.

ON-SALE: The sale or serving of alcoholic beverages for consumption on the premises where the same are sold or provided free of charge.

OPERATION: The conduct of any business regulated or licensed by this Chapter.

PROCESS OF WINE MAKING: The usual and customary steps taken to produce wine, which may include, without limitation:

- A. Growing, buying and importing agricultural products and ingredients.
- B. Selecting, preparing and processing agricultural products and ingredients.
- C. Barreling, fermenting, aging, filtering, bottling, labeling, racking, warehousing and storing.
- D. Importing bulk wine or juice from a bonded winery in another state, to be fermented into wine or, if already fermented, to be blended with other wine and aged in a suitable cellar.

RESORT HOTEL: A building or group of buildings kept, used, maintained, advertised, and held out to the public to be a hotel where sleeping accommodations are offered to transient guests, which has a minimum of two hundred (200) rooms used for sleeping accommodations, and which has a minimum of the following amenities, all of which are directly connected to the building or group of buildings upon the premises:

- A. One main bar with more than thirty (30) permanent seats wherein alcoholic liquors are dispensed by the drink to customers at such bar; and
- B. One service bar wherein alcoholic liquor is prepared for service only at tables and not direct to customers at such bar; and
- C. Entertainment which includes at least one of the following:
 - 1. One facility with at least twenty-five (25) seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artist) on a regularly scheduled basis; or
 - 2. One facility with at least one hundred (100) seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artists) on a semi-regular basis (at least six (6) times per year).
- D. One restaurant with permanent seating capacity for more than sixty (60) patrons that is open to the public twenty-four (24) hours a day, seven days per week; and

- E. Room service to all rooms, including, without limitation, service of meals; and
- F. A recreational facility which includes at least one of the following:
 - 1. Four (4) regulation tennis courts with locker rooms and attendant facilities;
 - 2. One (1) swimming pool that is swimmable and adequate in relationship to the size of the resort hotel as approved by the Board;
 - 3. One (1) regular golf course consisting of at least nine holes comprising at least twenty-five (25) acres;
 - 4. One (1) gymnasium with dimensions of at least forty (40) feet in width, sixty (60) feet in length, and twenty (20) feet in height and equipped with exercise equipment; or
 - 5. Any other type of recreational facility as approved by the Board.
- G. A gaming area within the building or group of buildings. When determining whether a particular applicant complies with the resort hotel definition, the Board may consider:
 - 1. The physical layout of buildings and facilities; and
 - 2. The unity of title and ownership of the buildings or group of buildings; and
 - 3. The operation and management relationship of gaming to hotel administration; and
 - 4. The proximity of the proposed resort hotel to residential development.

SPECIAL EVENT LIQUOR LICENSE: A license which authorizes ~~the-an existing~~ licensee to sell, serve, or give away alcoholic beverages for consumption only on the premises for which the license is issued and only for such time as specified on the license, but not to exceed nine (9) consecutive calendar days. ~~This~~ license ~~which~~ must be approved by the ~~Board~~Director ~~and~~ is limited to one (1) per applicant per calendar quarter.

72-HOUR SPECIAL EVENT PERMIT LIQUOR LICENSE: A ~~permit~~ license for selling liquor at a special event by:

- 1. ~~A nonprofit organization~~ Nonprofit Club or ~~e~~ Club which otherwise does not hold a liquor license; or
- 2. ~~A currently licensed for profit business or other for profit or nonprofit entity which desires to sell liquor outside of its licensed premises.~~
- 3. ~~This license shall be subject to the following restrictions:~~
 - A. ~~Shall not exceed two (2) consecutive calendar months; and~~
 - B. ~~Shall not exceed Restricted to no more than two (2) events per calendar month. not to exceed a time frame deemed excessive by the Board.~~

SPIRITS: A distillate obtained from the fermentation of the natural contents of fruits or other agricultural products containing natural or added sugar and which contains not more than ten percent of alcohol by volume. For purposes of this Chapter, spirits shall be the same Liquor Sales Establishment class as beer and wine.

TASTING ROOM: Part of a winery or brewery, typically located on the premises of the winery or brewery's production facilities, at which guests may sample the winery or brewery's products.

TECHNIQUES OF ALCOHOL MANAGEMENT: TAM is a nationally recognized alcohol awareness training program used in Nevada.

TAVERN: An establishment primarily engaged in selling or serving alcoholic beverages at retail by the drink to the general public for on-premises consumption, with the ability to request approval for the following ancillary activities: a dance hall, live entertainment, food service, and restricted gaming.

WHOLESALE DEALER: Any person licensed to sell liquor as it is originally packaged to retail liquor stores or to another licensed wholesaler.

WINE: Any alcoholic beverage obtained by the fermentation of the natural content of fruits or other agricultural products containing sugar.

WINERY: A business which produces, bottles, blends or ages wine, or that imports wine or juice from a winery located in another state to be fermented into wine, and that:

- A. Has been issued a winemaker's license in accordance with NRS 369.200; and
- B. Is bonded and permitted in accordance with NRS 597.240.

17.12.030: REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT

Any Craft Distillery, Brewery, Brew Pub, Cidery, Meadery or Winery establishment to include liquor manufacturers, distributors, importers, and wholesalers shall require the approval, and be conducted in compliance with the terms and conditions of a special use permit.

A. Administration and Enforcement:

1. **Designation of Planning Authority:** For purposes of the administration of special use permits as provided for in this Chapter, the Board of County Commissioners shall be designated as the planning authority for all areas in Nye County, to include those areas located within the Pahrump Regional Planning District.
2. **Penalties:** Any person violating any provision of this Chapter is guilty of a misdemeanor and is subject to a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) and/or imprisonment in the County jail for a period not to exceed six (6) months. Any act that is prohibited, or the result from the failure to perform required acts, shall constitute a violation of this Chapter. Any person is guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed or continued.
3. **Abatement Proceedings:** In addition to any penalties that may be imposed, any use of property, or the establishment of any building, structure or use contrary to the provisions of this Chapter or in violation of any condition attached to the granting of a special use permit, the County

may commence proceedings for the abatement in accordance with this code or state law, or may pursue other remedies as provided by law.

4. Revocation of Special Use Permit: Failure to abide by and faithfully comply with the provisions of this Chapter with respect to use, development standards, or maintenance requirements, with any other requirement of this code, with any applicable requirement of the Nevada Revised Statutes or Nevada Administrative Code, or with any and all conditions attached to the granting of any land use application hereunder is unlawful and a public nuisance, and shall constitute grounds for the revocation of the same, or any permit or license issued in conjunction with the application.
 - a. Upon discovery of such a violation, the County may commence proceedings for the revocation thereof in accordance with applicable provisions of this code or may pursue other remedies as provided by law. If the Board determines that there is sufficient cause to revoke the application or permit, a public hearing shall be scheduled before the Board, at which time the property owner or other interested party may show cause as to why the permit should or should not be revoked. If the Board revokes the permit, it shall specify for the record the reasons for its action.
 - b. The revocation of a business license, or the revocation of permits, which are no longer appealable, to conduct a use or the failure to obtain or maintain a valid certificate of registration/license issued by the State of Nevada shall cause any special use permit to become invalid without the hearing specified in subsection A(4)(a) of this section.
5. Term of Special Use Permit: Any special use permit issued herein shall remain in effect provided the establishment is in compliance with all conditions of the special use permit and the establishment continues to maintain a valid Nye County liquor license (NCC 5.04.050). Failure to maintain a valid liquor license for the premises shall cause any special use permit issued herein to become void and invalid.
6. Non-transferability of Special Use Permit: Any special use permit approved by the Board shall be specific to the establishment business owner as specified on the permit. Any change in ownership in the establishment shall require the submission of an application by the new owner(s) prior to the transfer of ownership. The Board shall consider if the change in ownership materially affects the suitability of the operations considered upon issuance of the special use permit to the previous business owner. The issuance of a special use permit to a new business owner shall be valid until the expiration of the term of the special use permit issued to the previous business owner, which shall be required to be renewed as set forth herein.
7. Cumulative Remedies: All remedies provided herein shall be cumulative and not exclusive.

A. Application Process:

1. Form: Applications for a special use permit shall be submitted to the Director on a form or format as specified by the Director. In addition to any other information as may be required by the Director, each applicant must submit the following:

- a. If the application is submitted by an agent for the property owner, the application must include a signed affidavit from the owner that the owner knows that the proposed use of the property is for a Liquor Sales Establishment;
- b. A site plan showing the location of any existing or proposed buildings or structures, vehicular access, parking areas, landscaping, and demonstrating how the proposed facility meets all security requirements;
- c. A statement that the proposed site is not within one thousand (1,000) feet of a public or private school, any community use including a church/synagogue, childcare facility, public library, community recreation facility, or park.
- d. Must submit a certificate and straight line drawing prepared by a professional land surveyor, licensed in the state of Nevada, which depicts the distance to property boundary lines within one thousand five hundred (1,500) feet of any established community use which includes a: church/synagogue, school, childcare facility, public library, community recreation facility, or park.
- e. Any other documents the applicant desires to be considered by the Board in consideration of the conditions of approval as set forth herein.

2. Public Hearing Notice Requirements: Upon the filing of a complete application for a special use permit, the County shall give notice setting forth the time, place and purpose of such hearing. Notice of such hearing must be mailed at least ten (10) calendar days prior to the hearing to:

- a. The applicant;
- b. Each owner of real property, as listed on the County assessor's records, located within three hundred (300) feet of the property in question;
- c. The owner, as listed on the County assessor's records, of each of the thirty (30) separately owned parcels nearest the property in question;
- d. Any advisory board which has been established for the affected area by the governing body;
- e. If a military installation is located within three thousand (3,000) feet of the property in question, the commander of that military installation;
- f. If an Indian reservation is located within three thousand (3,000) feet of the property in question, the chief and council of the Indian reservation and the United States Department of the Interior Bureau of Indian Affairs (BIA); and
- g. The Nye County Sheriff, Nye County Emergency Medical Services, and Nye County fire department.

B. Standards for Approval

1. 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.; or
2. Will not be hazardous or disturbing to existing or future neighboring uses.; or
3. 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.; or
4. Capability to provide safe and secure packaging of liquor products that would assist in reducing the exposure of children to the dangers of liquor.; or
5. Whether the design of the Liquor Sales Establishment maintains a professional appearance and is compatible with existing uses or future uses in the proposed area of development.; or
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.; or
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.

C. Mandatory Conditions of Approval: The Board may impose conditions of approval that are more restrictive than those required by this section in the sole discretion of the Board. The approval of any special use permit authorizing the operation of a Liquor Sales Establishment must contain at a minimum the following conditions:

1. Certificate Required Prior To Commencing Operations: The special use permit grantee must provide to the Director a copy of the registration certificate issued by the State of Nevada and any Federal licenses prior to commencing operations.
2. Must Meet Local, State and Federal Law Requirements: The Liquor Sales Establishment must continue to meet all requirements for a Liquor Sales Establishment to qualify for and maintain its certificate of registration as set forth by state law.
3. Must Comply with Operating Procedures: The Liquor Sales Establishment must comply with all operating procedures required by state, local and federal laws and ordinances.
4. Prohibit Consumption of Liquor: The Liquor Sales Establishment must prohibit staff from consuming liquor on the premises other than for the purpose of tasting during the production process or by request of the customer to check the quality.
5. Signage for Liquor Sales Establishments: Must comply with NCC 17.04.770 and all other local, State or Federal laws. ~~If the Liquor Sales Establishment has on site signage, the signage shall be limited to one wall sign not to exceed two (2) square feet in size. On site signs shall not exceed twenty five (25) square feet in size. All signage must obtain approval from the state and the County.~~
6. Age Restrictions: The establishment must prohibit anyone under the age of twenty-one (21) years on the premises unless allowed by state law.

7. Enclosed Facilities: All production, distilling of liquor that a facility carries out or causes to be carried out must take place in an enclosed facility. This excludes wineries.

~~8. Display of Liquor: The Liquor Sales Establishment must prevent liquor or paraphernalia from being displayed or kept in a manner that is visible from outside the facility.~~

89. Security Systems: The Liquor Sales Establishment must install security surveillance cameras that monitor all entrances, along with the interior and exterior of the premises. Recordings from these cameras must be maintained in a retrievable manner for at least sixty (60) days from the date recorded. Surveillance systems shall include a lighting system.

90. Burglary Alarm Systems: The Liquor Sales establishment must install and maintain in good working condition robbery and burglary alarm systems.

104. Interior Signage: The Liquor Sales Establishment must post a legible sign inside the facility stating that:

- a. The use or distribution of liquor to minors is against the law.
- b. No one under the age of twenty-one (21) years old is permitted on the premises without an adult at all times.
- c. NOTICE TO ALL CUSTOMERS

THE OWNER OR SALESPERSON OF THIS PREMISES HAS THE RIGHT TO REFUSE TO SELL OR SERVE ALCOHOLIC BEVERAGES TO ANYONE WHO APPEARS TO BE UNDER THE INFLUENCE OF ALCOHOL TO SUCH AN EXTENT THAT HE IS UNABLE TO EXERCISE CARE FOR HIS OWN HEALTH OR SAFETY, OR THE HEALTH OR SAFETY OF OTHERS.

NYE COUNTY LIQUOR AND LICENSING BOARD

- d. During all of the period of time for which a license has been issued authorizing the sale of alcoholic beverages, the license shall be posted and at all times displayed in a conspicuous place in the room where such business is carried on so that all persons visiting such place may readily see and read the same per NCC 5.04.170.

D. Liquor Sales Establishment Location Restrictions: All facilities for Liquor Sales Establishments must be located a distance of at least one thousand (1,000) feet from any property line of a parcel that has an established public or private school, and shall not be located within one thousand five hundred (1,500) feet of any property line of a parcel that has any other established community facility at the time of issuance of the special use permit.

E. Security and Screening Standards for the production of alcoholic beverage makers:

1. The requirements in Nevada Revised Statutes 369 are hereby adopted by reference.

2. Liquor may only be distilled, in an indoor area equipped with locks or other security devices that permit access only by those authorized by state law to produce alcohol.

~~3. Liquor is not allowed to be produced/distilled in a location or manner that is visible from any area normally accessible to the general public or from any point off the parcel.~~

34. All requirements, standards and conditions for the Liquor Sales Establishment in state statute and regulations must be met at all times.

G. Extensions of Time: Any grantee of a special use permit may request an extension of time by submitting the required application form and processing fee to the planning department prior to the expiration date. All applications for an extension of time shall be processed as a public hearing and all decisions shall be made by the Board of County Commissioners. (Ord. 511, 2017)

17.12.040: BREW PUB, BREWERY, CRAFT DISTILLERY, CIDERY, MEADERY and WINERY ESTABLISHMENT ZONING REQUIREMENTS:

Brew Pub, Brewery, Craft Distillery, Cidery, Meadery and Winery establishments, to include liquor manufacturers, distributors, importers, and wholesalers, shall be allowed within the light industrial (LI), heavy industrial (HI), General Commercial (GC), Neighborhood Commercial (NC), Calvada Commercial (CC), Town Center (TC), Commercial Manufacturing (CM) zones if located within the Pahrump Regional Planning District. Cideries, Meaderies and Wineries may also be allowed in Business Overlay (BO) Business Overlay (BO) zone if located within the Pahrump Regional Planning District. In any other area outside of the Pahrump Regional Planning District that permits general commercial, manufacturing, light industrial and/or heavy industrial uses, subject to compliance with the distance separation requirements and other restrictions contained in this Chapter and upon the approval of a special use permit as required in this Chapter.

17.12.045: BREW PUB

A Brew Pub is authorized for the manufacture and sale of malt beverages at an establishment provided that the owner or operator of such establishment maintains in a primary capacity, at the same location, a Brew Pub license pursuant to NCC 5.04.060:

(A) A Brew Pub license shall only be issued subject to the following conditions:

- (1) That the manufacture and sale of the malt beverages produced at the location shall comply with all relevant local, State and Federal laws regarding the manufacture and sale of malt beverages;
- (2) The manufacture and sale of malt beverages may only occur as an ancillary activity to the activities permitted by the primary license; and
- (3) Prior to issuance of a Brew Pub license by the Board, the applicant shall present proof of State licensure of the establishment as a Brew Pub.

(B) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, the holder of a Brew Pub license may dispense beer or cider in a container sold or provided by the licensee, or a sanitary container provided by the customer, with a maximum capacity which does not exceed one (1) gallon subject to the following conditions:

- (1) The licensee or the licensee's employee fills the container at the time the beer or cider is sold;
- (2) The container is thereafter sealed with a plastic adhesive or tamper-evident seal; and
- (3) The beer or cider is not consumed on the licensee's premises.

(C) Any brew pub or tavern license in existence prior to the adoption of the ordinance codified in this Section may continue to operate as currently licensed unless the operation of the establishment is discontinued for a period of greater than twelve (12) consecutive months. Upon the expiration of a period of discontinuance for greater than twelve (12) months, the establishment must obtain and maintain alcoholic beverage licenses pursuant to the applicable regulations then in effect.

17.12.050: BREWERY

A Brewery is authorized for the manufacture, sale and distribution of malt beverages at an establishment provided that the owner or operator of such establishment maintains in a primary capacity, at the same location, a license pursuant to NCC 5.04.060:

(A) A Brewery license shall only be issued subject to the following conditions:

- (1) That the manufacture and sale of the malt beverages produced at the location shall comply with all relevant local, State and Federal laws regarding the manufacture and sale of malt beverages;
- (2) The manufacture and sale of malt beverages may only occur as an ancillary activity to the activities permitted by the primary license; and
- (3) Prior to issuance of a permanent liquor brewery license by the Board, the applicant shall present proof of State licensure of the establishment as a Brewery.

17.12.055: CRAFT DISTILLERY

(A) A Craft Distillery is authorized for the manufacture, sale and distribution of distilled beverages at an establishment, but only if the owner or operator of the establishment maintains, in a primary capacity, at the same location, a license pursuant to NCC 5.04.060 and any and all licenses necessary under NRS Chapter 369 that authorize that activity. A license under this

Section is subject to the following conditions and requirements, in addition to any and all others that apply:

- (1) In order to qualify for a license under this Section, the applicant must first present proof of State licensure of the establishment under NRS Chapter 369.
- (2) The manufacture and sale of distilled beverages produced at the location shall comply with all relevant local, State and Federal laws regarding the manufacture and sale of distilled beverages.

(B) In connection with the sale of beverages for on-premises consumption, a Liquor Sales Establishment licensed under this Section shall comply with the following requirements and limitations regarding such sales:

- (1) ~~The sale of beverages is limited to distilled beverages that have been produced at the establishment. The manufacture and sale of distilled beverages produced at the location shall comply with all relevant local, State and Federal laws regarding the manufacture and sale of distilled beverages.~~
- (2) The operator or licensee must submit to the Board for approval, on an annual basis, a proposed outdoor event schedule where on-premises consumption will take place with groups of 50 persons or more, which must include the following:
 - (a) Dates, hours, and descriptions of the proposed events.
 - (b) The approximate number of persons expected to attend each event.
 - (c) An attestation that only those ages twenty-one (21) years and older may be in attendance.

(C) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, a Liquor Sales Establishment with a Craft Distillery alcoholic beverage license may, pursuant to NRS 597.235:

- (1) Serve to consumers samples of its manufactured distilled beverages; and
- (2) Sell to consumers, for off-site consumption, its manufactured distilled beverages.

17.12.060 CIDERY, MEADERY AND WINERY:

(A) A Cidery, Meadery or Winery is authorized for the manufacture, sale and distribution of cider, mead or wine at an establishment, but only if the owner or operator of the establishment maintains, in a primary capacity, at the same location, a license pursuant to NCC 5.04.060 and any and all licenses necessary under NRS Chapter 369 that authorize that activity. A license

under this Section is subject to the following conditions and requirements, in addition to any and all others that apply.:

(1) In order to qualify for a license under this Section, the applicant must first present proof of State licensure of the establishment under NRS Chapter 369.

(2) The manufacture and sale of cider, mead or wine~~distilled~~ beverages produced at the location shall comply with all relevant local, State and Federal laws regarding the manufacture and sale of ~~distilled~~ these beverages.

(B) In connection with the sale of beverages for on-premises consumption, a Liquor Sales Establishment licensed under this Section shall comply with the following requirements and limitations regarding such sales:

(1) The sale of beverages is limited to cider, mead and wine that have been produced at the establishment.

(2) The operator or licensee must submit to the Board for approval, on an annual basis, a proposed outdoor event schedule where on-premises consumption will take place, with groups of fifty (50) persons or more, which must include the following:

(a) Dates, hours, and descriptions of the proposed events.

(b) The approximate number of persons expected to attend each event.

(c) An attestation that only those ages twenty-one (21) years and older may be in attendance without being accompanied by an adult at all times while on the premises.

(C) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, a Liquor Sales Establishment with a Cidery, Meadery or Winery license may, pursuant to NRS 597.235:

(1) Serve to consumers samples of its manufactured cider, mead or wine; and

(2) Sell to consumers, for off-site consumption, its cider, mead or wine.

17.12.065: ALCOHOLIC BEVERAGE LICENSE; MANUFACTURING; COMPLIANCE

Pursuant to this Chapter, a Class IV liquor manufacturer's license authorizes the manufacture, production and bottling of alcoholic beverages of all kinds, including the brewing, distilling and rectifying activities associated therewith. The holder of such a license is subject to all local, Federal and State statutes and regulations including Title 26 Subtitle E of the Internal Revenue Code applicable to those activities.

17.12.070: CINEMAS

(A) For the purposes of this Chapter, "Cinema" (or "Movie Theatre") means a theatre at which motion pictures are displayed for an audience on a screen. A Cinema with seating in excess of two hundred (200) permanent theatre seats and five thousand (5,000) square feet of gross floor area may be licensed for the retail sale of alcoholic beverages pursuant to this Section with a license pursuant to NCC Title 5.

(B) A person may apply for a liquor license for the sale of alcoholic beverages at a Cinema pursuant to this Section.

(C) A person that obtains a liquor license for a Cinema shall comply with the following conditions:

1. A licensee shall only allow the sale of alcoholic beverages in an area that is designated for the service of alcoholic beverages and separated sufficiently to prevent access to the designated area by minors; and
2. A licensee shall not designate any such separated area within the Cinema as a "bar" or "lounge; and"
3. Nothing in this Section prohibits a minor from entering or remaining in an area designated for the service of alcoholic beverages as long as the minor is continuously accompanied by the minor's parent or legal guardian; and
4. A licensee shall not permit alcoholic beverages in any arcade, or retail sales area; and
5. The sale of alcoholic beverages shall be incidental to the primary business or activity of the Cinema. For purposes of this subsection, "sales of alcoholic beverages must be incidental to" means that the sale of alcoholic beverages is subordinate to and plays a supporting role to the primary business or activity at the Cinema. The incidental sales of alcoholic beverages is evidenced by satisfaction of one or more of the following: 1) alcoholic beverage sales of less than twenty-five (25) percent of the total gross sales of the establishment during any renewal period; 2) a review of the space used by the activities which does not evidence a use of the space as primarily for the sale of alcoholic beverages; 3) a review of the promotional materials used for the activity which does not evidence a use of the space as primarily for the sale of alcoholic beverages; or 4) a review of the employees, and the time commitments by such employees utilized for the activities, which does not evidence a use of the space as primarily for the sale of alcoholic beverages.
6. The licensee shall only sell alcoholic beverages to patrons possessing a ticket for a motion picture on the date of the ticket.

(D) Notwithstanding any other provision of this Code, provided that the licensee complies with the provisions of this Chapter and all conditions of the liquor license issued, persons under

twenty-one (21) years of age may enter a Cinema licensed for the sale of alcoholic beverages and the licensee may sell alcoholic beverages at such establishment to those individuals that are twenty-one (21) years of age or older even though persons under twenty-one (21) years of age are present within the cinema.

17.12.075: STORAGE OF ALCOHOLIC BEVERAGES; RESIDENTIAL

Except as otherwise stated in this Chapter, it is unlawful for any person to store alcoholic beverages on the premises of any residence subject to this Chapter if intended to be for a commercial establishment. Under no circumstances will a license be issued to a commercial establishment who intends to store alcoholic beverages at a residence.

17.12.080 – COMPLIANCE PERIOD

To preserve public health and safety, current license holders will have until 2025 to come into compliance. In the event a liquor license was granted within thirty (30) days of this ordinance being enacted, the licensee will have until 2025 or the license renewal date, whichever is longer.

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 6th day of July, 2020.

Proposed on the _____ day of _____, 2020.

Proposed by: Commissioner _____.

Adopted on the _____ day of _____, 2020

Vote: Ayes: _____ Commissioners:

Nays: _____ Commissioners:

Absent: _____ Commissioners:

BY: _____ ATTEST: _____

John Koenig, Chairman
Nye County Board of _____
Sandra L. Merlino
Clerk and Ex-Officio

County Commissioners

Clerk of the Board **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 6th day of July, 2020.

PROPOSED on the 28th day of April, 2020.

PROPOSED by COMMISSIONER _____

PASSED on the _____ day of _____, 2020.

VOTE: _____ **AYES:** _____ **NAYS:** _____

ABSENT: _____

ABSTENTIONS: _____

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF NYE, STATE
OF NEVADA

By: _____

John Koenig, Chair

ATTEST: _____

Sandra L. Merlino, County Clerk
and Ex Officio Clerk of the Board

_____ This ordinance shall be in force and effect from and after the 6th day of the month of July of the year 2020.

BILL NO. 2020-04

NYE COUNTY ORDINANCE NO._____

SUMMARY: A Bill proposing to add Nye County Code Title 17, titled Comprehensive Land Use Planning and Zoning, Chapter 17.12, titled Craft Distillery, Brewery, Brew Pub, Cidery, Meadery and Winery Zoning Requirements, to establish the zoning, land use and development requirements applicable to distilleries, micro-distilleries, cidery, microbreweries, brew pubs, meaderies and wineries within Nye County, including those areas within the Pahrump Regional Planning District.

TITLE: A BILL PROPOSING TO ADD NYE COUNTY CODE TITLE 17, TITLED COMPREHENSIVE LAND USE PLANNING AND ZONING, CHAPTER 17.12, TITLED CRAFT DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY ZONING REQUIREMENTS, TO ESTABLISH THE ZONING, LAND USE AND DEVELOPMENT REQUIREMENTS APPLICABLE TO DISTILLERIES, MICRO-DISTILLERIES, CIDERY, MICROBREWERY, BREW PUBS, MEADERIES AND WINERIES WITHIN NYE COUNTY, INCLUDING THOSE AREAS WITHIN THE PAHRUMP REGIONAL PLANNING 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, the Nye County Board of Commissioners (Board) is authorized to amend the Nye County Code relating to Planning and Zoning; and

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:

Chapter 17.12
CRAFT DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY
ZONING REQUIREMENTS

17.12.010: INTENT; GENERALLY:

17.12.020: DEFINITIONS:

17.12.030: REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT:

17.12.040: BREW PUB, BREWERY, CRAFT DISTILLERY, CIDERY, MEADERY AND
WINERY ESTABLISHMENT ZONING REQUIREMENTS:

17.12.045: BREW PUB:

17.12.050: BREWERY:

17.12.055: CRAFT DISTILLERY:

17.12.060: CIDERY, MEADERY AND WINERY:

17.12.065: ALCOHOLIC BEVERAGE LICENSE; MANUFACTURING; COMPLIANCE:

17.12.070: CINEMAS:

17.12.075: STORAGE OF ALCOHOLIC BEVERAGES; RESIDENTIAL:

17.12.080: COMPLIANCE PERIOD:

17.12.010: INTENT; GENERALLY:

The intent of this Chapter is to establish the zoning, land use and development requirements applicable to agritourism establishments, including distilleries, micro-distilleries, cidery, microbreweries, brew pubs and wineries within Nye County, including those areas within the Pahrump Regional Planning District.

17.12.020: DEFINITIONS:

The following definitions are in addition to the definitions set forth in NCC of this title. Unless the context clearly indicates a different meaning, the definitions below shall govern the construction, meaning, and application of words and phrases used in this Chapter:

ALCOHOL: A product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

ALCOHOLIC BEVERAGE: Any malt beverage or spirituous vinous or malt liquor which contains one percent or more ethyl alcohol by volume.

BOARD: Nye County Liquor and Licensing Board

BREW PUB: An establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230 and NRS 369.180.

BREWERY: A brewery is an establishment which manufactures malt beverages but does not sell those malt beverages at retail.

CATERING LIQUOR: A business which:

- A. Prepares food at a licensed location for delivery or service to consumers, and may, in conjunction therewith, provide the service of alcoholic beverages; or
- B. Delivers or serves alcoholic beverages from a licensed location to consumers or at a banquet-reception hall which is operated by the catering liquor business.

CIDER: Fermented apples or other fruit juices often made sparkling by carbonation or fermentation in a sealed container.

CLUB: An association of persons, incorporated or not, for the promotion of some common object, but not including associations organized for any commercial or business purpose, owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests.

CRAFT DISTILLERY: An establishment which manufactures distilled spirits from agricultural raw materials through distillation and is authorized to sell those distilled spirits pursuant to the provisions of NRS Chapter 597.235

DEMONSTRATION MEAL: An event held at a restaurant with bar or resort hotel wherein a special meal is prepared and served, with or without a fee, to invited guests only, is not open to the public and wherein beer, wine, or spirit-based products are sampled at various stages of the meal and made available for sale for off-premises consumption at the time of the event.

DIRECTOR: The Nye County Planning Director.

DISTILLATION: The process of producing or purifying spirituous liquor by successive evaporation and condensation.

ESTATE DISTILLERY: An establishment which:

- A. Manufactures distilled spirits from agricultural raw materials through distillation, provided that eighty-five (85) percent of such agricultural raw materials, in the aggregate, were grown on land within this State which is owned or controlled by the owner of the distillery; and
- B. Is authorized to sell those distilled spirits pursuant to the provisions of this Chapter.

IMPORTER: Any person who, in the case of liquors which are brewed, fermented, or produced outside the State, is first in possession thereof within the State after completion of the act of importation.

INSTRUCTIONAL WINE-MAKING FACILITY: Any facility that, for a fee, provides a person of legal age with instruction and the opportunity to participate directly in the process of wine making on the premises of the facility. The term does not include:

- A. A wine maker or winery that is licensed pursuant to NRS Chapter 369.
- B. A university, state college or community college that is part of the Nevada System of Higher Education or any other postsecondary educational institution that is licensed by a federal or

state agency and is accredited by a nationally recognized educational accrediting association

LIQUEUR: A distilled liquor produced by combining a base spirit with fruits or herbs and sweetened with sugar syrup; usually considered an after-meal drink.

LIQUOR: For purposes of this Chapter, Liquor shall be defined as beer, wine, gin, whiskey, cordials, ethyl alcohol, rum, cider or mead, and every liquid containing one-half of one percent of alcohol by volume and which is used for beverages purposes.

LIQUOR MANUFACTURER: An establishment where the primary business is the manufacture, production, and bottling of alcoholic liquor and spirit-based products of all kinds, including brewing, distilling, and rectifying activities. A liquor manufacturer licensee is subject to all federal and state laws and regulations applicable to such business activities.

LIQUOR SALES ESTABLISHMENT: Liquor sales establishments shall be organized into the following classes:

- A. Class I, Packaged Liquor Sales Establishment: Any establishment selling liquor to individuals in its original corked or unopened package for consumption off premises and includes convenience-liquor-grocery stores and other similar types of stores.
- B. Class II, Retail Liquor Sales Establishment; Bar: Any establishment selling retail liquor by the drink for consumption on premises, and in a bar setting, which may or may not include a restaurant as an accessory use.
- C. Class III, Special Club Liquor Sales Establishment: Any establishment dispensing liquor by the drink for consumption on premises only, and which is restricted in use to members and guest(s) accompanied by a member.
- D. Class IV, Liquor manufacturer: Any establishment that manufactures liquor for sale to the public which includes distilleries, wineries, cideries, meaderies and breweries.
- E. Class V, Wholesale Dealer, as defined in this Chapter below.
- F. Class VI, Special Event Liquor License, as defined in this Chapter below.
- G. Class VII, 72-Hour Liquor License, as defined in this Chapter below.

LIQUOR TASTING LICENSE: A liquor tasting license allows a person to serve samples of intoxicating liquors inside a grocery store or other establishment. They must possess a valid package liquor license and must have at least 10,000 square feet of public space.

MALT BEVERAGE: Beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

MEAD: An alcoholic beverage created by fermenting honey with water, sometimes with various fruits, spices, grains, or hops. The alcoholic content ranges from about 3.5% ABV to more than 20%. The defining characteristic of mead is that the majority of the beverage's fermentable sugar is derived from honey.

NONPROFIT CLUB: A nonprofit organization classified in one of the categories defined in Section 501 of the United States Internal Revenue Code as being exempt from payment of federal income tax, that owns, rents or leases a building or space suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, but does not include associations organized for any commercial or business purpose.

OFF-SALE: The sale of alcoholic beverages in original sealed or corked containers for consumption off the premises where the same are sold or provided free of charge.

ON-SALE: The sale or serving of alcoholic beverages for consumption on the premises where the same are sold or provided free of charge.

OPERATION: The conduct of any business regulated or licensed by this Chapter.

PROCESS OF WINE MAKING: The usual and customary steps taken to produce wine, which may include, without limitation:

- A. Growing, buying and importing agricultural products and ingredients.
- B. Selecting, preparing and processing agricultural products and ingredients.
- C. Barreling, fermenting, aging, filtering, bottling, labeling, racking, warehousing and storing.
- D. Importing bulk wine or juice from a bonded winery in another state, to be fermented into wine or, if already fermented, to be blended with other wine and aged in a suitable cellar.

RESORT HOTEL: A building or group of buildings kept, used, maintained, advertised, and held out to the public to be a hotel where sleeping accommodations are offered to transient guests, which has a minimum of two hundred (200) rooms used for sleeping accommodations, and which has a minimum of the following amenities, all of which are directly connected to the building or group of buildings upon the premises:

- A. One main bar with more than thirty (30) permanent seats wherein alcoholic liquors are dispensed by the drink to customers at such bar; and
- B. One service bar wherein alcoholic liquor is prepared for service only at tables and not direct to customers at such bar; and
- C. Entertainment which includes at least one of the following:
 - 1. One facility with at least twenty-five (25) seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artist) on a regularly scheduled basis; or
 - 2. One facility with at least one hundred (100) seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artists) on a semi-regular basis (at least six (6) times per year).
- D. One restaurant with permanent seating capacity for more than sixty (60) patrons that is open to the public twenty-four (24) hours a day, seven days per week; and

- E. Room service to all rooms, including, without limitation, service of meals; and
- F. A recreational facility which includes at least one of the following:
 - 1. Four (4) regulation tennis courts with locker rooms and attendant facilities;
 - 2. One (1) swimming pool that is swimmable and adequate in relationship to the size of the resort hotel as approved by the Board;
 - 3. One (1) regular golf course consisting of at least nine holes comprising at least twenty-five (25) acres;
 - 4. One (1) gymnasium with dimensions of at least forty (40) feet in width, sixty (60) feet in length, and twenty (20) feet in height and equipped with exercise equipment; or
 - 5. Any other type of recreational facility as approved by the Board.
- G. A gaming area within the building or group of buildings. When determining whether a particular applicant complies with the resort hotel definition, the Board may consider:
 - 1. The physical layout of buildings and facilities; and
 - 2. The unity of title and ownership of the buildings or group of buildings; and
 - 3. The operation and management relationship of gaming to hotel administration; and
 - 4. The proximity of the proposed resort hotel to residential development.

SPECIAL EVENT LIQUOR LICENSE: A license which authorizes an existing licensee to sell, serve, or give away alcoholic beverages for consumption only on the premises for which the license is issued and only for such time as specified on the license, but not to exceed nine (9) consecutive calendar days. This license must be approved by the Board and is limited to one (1) per applicant per calendar quarter.

72-HOUR LIQUOR LICENSE: A license for selling liquor by:

- 1. A Nonprofit Club or Club which otherwise does not hold a liquor license; or
- 2. A currently licensed for profit business or other for profit or nonprofit entity which desires to sell liquor outside of its licensed premises.
- 3. This license shall be subject to the following restrictions:
 - A. Shall not exceed two (2) consecutive calendar months; and
 - B. Shall not exceed two (2) events per calendar month..

SPIRITS: A distillate obtained from the fermentation of the natural contents of fruits or other agricultural products containing natural or added sugar and which contains not more than ten percent of alcohol by volume. For purposes of this Chapter, spirits shall be the same Liquor Sales Establishment class as beer and wine.

TASTING ROOM: Part of a winery or brewery, typically located on the premises of the winery or brewery's production facilities, at which guests may sample the winery or brewery's products.

TECHNIQUES OF ALCOHOL MANAGEMENT: TAM is a nationally recognized alcohol awareness training program used in Nevada.

TAVERN: An establishment primarily engaged in selling or serving alcoholic beverages at retail by the drink to the general public for on-premises consumption, with the ability to request approval for the following ancillary activities: a dance hall, live entertainment, food service, and restricted gaming.

WHOLESALE DEALER: Any person licensed to sell liquor as it is originally packaged to retail liquor stores or to another licensed wholesaler.

WINE: Any alcoholic beverage obtained by the fermentation of the natural content of fruits or other agricultural products containing sugar.

WINERY: A business which produces, bottles, blends or ages wine, or that imports wine or juice from a winery located in another state to be fermented into wine, and that:

- A. Has been issued a winemaker's license in accordance with NRS 369.200; and
- B. Is bonded and permitted in accordance with NRS 597.240.

17.12.030: REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT

Any Craft Distillery, Brewery, Brew Pub, Cidery, Meadery or Winery establishment to include liquor manufacturers, distributors, importers, and wholesalers shall require the approval, and be conducted in compliance with the terms and conditions of a special use permit.

A. Administration and Enforcement:

1. **Designation of Planning Authority:** For purposes of the administration of special use permits as provided for in this Chapter, the Board of County Commissioners shall be designated as the planning authority for all areas in Nye County, to include those areas located within the Pahrump Regional Planning District.
2. **Penalties:** Any person violating any provision of this Chapter is guilty of a misdemeanor and is subject to a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) and/or imprisonment in the County jail for a period not to exceed six (6) months. Any act that is prohibited, or the result from the failure to perform required acts, shall constitute a violation of this Chapter. Any person is guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed or continued.
3. **Abatement Proceedings:** In addition to any penalties that may be imposed, any use of property, or the establishment of any building, structure or use contrary to the provisions of this Chapter or in violation of any condition attached to the granting of a special use permit, the County may commence proceedings for the abatement in accordance with this code or state law, or may pursue other remedies as provided by law.

4. Revocation of Special Use Permit: Failure to abide by and faithfully comply with the provisions of this Chapter with respect to use, development standards, or maintenance requirements, with any other requirement of this code, with any applicable requirement of the Nevada Revised Statutes or Nevada Administrative Code, or with any and all conditions attached to the granting of any land use application hereunder is unlawful and a public nuisance, and shall constitute grounds for the revocation of the same, or any permit or license issued in conjunction with the application.
 - a. Upon discovery of such a violation, the County may commence proceedings for the revocation thereof in accordance with applicable provisions of this code or may pursue other remedies as provided by law. If the Board determines that there is sufficient cause to revoke the application or permit, a public hearing shall be scheduled before the Board, at which time the property owner or other interested party may show cause as to why the permit should or should not be revoked. If the Board revokes the permit, it shall specify for the record the reasons for its action.
 - b. The revocation of a business license, or the revocation of permits, which are no longer appealable, to conduct a use or the failure to obtain or maintain a valid certificate of registration/license issued by the State of Nevada shall cause any special use permit to become invalid without the hearing specified in subsection A(4)(a) of this section.
5. Term of Special Use Permit: Any special use permit issued herein shall remain in effect provided the establishment is in compliance with all conditions of the special use permit and the establishment continues to maintain a valid Nye County liquor license (NCC 5.04.050). Failure to maintain a valid liquor license for the premises shall cause any special use permit issued herein to become void and invalid.
6. Non-transferability of Special Use Permit: Any special use permit approved by the Board shall be specific to the establishment business owner as specified on the permit. Any change in ownership in the establishment shall require the submission of an application by the new owner(s) prior to the transfer of ownership. The Board shall consider if the change in ownership materially affects the suitability of the operations considered upon issuance of the special use permit to the previous business owner. The issuance of a special use permit to a new business owner shall be valid until the expiration of the term of the special use permit issued to the previous business owner, which shall be required to be renewed as set forth herein.

7. Cumulative Remedies: All remedies provided herein shall be cumulative and not exclusive.

A. Application Process:

1. Form: Applications for a special use permit shall be submitted to the Director on a form or format as specified by the Director. In addition to any other information as may be required by the Director, each applicant must submit the following:

- a. If the application is submitted by an agent for the property owner, the application must include a signed affidavit from the owner that the owner knows that the proposed use of the property is for a Liquor Sales Establishment;
- b. A site plan showing the location of any existing or proposed buildings or structures, vehicular access, parking areas, landscaping, and demonstrating how the proposed facility meets all security requirements;
- c. A statement that the proposed site is not within one thousand (1,000) feet of a public or private school, any community use including a church/synagogue, childcare facility, public library, community recreation facility, or park.
- d. Must submit a certificate and straight line drawing prepared by a professional land surveyor, licensed in the state of Nevada, which depicts the distance to property boundary lines within one thousand five hundred (1,500) feet of any established community use which includes a: church/synagogue, school, childcare facility, public library, community recreation facility, or park.
- e. Any other documents the applicant desires to be considered by the Board in consideration of the conditions of approval as set forth herein.

2. Public Hearing Notice Requirements: Upon the filing of a complete application for a special use permit, the County shall give notice setting forth the time, place and purpose of such hearing. Notice of such hearing must be mailed at least ten (10) calendar days prior to the hearing to:

- a. The applicant;
- b. Each owner of real property, as listed on the County assessor's records, located within three hundred (300) feet of the property in question;
- c. The owner, as listed on the County assessor's records, of each of the thirty (30) separately owned parcels nearest the property in question;
- d. Any advisory board which has been established for the affected area by the governing body;
- e. If a military installation is located within three thousand (3,000) feet of the property in question, the commander of that military installation;
- f. If an Indian reservation is located within three thousand (3,000) feet of the property in question, the chief and council of the Indian reservation and the United States Department of the Interior Bureau of Indian Affairs (BIA); and
- g. The Nye County Sheriff, Nye County Emergency Medical Services, and Nye County fire department.

B. Standards for Approval

1. 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.; or
2. Will not be hazardous or disturbing to existing or future neighboring uses.; or
3. 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.; or
4. Capability to provide safe and secure packaging of liquor products that would assist in reducing the exposure of children to the dangers of liquor.; or
5. Whether the design of the Liquor Sales Establishment maintains a professional appearance and is compatible with existing uses or future uses in the proposed area of development.; or
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.; or
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.

C. Mandatory Conditions of Approval: The Board may impose conditions of approval that are more restrictive than those required by this section in the sole discretion of the Board. The approval of any special use permit authorizing the operation of a Liquor Sales Establishment must contain at a minimum the following conditions:

1. Certificate Required Prior To Commencing Operations: The special use permit grantee must provide to the Director a copy of the registration certificate issued by the State of Nevada and any Federal licenses prior to commencing operations.
2. Must Meet Local, State and Federal Law Requirements: The Liquor Sales Establishment must continue to meet all requirements for a Liquor Sales Establishment to qualify for and maintain its certificate of registration as set forth by state law.
3. Must Comply with Operating Procedures: The Liquor Sales Establishment must comply with all operating procedures required by state, local and federal laws and ordinances.
4. Prohibit Consumption of Liquor: The Liquor Sales Establishment must prohibit staff from consuming liquor on the premises other than for the purpose of tasting during the production process or by request of the customer to check the quality.
5. Signage for Liquor Sales Establishments: Must comply with NCC 17.04.770 and all other local, State or Federal laws.
6. Age Restrictions: The establishment must prohibit anyone under the age of twenty-one (21) years on the premises unless allowed by state law.
7. Enclosed Facilities: All production, distilling of liquor that a facility carries out or causes to be carried out must take place in an enclosed facility. This excludes wineries.

8. Security Systems: The Liquor Sales Establishment must install security surveillance cameras that monitor all entrances, along with the interior and exterior of the premises. Recordings from these cameras must be maintained in a retrievable manner for at least sixty (60) days from the date recorded. Surveillance systems shall include a lighting system.

9. Burglary Alarm Systems: The Liquor Sales establishment must install and maintain in good working condition robbery and burglary alarm systems.

10. Interior Signage: The Liquor Sales Establishment must post a legible sign inside the facility stating that:

- a. The use or distribution of liquor to minors is against the law.
- b. No one under the age of twenty-one (21) years old is permitted on the premises without an adult at all times.
- c. NOTICE TO ALL CUSTOMERS

THE OWNER OR SALESPERSON OF THIS PREMISES HAS THE RIGHT TO REFUSE TO SELL OR SERVE ALCOHOLIC BEVERAGES TO ANYONE WHO APPEARS TO BE UNDER THE INFLUENCE OF ALCOHOL TO SUCH AN EXTENT THAT HE IS UNABLE TO EXERCISE CARE FOR HIS OWN HEALTH OR SAFETY, OR THE HEALTH OR SAFETY OF OTHERS.

NYE COUNTY LIQUOR AND LICENSING BOARD

- d. During all of the period of time for which a license has been issued authorizing the sale of alcoholic beverages, the license shall be posted and at all times displayed in a conspicuous place in the room where such business is carried on so that all persons visiting such place may readily see and read the same per NCC 5.04.170.

D. Liquor Sales Establishment Location Restrictions: All facilities for Liquor Sales Establishments must be located a distance of at least one thousand (1,000) feet from any property line of a parcel that has an established public or private school, and shall not be located within one thousand five hundred (1,500) feet of any property line of a parcel that has any other established community facility at the time of issuance of the special use permit.

E. Security and Screening Standards for the production of alcoholic beverage makers:

1. The requirements in Nevada Revised Statutes 369 are hereby adopted by reference.
2. Liquor may only be distilled, in an indoor area equipped with locks or other security devices that permit access only by those authorized by state law to produce alcohol.
3. All requirements, standards and conditions for the Liquor Sales Establishment in state statute and regulations must be met at all times.

G. Extensions of Time: Any grantee of a special use permit may request an extension of time by submitting the required application form and processing fee to the planning department prior to the expiration date. All applications for an extension of time shall be processed as a public hearing and all decisions shall be made by the Board of County Commissioners. (Ord. 511, 2017)

**17.12.040: BREW PUB, BREWERY, CRAFT DISTILLERY,
CIDERY, MEADERY and WINERY ESTABLISHMENT ZONING
REQUIREMENTS:**

Brew Pub, Brewery, Craft Distillery, Cidery, Meadery and Winery establishments, to include liquor manufacturers, distributors, importers, and wholesalers, shall be allowed within the light industrial (LI), heavy industrial (HI), General Commercial (GC), Neighborhood Commercial (NC), Calvada Commercial (CC), Town Center (TC), Commercial Manufacturing (CM) zones if located within the Pahrump Regional Planning District. Cideries, Meaderies and Wineries may also be allowed in Business Overlay (BO) Business Overlay (BO) zone if located within the Pahrump Regional Planning District. In any other area outside of the Pahrump Regional Planning District that permits general commercial, manufacturing, light industrial and/or heavy industrial uses, subject to compliance with the distance separation requirements and other restrictions contained in this Chapter and upon the approval of a special use permit as required in this Chapter.

17.12.045: BREW PUB

A Brew Pub is authorized for the manufacture and sale of malt beverages at an establishment provided that the owner or operator of such establishment maintains in a primary capacity, at the same location, a Brew Pub license pursuant to NCC 5.04.060:

(A) A Brew Pub license shall only be issued subject to the following conditions:

- (1) That the manufacture and sale of the malt beverages produced at the location shall comply with all relevant local, State and Federal laws regarding the manufacture and sale of malt beverages;
- (2) The manufacture and sale of malt beverages may only occur as an ancillary activity to the activities permitted by the primary license; and
- (3) Prior to issuance of a Brew Pub license by the Board, the applicant shall present proof of State licensure of the establishment as a Brew Pub.

(B) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, the holder of a Brew Pub license may dispense beer or cider in a container sold or provided by the licensee, or a sanitary container provided by the customer, with a maximum capacity which does not exceed one (1) gallon subject to the following conditions:

- (1) The licensee or the licensee's employee fills the container at the time the beer or cider is sold;

- (2) The container is thereafter sealed with a plastic adhesive or tamper-evident seal; and
- (3) The beer or cider is not consumed on the licensee's premises.

(C) Any brew pub or tavern license in existence prior to the adoption of the ordinance codified in this Section may continue to operate as currently licensed unless the operation of the establishment is discontinued for a period of greater than twelve (12) consecutive months. Upon the expiration of a period of discontinuance for greater than twelve (12) months, the establishment must obtain and maintain alcoholic beverage licenses pursuant to the applicable regulations then in effect.

17.12.050: BREWERY

A Brewery is authorized for the manufacture, sale and distribution of malt beverages at an establishment provided that the owner or operator of such establishment maintains in a primary capacity, at the same location, a license pursuant to NCC 5.04.060:

(A) A Brewery license shall only be issued subject to the following conditions:

- (1) That the manufacture and sale of the malt beverages produced at the location shall comply with all relevant local, State and Federal laws regarding the manufacture and sale of malt beverages;
- (2) The manufacture and sale of malt beverages may only occur as an ancillary activity to the activities permitted by the primary license; and
- (3) Prior to issuance of a permanent liquor license by the Board, the applicant shall present proof of State licensure of the establishment as a Brewery.

17.12.055: CRAFT DISTILLERY

(A) A Craft Distillery is authorized for the manufacture, sale and distribution of distilled beverages at an establishment, but only if the owner or operator of the establishment maintains, in a primary capacity, at the same location, a license pursuant to NCC 5.04.060 and any and all licenses necessary under NRS Chapter 369 that authorize that activity. A license under this Section is subject to the following conditions and requirements, in addition to any and all others that apply:

- (1) In order to qualify for a license under this Section, the applicant must first present proof of State licensure of the establishment under NRS Chapter 369.
- (2) The manufacture and sale of distilled beverages produced at the location shall comply with all relevant local, State and Federal laws regarding the manufacture and sale of distilled beverages.

(B) In connection with the sale of beverages for on-premises consumption, a Liquor Sales Establishment licensed under this Section shall comply with the following requirements and limitations regarding such sales:

- (1) The manufacture and sale of distilled beverages produced at the location shall comply with all relevant local, State and Federal laws regarding the manufacture and sale of distilled beverages.
- (2) The operator or licensee must submit to the Board for approval, on an annual basis, a proposed outdoor event schedule where on-premises consumption will take place with groups of 50 persons or more, which must include the following:
 - (a) Dates, hours, and descriptions of the proposed events.
 - (b) The approximate number of persons expected to attend each event.
 - (c) An attestation that only those ages twenty-one (21) years and older may be in attendance.

(C) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, a Liquor Sales Establishment with a Craft Distillery alcoholic beverage license may, pursuant to NRS 597.235:

- (1) Serve to consumers samples of its manufactured distilled beverages; and
- (2) Sell to consumers, for off-site consumption, its manufactured distilled beverages.

17.12.060 CIDERY, MEADERY AND WINERY:

(A) A Cidery, Meadery or Winery is authorized for the manufacture, sale and distribution of cider, mead or wine at an establishment, but only if the owner or operator of the establishment maintains, in a primary capacity, at the same location, a license pursuant to NCC 5.04.060 and any and all licenses necessary under NRS Chapter 369 that authorize that activity. A license under this Section is subject to the following conditions and requirements, in addition to any and all others that apply.:

- (1) In order to qualify for a license under this Section, the applicant must first present proof of State licensure of the establishment under NRS Chapter 369.
- (2) The manufacture and sale of cider, mead or wine beverages produced at the location shall comply with all relevant local, State and Federal laws regarding the manufacture and sale of these beverages.

(B) In connection with the sale of beverages for on-premises consumption, a Liquor Sales Establishment licensed under this Section shall comply with the following requirements and limitations regarding such sales:

(1) The sale of beverages is limited to cider, mead and wine that have been produced at the establishment.

(2) The operator or licensee must submit to the Board for approval, on an annual basis, a proposed outdoor event schedule where on-premises consumption will take place, with groups of fifty (50) persons or more, which must include the following:

(a) Dates, hours, and descriptions of the proposed events.

(b) The approximate number of persons expected to attend each event.

(c) An attestation that only those ages twenty-one (21) years and older may be in attendance without being accompanied by an adult at all times while on the premises.

(C) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, a Liquor Sales Establishment with a Cidery, Meadery or Winery license may, pursuant to NRS 597.235:

(1) Serve to consumers samples of its manufactured cider, mead or wine; and

(2) Sell to consumers, for off-site consumption, its cider, mead or wine.

17.12.065: ALCOHOLIC BEVERAGE LICENSE; MANUFACTURING; COMPLIANCE

Pursuant to this Chapter, a Class IV liquor manufacturer's license authorizes the manufacture, production and bottling of alcoholic beverages of all kinds, including the brewing, distilling and rectifying activities associated therewith. The holder of such a license is subject to all local, Federal and State statutes and regulations including Title 26 Subtitle E of the Internal Revenue Code applicable to those activities.

17.12.070: CINEMAS

(A) For the purposes of this Chapter, "Cinema" (or "Movie Theatre") means a theatre at which motion pictures are displayed for an audience on a screen. A Cinema with seating in excess of two hundred (200) permanent theatre seats and five thousand (5,000) square feet of gross floor area may be licensed for the retail sale of alcoholic beverages pursuant to this Section with a license pursuant to NCC Title 5.

(B) A person may apply for a liquor license for the sale of alcoholic beverages at a Cinema pursuant to this Section.

(C) A person that obtains a liquor license for a Cinema shall comply with the following conditions:

1. A licensee shall only allow the sale of alcoholic beverages in an area that is designated for the service of alcoholic beverages and separated sufficiently to prevent access to the designated area by minors; and
2. A licensee shall not designate any such separated area within the Cinema as a "bar" or "lounge; and"
3. Nothing in this Section prohibits a minor from entering or remaining in an area designated for the service of alcoholic beverages as long as the minor is continuously accompanied by the minor's parent or legal guardian; and
4. A licensee shall not permit alcoholic beverages in any arcade, or retail sales area; and
5. The sale of alcoholic beverages shall be incidental to the primary business or activity of the Cinema. For purposes of this subsection, "sales of alcoholic beverages must be incidental to" means that the sale of alcoholic beverages is subordinate to and plays a supporting role to the primary business or activity at the Cinema. The incidental sales of alcoholic beverages is evidenced by satisfaction of one or more of the following: 1) alcoholic beverage sales of less than twenty-five (25) percent of the total gross sales of the establishment during any renewal period; 2) a review of the space used by the activities which does not evidence a use of the space as primarily for the sale of alcoholic beverages; 3) a review of the promotional materials used for the activity which does not evidence a use of the space as primarily for the sale of alcoholic beverages; or 4) a review of the employees, and the time commitments by such employees utilized for the activities, which does not evidence a use of the space as primarily for the sale of alcoholic beverages.
6. The licensee shall only sell alcoholic beverages to patrons possessing a ticket for a motion picture on the date of the ticket.

(D) Notwithstanding any other provision of this Code, provided that the licensee complies with the provisions of this Chapter and all conditions of the liquor license issued, persons under twenty-one (21) years of age may enter a Cinema licensed for the sale of alcoholic beverages and the licensee may sell alcoholic beverages at such establishment to those individuals that are twenty-one (21) years of age or older even though persons under twenty-one (21) years of age are present within the cinema.

17.12.075: STORAGE OF ALCOHOLIC BEVERAGES; RESIDENTIAL

Except as otherwise stated in this Chapter, it is unlawful for any person to store alcoholic beverages on the premises of any residence subject to this Chapter if intended to be for a

commercial establishment. Under no circumstances will a license be issued to a commercial establishment who intends to store alcoholic beverages at a residence.

17.12.080 – COMPLIANCE PERIOD

To preserve public health and safety, current license holders will have until 2025 to come into compliance. In the event a liquor license was granted within thirty (30) days of this ordinance being enacted, the licensee will have until 2025 or the license renewal date, whichever is longer.

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 6th day of July, 2020.

Proposed on the _____ day of _____, 2020.

Proposed by: Commissioner _____.

Adopted on the _____ day of _____, 2020

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