

# NYE COUNTY AGENDA INFORMATION FORM

1

Action     Presentation     Presentation & Action

<b>Department:</b> Planning		<b>Agenda Date:</b> December 15, 2020
<b>Category:</b> Timed Agenda Item – 10:00 a.m.		
<b>Contact:</b> Brett Waggoner		Phone: 775-751-4249
<b>Return to:</b> Brett Waggoner		<b>Location:</b> Pahrump Planning
<b>Action requested:</b> (Include what, with whom, when, where, why, how much (\$), and terms)		
Public Hearing, discussion and deliberation to adopt, amend and adopt, or reject Nye County Bill No. 2020-20: A Bill proposing to amend Nye County Code Section 17.04.070 Enforcement and Penalties, by adding subsection E Unpermitted Work and subsection F Withhold Permit/Application approvals; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.		
<b>Complete description of requested action:</b> (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)		
Staff recommends adoption with an effective date of January 4, 2021.		
<p><b>Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.</b></p>		
<p><b>Expenditure Impact by FY(s):</b> (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	Verified by MG 12-09-20
4.	Date	9. Finance	Date N/A
5.	Date	10. County Manager	<input checked="" type="checkbox"/> Place on Agenda

MG  
ITEM # 11

BILL NO. 2020-20

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

**SUMMARY:** A Bill proposing to amend Nye County Code Section 17.04.070 Enforcement and Penalties, by adding subsection E Unpermitted Work and subsection F Withhold Permits/Application approvals; providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

**TITLE:** A BILL PROPOSING TO AMEND NYE COUNTY CODE SECTION 17.04.070 ENFORCEMENT AND PENALTIES, BY ADDING SUBSECTION E UNPERMITTED WORK AND SUBSECTION F WITHHOLD PERMITS/APPLICATION APPROVALS; 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 County Commissioners (“Board”) is authorized to amend the Nye County Code; and

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

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

**WHEREAS**, NRS 278.610 makes it unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure within the territory covered by the building code or zoning regulations without obtaining a building permit from the building official; and

**WHEREAS**, the Board finds these changes to be appropriate and an improvement to the regulations;

**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 SECTION 17.04.070 IS HEREBY AMENDED AS FOLLOWS**, with **Deletions** shown in strike-through red font, and **additions and modifications** shown in underscored blue font:

**17.04.070: ENFORCEMENT AND PENALTIES:**

- A. Any person, firm or corporation who, after fourteen (14) days of receiving written notification of violation of any of the provision(s) of this chapter, knowingly continues to violate said provision(s) of this chapter is guilty of a misdemeanor.
- B. Each such person is guilty of a separate offense for each and every day or portion thereof during which violation of any of the provisions of this chapter is committed, continued or permitted.
- C. Upon conviction of any violation of this chapter, such person(s) shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months in the Nye County Jail, or by both such fine and imprisonment.
- D. Any building or structure hereafter set up, erected, built, moved or maintained or any use of property hereafter contrary to the provisions of this chapter shall be, and the same is declared to be, unlawful and a public nuisance, and the County may immediately commence action or actions, proceeding or proceedings, for the abatement thereof in a manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such building, structure or use and restrain and enjoin any person from setting up, erecting, building, moving and maintaining any such building or structure, or using any property contrary to the provisions of this chapter. (Ord. 285, 2004)

#### E. Unpermitted Work and Use of The Property

- 1. Any building or structure hereafter set up, erected, built, moved or maintained or any use of property hereafter contrary to the provisions of this chapter without the required approvals shall be subject to and the persons, firms, companies, partnerships or corporations responsible for a violation of this Code shall pay a violation fee in addition to the required application fee, as well as be subject to any other applicable enforcement measures provided in this chapter of the NCC. The violation fee shall be up to four (4) times the amount of the of the land use application fee as set forth in the adopted fee schedule. The payment of such violation fee shall not exempt any persons, firms, companies, partnerships or corporations – from compliance with other provisions of this code nor from any other penalty prescribed by law. For purpose of this chapter a firm is defined as a business made up of two or more, in any combination, of the following: persons, companies, partnerships or corporate entities.
- 2. The planning department may, in considering the amount of the violation fee to assess, take into consideration whether the zoning administrator or their designee has determined that a permit application has been pursued in a timely manner and in good faith by the persons, firm or corporation responsible for a violation of this Code, and whether the assessment of a reduced violation fee is in the best interest of the County.

#### F. Withhold Permit/Application

- 1. The County may deny or withhold all permits, certificates, applications or other forms of authorization on any land or structure or improvements upon a determination that there is an uncorrected violation of a provision of this Code or of a condition or qualification of a permit, certificate, application, approval, or other authorization previously granted by the

County. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.

2. The County may deny or withhold all permits, certificates, applications, or other forms of authorization on any land or structure or improvements owned or being developed by persons, firms, companies, partnerships or corporations who own, develop, or otherwise cause an uncorrected violation of a provision of this Code or of a condition or qualification of a permit, certificate, application or other authorization previously granted by the County. This provision shall apply regardless of whether the property for which the permit or other approval is sought is the property in violation.

**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 4<sup>th</sup> day of January, 2021.

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. 2020-20

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

**SUMMARY:** A Bill proposing to amend Nye County Code Section 17.04.070 Enforcement and Penalties, by adding subsection E Unpermitted Work and subsection F Withhold Permits/Application approvals; providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

**TITLE:** A BILL PROPOSING TO AMEND NYE COUNTY CODE SECTION 17.04.070 ENFORCEMENT AND PENALTIES, BY ADDING SUBSECTION E UNPERMITTED WORK AND SUBSECTION F WITHHOLD PERMITS/APPLICATION APPROVALS; 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 County Commissioners (“Board”) is authorized to amend the Nye County Code; and

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

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

**WHEREAS**, NRS 278.610 makes it unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure within the territory covered by the building code or zoning regulations without obtaining a building permit from the building official; and

**WHEREAS**, the Board finds these changes to be appropriate and an improvement to the regulations;

**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 SECTION 17.04.070 IS HEREBY AMENDED AS FOLLOWS**, with **Deletions** shown in strike-through red font, and **additions and modifications** shown in underscored blue font:

**17.04.070: ENFORCEMENT AND PENALTIES:**

- A. Any person, firm or corporation who, after fourteen (14) days of receiving written notification of violation of any of the provision(s) of this chapter, knowingly continues to violate said provision(s) of this chapter is guilty of a misdemeanor.
- B. Each such person is guilty of a separate offense for each and every day or portion thereof during which violation of any of the provisions of this chapter is committed, continued or permitted.
- C. Upon conviction of any violation of this chapter, such person(s) shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months in the Nye County Jail, or by both such fine and imprisonment.
- D. Any building or structure hereafter set up, erected, built, moved or maintained or any use of property hereafter contrary to the provisions of this chapter shall be, and the same is declared to be, unlawful and a public nuisance, and the County may immediately commence action or actions, proceeding or proceedings, for the abatement thereof in a manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such building, structure or use and restrain and enjoin any person from setting up, erecting, building, moving and maintaining any such building or structure, or using any property contrary to the provisions of this chapter. (Ord. 285, 2004)
  - 1. Unpermitted Work and Use of The Property. Any building or structure hereafter set up, erected, built, moved or maintained or any use of property hereafter contrary to the provisions of this chapter without the required approvals shall be subject to and the persons, firms, companies, partnerships or corporations responsible for a violation of this Code shall pay a violation fee in addition to the required application fee, as well as be subject to any other applicable enforcement measures provided in this chapter of the NCC. The violation fee shall be up to four (4) times the amount of the land use application fee as set forth in the adopted fee schedule. The payment of such violation fee shall not exempt any persons, firms, companies, partnerships or corporations from compliance with other provisions of this code nor from any other penalty prescribed by law. For purpose of this chapter a firm is defined as a business made up of two or more, in any combination, of the following: persons, companies, partnerships or corporate entities.
  - 2. The planning department may, in considering the amount of the violation fee to assess, take into consideration whether the zoning administrator or their designee has determined that a permit application has been pursued in a timely manner and in good faith by the persons, firm or corporation responsible for a violation of this Code, and whether the assessment of a reduced violation fee is in the best interest of the County.

#### F. Withhold Permit/Application

- 1. The County may deny or withhold all permits, certificates, applications or other forms of authorization on any land or structure or improvements upon a determination that there is an uncorrected violation of a provision of this Code or of a condition or qualification of a permit, certificate, application, approval, or other authorization previously granted by the County. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.

2. The County may deny or withhold all permits, certificates, applications, or other forms of authorization on any land or structure or improvements owned or being developed by persons, firms, companies, partnerships or corporations who own, develop, or otherwise cause an uncorrected violation of a provision of this Code or of a condition or qualification of a permit, certificate, application or other authorization previously granted by the County. This provision shall apply regardless of whether the property for which the permit or other approval is sought is the property in violation.

**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 4<sup>th</sup> day of January, 2021.

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