

# NYE COUNTY AGENDA INFORMATION FORM

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☒ Action
 ☐ Presentation
 ☐ Presentation & Action

<b>Department:</b> Planning		<b>Agenda Date:</b>	
<b>Category:</b> Timed Agenda Item – 10:00 a.m.		<b>June 22, 2022</b>	
<b>Contact:</b> Brett Waggoner		Phone: 775-751-4244	Continued from meeting of: March 15, 2022
<b>Return to:</b> Brett Waggoner	<b>Location:</b> Pahrump Planning		Phone: 775-751-6381
<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. 2022-04: A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, by adding Chapter 17.13 entitled Special Use Permits, to establish land use and permitting requirements applicable to certain types of land uses including definitions, special uses requiring special use permits, applications, grounds for suspension and revocation, and time limitations; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto; and 2) Read the title of the bill into the record.			
<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 July 12, 2022.			
Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.			
<b>Expenditure Impact by FY(s):</b> (Provide detail on Financial Form)			
<input type="checkbox"/> No financial impact			

## Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date
2.	Date	7. HR	Date
3.	Date	8. Legal <i>Verified by ST</i>	Date <i>6/15/22</i>
4.	Date	9. Finance	Date <i>NA</i>
5.	Date	10. County Manager <i>[Signature]</i>	Date

Item #: 10

BILL NO. 2022-04

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

**SUMMARY:** A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, by adding Chapter 17.13 entitled Special Use Permits, to establish land use and permitting requirements applicable to certain types of land uses including definitions, special uses requiring special use permits, applications, grounds for suspension and revocation, and time limitations, and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

**TITLE:** A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 17, COMPREHENSIVE LAND USE PLANNING AND ZONING, BY ADDING CHAPTER 17.13 ENTITLED SPECIAL USE PERMITS, TO ESTABLISH LAND USE AND PERMITTING REQUIREMENTS APPLICABLE TO CERTAIN TYPES OF LAND USES INCLUDING DEFINITIONS, SPECIAL USES REQUIRING SPECIAL USE PERMITS, APPLICATIONS, GROUNDS FOR SUSPENSION AND REVOCATION, AND TIME LIMITATIONS, AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

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

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

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

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

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

## **CHAPTER 17.13 SPECIAL USE PERMITS**

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

- A. The intent of this chapter is to establish land use and permitting requirements applicable to certain types of land uses, as authorized by Nevada state law, for all areas within Nye County.
- B. Land uses requiring a Special Use Permit and the type of Special Use Permit required in each instance are set out in the regulations of this chapter.
- C. In addition to the listing of such special uses, the Board intends that the requirements established in this chapter shall be used to direct deliberations upon applications for the approval of Special Use Permits. It is the express intent of the Board to delineate the areas of concern connected with each Special Use Permit and to provide standards by which applications for such Special Use Permits shall be evaluated. Additionally, for any special use listed herein which requires a Special Use Permit and is located within the Pahrump Regional Planning District ("PRPD"), the requirements applicable to the PRPD shall apply and shall supersede any requirements contained in this chapter if addressed with a CUP or other permitting requirements.
- D. The intent of this SUP ordinance is to provide a minimal regulatory approach to development, or State and Federal activities throughout Nye County when not addressed in other county ordinances. Most of Nye County is rural and sparsely populated, the conditions applied to any project should be the minimum necessary to protect the public health, safety, environment, or general quality of life for the citizens and Towns situated in Nye County.

### **17.13.020: DEFINITIONS:**

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

**AGGRIEVED PARTY:** The applicant, permittee or property owner when appealing a decision made pursuant to this chapter.

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

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

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

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

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

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

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

**MINING OPERATION:** Means all activities conducted within Nye County by a person on or beneath the surface of the land for the purpose of, or in connection with, the development or extraction of any mineral. The term does not include an aggregate or sand pit or a small mining operation.

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

**PROJECT OF REGIONAL SIGNIFICANCE:** Any project which would create one hundred (100) vehicle trips per day or more, twenty (20) or more employees, twenty (20) or more residential housing units, or fifty (50) acre-feet or more of annual water usage (excluding agricultural uses). This also includes any project which would alter the multiple use doctrine of the Federal Lands Planning Management Act of 1976 as amended.

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

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

**SPECIAL USE PERMIT:** A permit issued by the Board stating that the Special Use meets all conditions set forth in all applicable ordinances and has met with the approval of the Board after a public hearing has been held.

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

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

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

1. Airports and Airport Related Uses:

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

2. Animals:

- a. Animals, Special Conditions; Exotic Animals
- b. Intensive Animal Feeding Operations; Feed Lots3. Billboards (Off Premise Signs)

4. Brothels

5. Commercial Uses:

- a. Marijuana Establishments (all Marijuana Establishments shall comply with Nye County Code Chapter 17.06 "Marijuana Establishments")
- b. Privately or Publicly Operated Correctional Facilities; Prisons; Jails
- c. Privately or Publicly Operated Shooting Ranges (Outdoors)

6. Fireworks (Retail), as defined in Nye County Code Title 8, Chapter 8.04 "Fireworks"

7. Floodways: Activities or construction within an adopted regulatory floodway including fill, new construction, substantial improvements, and other development, as defined by FEMA

8. Industrial Uses:

- a. Any industrial use located or partially located within a designated wellhead protection area or within a floodway as shown in the Flood Insurance Study
- b. Asphalt Plant or Concrete Batch Plants (not required for temporary uses of less than a total of six (6) months duration throughout a twelve (12) month period)
- c. Automobile Wrecker; Salvage Yards; Junkyards
- d. Heavy Manufacturing/Heavy Industrial Uses; Hazardous Materials: Manufacturing, processing, transfer, or storage of explosives, chemicals, matches, oxygen, paint, plastics, fireworks
- e. Mining operations, such as milling, ore dumps, quarries, gravel/sand pits, rock crushing, smelting operations
- f. Public or Private Landfills; Storage, consolidation, importation, transfer, or processing of waste materials

9. Manufactured Home Parks
10. Projects of Regional Significance
11. Recreational Vehicle Parks
12. Sexually Oriented Businesses (see definition of “Adult Uses” in Nye County Code Title 17, Chapter 17.04)
13. Utility Projects:
  - a. Transmission Lines (all Aboveground Electric Transmission Lines operating at 200 kilovolts or higher must comply with Nye County Code Title 17, Chapter 17.10 “Aboveground Utility Projects”)
  - b. Utility Projects (Major); Sewer/Wastewater Plants, Water, Gas, Electric, major utility projects
  - c. Energy Facilities; Fracking; for multiple wells in a drilling program; Geothermal; Solar Projects; Electric Generating Facilities over 10 megawatts (MW)

**17.13.040: SPECIAL USES NOT LISTED:**

- A. In those instances where a requested use is not listed above, the Planning Director shall determine whether the requested use is allowed as a permissive use or if the use requires a Special Use Permit.
  1. The Planning Director shall make his determination and shall provide a written response stating such determination to the applicant within fourteen (14) calendar days of applicant’s request for determination on a special use not listed.
  2. If the Planning Director determines that the requested use is a permissive use, the applicant is not required to obtain a Special Use Permit.
  3. If the Planning Director determines that a Special Use Permit is required for the applicant’s requested use, the applicant may appeal the decision to the Board within ten (10) calendar days, in accordance with Section 17.13.120.

**17.13.050: APPLICATIONS FOR SPECIAL USE PERMITS:**

- A. Generally: Except when specifically set out otherwise in this chapter, applications for Special Use Permits shall be filed with the Planning Department, which is charged with responsibility for its receipt, fee collection, if any, processing and distribution.
- B. When Filed; Who May File: Special Use Permit applications may be filed only by the property owner, its formally designated agent with power of attorney, or a lessee with written consent notarized by the property owner, and applications may be made only for Special Use Permits specifically authorized or required by this chapter.

- C. Completion Before Processing: For purposes of establishing time limitations on processing, no application shall be deemed to have been filed unless and until the application shall have been completed, and all plans, reports or other information, exhibits, or documents required by this chapter shall have been provided, and all fees, due at the time of filing, shall have been paid.

**17.13.060: APPLICATION FORMS:**

- A. Materials That Are Required: Where applicable to the use for which a Special Use Permit is requested and where necessary to a decision on the application for a Special Use Permit, all applicants shall provide the following:
1. A completed application form as provided by the Planning Department;
  2. The name, address, and phone number of the applicant or its agent with power of attorney, and property owner's name, address, phone number and written, notarized approval if property ownership is other than the applicant;
  3. The legal description and physical address of the property of the proposed use;
  4. A statement describing in detail the character and intended use of the property; and
  5. A conceptual site plan.
  6. If an applicant intends to apply for a Special Use Permit for property which is located within the boundaries of a town located in the County, the applicant must approach the elected or advisory board for presentation and approval for their proposed project within the boundaries of the Town. (This excludes Pahrump). A copy of their approval letter will be required as part of the required documents to be considered a complete application submittal.
- B. Materials That May Be Required for Special Use Permits: Where applicable to the use for which a Special Use Permit is requested and where necessary to a decision on the application for Special Use Permit, any of the following additional documents may be required:
1. General location map, showing relation of the property for which, the Special Use Permit is sought to major streets, schools, existing utilities, shopping areas, important physical features in and adjoining the property.
- C. Supplemental Materials:
1. During processing of any application, if it is determined by the Planning Director that additional information is required to make the necessary findings bearing on its approval, disapproval, or conditions and safeguards to be attached, such information may be requested. Failure to supply such supplemental information may be used as grounds for disapproval of the permit. Such supplemental information shall be supplied at least fourteen (14) business days prior to the hearing on the application.
  2. During processing of any application, if it is determined by the Board that additional information is required to make the necessary findings bearing on its approval, disapproval, or conditions and safeguards to be attached, such information may be requested. The hearing on the application shall be continued to the next meeting of the Board, or as soon thereafter as

practicable. Failure to supply such supplemental information may be used as grounds for disapproval of the permit. Such supplemental information shall be supplied at least fourteen (14) business days prior to the continued hearing on the application.

**17.13.070: PUBLIC HEARING ON APPLICATION:**

- A. Hearing Notice: Upon the filing of a complete application for a Special Use Permit and receipt of all applicable fees, the Planning Department shall:
1. Set a date, time and place for public hearing on the matter not to exceed sixty-five (65) calendar days after filing of a complete application and receipt of all applicable fees. The Planning Department shall review the application and shall determine what, if any, other supplemental materials are required and referrals to make to other agencies, bodies, or officers, for review, analysis, or technical findings. If any supplemental information is requested, the Planning Department shall inform the applicant and the applicant shall supply such supplemental information at least fourteen (14) business days prior to the hearing on the application.
  2. The Planning Department shall give notice setting forth the date, time and place of such hearing in accordance with Nevada Revised Statutes 278.315.

**17.13.080: GENERAL FINDINGS FOR MARKING DETERMINATIONS:**

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



8. Will be consistent with the intent and purposes of this chapter.

#### **17.13.090: BOARD ACTION:**

- A. The Board shall take one of the following actions on an application for a Special Use Permit:
  1. Approval of the application, as submitted;
  2. Approval of the application, with conditions and safeguards for the protection of the public health, safety, morals and general welfare attached; or
  3. Disapproval of the application.
- B. Board Action Following Decisions on Special Use Permits: After the Board makes determinations on Special Use Permits, the following actions shall be taken:
  1. Notification Of Applicant in Cases of Approval/Approval With Conditions And Safeguards: Where a Special Use Permit application is approved, with or without conditions and safeguards, a copy shall be transmitted by the Board to the applicant within five (5) business days of the decision.
  2. Notification Of Applicant in Cases of Disapproval: Where a Special Use Permit application is disapproved, applicant shall be provided written notice by the Board, within five (5) business days of the decision.
  3. Notification Of Affected County Agencies in Cases of Approval/Approval With Conditions And Safeguards: Where a Special Use Permit application is approved, with or without conditions and safeguards, affected agencies or officials shall be informed by the Board within five (5) business days of the decision by copy of the Special Use Permit, including any conditions and safeguards attached thereto. As appropriate to the circumstances of the case, upon such notification, such agencies or officials shall proceed to decide matters concerning any building permit, occupancy permit, or other action dependent upon issuance of the Special Use Permit, without further action by the applicant therefor, and shall perform their duties with regard to administration, inspection, or enforcement in the case.
  4. Notification Of Affected County Agencies in Cases of Disapproval: Where a Special Use Permit application is disapproved, affected agencies or officials shall be informed by the Board within five (5) business days of the decision by copy of the written notice provided to the applicant.
- C. The Board may make referrals to other agencies, bodies, departments or officers, for review, analysis, or technical findings.
- D. The decision of the Board is a final decision for the purpose of judicial review.

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

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

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

**B. Suspension Procedure:**

1. The Planning Director, may suspend any Special Use Permit pursuant to any one or more of the grounds listed above. The Planning Director shall provide written notice of the reasons for suspension of the Special Use Permit to the permittee. The permittee shall have fourteen (14) calendar days from the date of receipt of the notice to correct or mitigate the grounds which caused the suspension. Upon correction or mitigation of the grounds the Planning Director shall determine whether to proceed with the suspension of the Special Use Permit and shall provide written notice of such determination.
2. If the permittee does not correct or mitigate the grounds which caused the suspension, or if the Planning Director determines that the corrective or mitigating actions are insufficient, the Planning Director may proceed with revocation procedures, pursuant to this chapter.
3. Appeal: An aggrieved party may appeal to the Board in accordance with Section 17.13.120.

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

1. The Planning Director, without prior notice, may suspend any Special Use Permit until the next practicable meeting of the Board when the public health, safety, or general welfare will be endangered by the continued existence of the special use authorized by the Special Use Permit. The Planning Director shall, within forty-eight (48) hours of the suspension, give written notice of the suspension to the permittee and the Board.
  - a. Grounds for the emergency suspension include, but are not limited to, the following:
    - (1) Any violation of the terms or conditions of the Special Use Permit; or
    - (2) When it is discovered that the approval of the Special Use Permit has inadvertently caused a situation where the continued use jeopardizes public health, safety or general welfare of the public or adjacent properties.
2. At the Board's next practicable meeting after the emergency suspension and in accordance with all applicable notice requirements, the Board shall determine whether the emergency suspension shall be rescinded or shall continue and remain in effect. If the Board determines that the emergency suspension shall remain in effect, then, suspension proceedings shall be initiated.

3. Appeal: An aggrieved party may appeal the final decision of the Board in accordance with Section 17.13.120.

### **17.13.110: REVOCATION OF SPECIAL USE PERMIT**

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

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

B. Revocation Procedure:

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

### **17.13.115 HEARING PROCEDURE:**

At all hearings before the Board, the following procedure shall apply:

1. At the hearing, the permittee may be represented by an attorney.2. Oral testimony may be taken only upon oath administered by the clerk;
2. The parties to the hearing have the right to:
  - a. Call and examine witnesses,

- b. Introduce exhibits relevant to the issues of the case, including transcripts of testimony at any previous hearing conducted by or on behalf of the Board,
  - c. Introduce transcripts of hearings conducted in courts of record of the state, any other state, and courts of the United States,
  - d. Cross examine opposing witnesses on any matters relevant to the issues of the case, even though the matter was not covered on direct examination,
  - e. Impeach any witness regardless of which party first called him to testify, and
  - f. Offer rebuttal evidence;
3. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action;
  4. The parties or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection;
  5. The Board may take official notice of any generally accepted information and of any other fact which may be judicially noticed by the courts of this state. The parties must be informed of any information, matters or facts so noticed, and must be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the Board;
  6. Consider all evidence and testimony in support of and in opposition to the charges;
  7. Failure to appear at the hearing constitutes an admission by the permittee of all facts alleged in the charging instrument. The Board may take action based on such an admission and on other evidence without further notice to the permittee. If the Board takes action based on such an admission, it shall include on the record what evidence such action was based on
  8. Enter in the minutes of the Board the findings, conclusions, decision and action taken by the Board. Any sanctions imposed upon a permittee by the Board may include expenses and costs of the proceedings.
- C. Permit Fees: Upon any revocation of a Special Use Permit, after notice and hearing, the County shall be entitled to retain any permit fee collected from the permittee.
  - D. Appeals: An aggrieved party may appeal the final decision of the Board in accordance with Section 17.13.120.
  - E. Reapplication: Any person who had his or her Special Use Permit revoked may reapply for a Special Use Permit six (6) months after the date of the Board's decision.

#### **17.13.120: APPEALS:**

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

1. Any person aggrieved by a decision the Planning Director may file an appeal with the Board.
2. The appeal must be in writing and accompanied by the required fee for a public hearing appeal, must clearly specify which part of the decision is being appealed and must be filed within thirty (30) calendar days after the date the aggrieved party was notified of the final decision of the Planning Director.
3. The Board shall schedule a public hearing on the appeal as early as practicable, and in no case not more than sixty-five (65) calendar days after receipt of the appeal. Notice setting forth the date, time, place and purpose of the public hearing shall be sent at least ten (10) calendar days before the hearing to:
  - a. the appellant and permittee;
  - b. each owner of real property, if consent of the property owner was provided as set forth in section 17.13.050, at the address provided by the owner on the consent form;
  - c. any advisory board which has been established for the affected area by the Board; and
  - d. Any town board, citizens' advisory council or town advisory board, whichever is applicable.
4. The Board shall render its decision within sixty-five (65) days of receipt of the appeal and may affirm, modify or reverse the decision made by the Planning Director.
5. Within five (5) business days of the Board's appeal hearing, the Planning Director or the Board shall provide written notice of the Board's decision to the appellant.
6. The decision of the Board is a final decision for the purpose of judicial review.

- B. Any person who is aggrieved by a final decision of the Board may appeal that decision to the district court by filing a petition for judicial review within twenty-five (25) calendar days after the date of filing of notice of the decision with the clerk of the Board.

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

In granting any Special Use Permit, the Board may, as a condition, specify a reasonable time within which use under such Special Use Permit shall commence. Failure to meet such time period shall result in revocation of the Special Use Permit unless, upon application to the Board and on good cause shown, the Board extends the time period originally set. Application of such extension shall be filed not less than thirty (30) calendar days prior to the date of expiration of the time period. If the Board does not specify a reasonable time period, all Special Use Permits shall expire three (3) years following approval if the use has not started. If revocation procedures are commenced, the revocation procedures set forth in Section 17.13.110 shall apply.

**17.13.140: CONTROL OF POTENTIALLY ADVERSE EFFECTS:**

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

#### **17.13.150: CONDITIONS AND SAFEGUARDS:**

The Board shall have authority to attach to the grant of a Special Use Permit such conditions and safeguards as may be necessary for the purposes of this chapter. Such conditions and safeguards, if attached to the grant of a Special Use Permit, shall be based upon and consistent with the general standards, and considerations and standards applicable to the type of Special Use Permit involved as set out in this chapter, and to other provisions relating to the particular type of permit. The requirement for any such conditions or safeguards shall be supported by stated reasons therefor, based upon such consideration and standards, and no such condition or safeguard shall establish special limitations or requirements beyond those reasonably necessary for the accomplishment of the purpose for which attached. Failure to comply with conditions and safeguards, when attached to the grant of a Special Use Permit, shall be deemed a violation of this chapter, and may result in the suspension or revocation, or both, of the Special Use Permit under sections 17.13.100 and 17.13.110 of this chapter.

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

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

#### **17.13.170: MODIFICATIONS TO APPROVED SPECIAL USE PERMITS:**

If the permittee requests any modification to the permittee's approved Special Use Permit, the Board shall decide regarding the requested modification.

#### **17.13.180: RENEWAL PROCEDURES FOR SPECIAL USE PERMITS WHICH REQUIRE RENEWAL:**

No later than sixty (60) calendar days before Special Use Permit expires, the permittee shall apply for renewal of the permit. If the permittee fails to apply for the renewal, it shall expire, and the use

shall be removed or discontinued. To apply for renewal, the permittee shall provide to the Planning Department, on forms and in a manner prescribed by the Planning Department, the following:

1. A renewal application.
  2. A signed statement indicating that conditions of the original approval have not changed.
  3. A notarized statement from the property owner, if ownership is other than the permittee, authorizing the permittee to continue the use on the property; and
  4. Renewal fee, if applicable.
- B. When the permittee has supplied all necessary information, the Planning Department shall set a date, time and place for public hearing and issue notice of such hearing to the permittee in accordance with this chapter.
- C. Completion Before Processing: For purposes of establishing time limitation on processing, no renewal application shall be deemed to have been filed unless and until the renewal application shall have been completed, and all plans, reports or other information, exhibits, or documents required by this chapter shall have been provided, and all fees, due at the time of filing, shall have been paid.
- D. When the permittee has supplied all necessary information, the Planning Director shall set a public hearing on the renewal application in accordance with the procedures set forth in Section 17.13.070 of this chapter. The Board shall review the particular facts and circumstances relative to the renewal application and shall weigh the factors set forth in Section 17.13.080 when making its determination.

#### **17.13.190: BUILDING AND CONSTRUCTION PERMITS:**

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

#### **17.13.200: PLANNING REVIEW REQUIRED:**

For areas outside of the Pahrump Regional Planning District, a Planning Review ("PR") application shall be submitted to the Planning Department prior to the construction of any commercial building or garage, including the placement of a mobile or manufactured home; and any construction that involves modification or expansion of an existing commercial building or garage; or prior to establishing any other land use which may not require a building or construction permit. A Planning Review application approval is valid for one hundred eighty (180) calendar

days from the date of approval and expires after one hundred eighty (180) calendar days if work has not commenced for the proposed use or plan of development for which the Planning Review was obtained. The Planning Department may extend a Planning Review application not more than one time for an additional one hundred eighty (180) calendar days for good cause shown. Upon the issuance of a building or construction permit or approval to construct from other federal, state or county agencies, the Planning Review shall track along the same expiration time frames and policies as the building permit or other approval.

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

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

**17.13.220: PLANNING DEPARTMENT REPORT REQUIRED:**

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



adjoining and nearby property and the character of the area; and shall require the approval of the applicable utility service provider.

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

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

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

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

An application for a Special Use Permit may be withdrawn by the applicant at any time prior to public hearing notices being sent and the time limitations set forth in Section 17.13.250 shall not apply. Any required processing fee is nonrefundable.

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

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

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

**17.13.260: CESSATION OF USE:**

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

**SEVERABILITY.** If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

**CONSTITUTIONALITY.** If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

**EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the \_\_\_\_ day of \_\_\_\_\_, 2022.

Proposed on the \_\_\_\_ day of \_\_\_\_\_, 2022

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

Adopted on the \_\_\_\_ day of \_\_\_\_\_, 2022

Vote: Ayes:                      Commissioners:

Nays:                      Commissioners:

Absent:                      Commissioners:

BY: \_\_\_\_\_  
Frank Carbone, Chair  
Nye County Board of  
County Commissioners

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

BILL NO. 2022-04

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

**SUMMARY:** A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, by adding Chapter 17.13 entitled Special Use Permits, to establish land use and permitting requirements applicable to certain types of land uses including definitions, special uses requiring special use permits, applications, grounds for suspension and revocation, and time limitations, and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

**TITLE:** A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 17, COMPREHENSIVE LAND USE PLANNING AND ZONING, BY ADDING CHAPTER 17.13 ENTITLED SPECIAL USE PERMITS, TO ESTABLISH LAND USE AND PERMITTING REQUIREMENTS APPLICABLE TO CERTAIN TYPES OF LAND USES INCLUDING DEFINITIONS, SPECIAL USES REQUIRING SPECIAL USE PERMITS, APPLICATIONS, GROUNDS FOR SUSPENSION AND REVOCATION, AND TIME LIMITATIONS, AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

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

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

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

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

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

## **CHAPTER 17.13 SPECIAL USE PERMITS**

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

- A. The intent of this chapter is to establish land use and permitting requirements applicable to certain types of land uses, as authorized by Nevada state law, for all areas within Nye County.
- B. Land uses requiring a Special Use Permit and the type of Special Use Permit required in each instance are set out in the regulations of this chapter.
- C. In addition to the listing of such special uses, the Board intends that the requirements established in this chapter shall be used to direct deliberations upon applications for the approval of Special Use Permits. It is the express intent of the Board to delineate the areas of concern connected with each Special Use Permit and to provide standards by which applications for such Special Use Permits shall be evaluated. Additionally, for any special use listed herein which requires a Special Use Permit and is located within the Pahrump Regional Planning District ("PRPD"), the requirements applicable to the PRPD shall apply and shall supersede any requirements contained in this chapter if addressed with a CUP or other permitting requirements.
- D. The intent of this SUP ordinance is to provide a minimal regulatory approach to development, or State and Federal activities throughout Nye County when not addressed in other county ordinances. Most of Nye County is rural and sparsely populated, the conditions applied to any project should be the minimum necessary to protect the public health, safety, environment, or general quality of life for the citizens and Towns situated in Nye County.

### **17.13.020: DEFINITIONS:**

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

AGGRIEVED PARTY: The applicant, permittee or property owner when appealing a decision made pursuant to this chapter.

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

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

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

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

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



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

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

MINING OPERATION: Means all activities conducted within Nye County by a person on or beneath the surface of the land for the purpose of, or in connection with, the development or extraction of any mineral. The term does not include an aggregate or sand pit or a small mining operation.

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

PROJECT OF REGIONAL SIGNIFICANCE: Any project which would create one hundred (100) vehicle trips per day or more, twenty (20) or more employees, twenty (20) or more residential housing units, or fifty (50) acre-feet or more of annual water usage (excluding agricultural uses). This also includes any project which would alter the multiple use doctrine of the Federal Lands Planning Management Act of 1976 as amended.

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

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

SPECIAL USE PERMIT: A permit issued by the Board stating that the Special Use meets all conditions set forth in all applicable ordinances and has met with the approval of the Board after a public hearing has been held.

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

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

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

##### 1. Airports and Airport Related Uses:

a. Public or Private Airports and related Aviation Facilities; Airfields; Airstrips

- b. Any use of land, building or proposed development within an established airport or airfield's Clear Zones ("CZ") or Accident Potential Zones ("APZ") as defined by the Federal Aviation Administration (FAA)

## 2. Animals:

- a. Animals, Special Conditions: Exotic Animals
- b. Intensive Animal Feeding Operations; Feed Lots3. Billboards (Off Premise Signs)

## 4. Brothels

## 5. Commercial Uses:

- a. Marijuana Establishments (all Marijuana Establishments shall comply with Nye County Code Chapter 17.06 "Marijuana Establishments")
- b. Privately or Publicly Operated Correctional Facilities; Prisons; Jails
- c. Privately or Publicly Operated Shooting Ranges (Outdoors)

## 6. Fireworks (Retail), as defined in Nye County Code Title 8, Chapter 8.04 "Fireworks"

## 7. Floodways: Activities or construction within an adopted regulatory floodway including fill, new construction, substantial improvements, and other development, as defined by FEMA

## 8. Industrial Uses:

- a. Any industrial use located or partially located within a designated wellhead protection area or within a floodway as shown in the Flood Insurance Study
- b. Asphalt Plant or Concrete Batch Plants (not required for temporary uses of less than a total of six (6) months duration throughout a twelve (12) month period)
- c. Automobile Wrecker; Salvage Yards; Junkyards
- d. Heavy Manufacturing/Heavy Industrial Uses; Hazardous Materials: Manufacturing, processing, transfer, or storage of explosives, chemicals, matches, oxygen, paint, plastics, fireworks
- e. Mining operations, such as milling, ore dumps, quarries, gravel/sand pits, rock crushing, smelting operations
- f. Public or Private Landfills; Storage, consolidation, importation, transfer, or processing of waste materials

## 9. Manufactured Home Parks

## 10. Projects of Regional Significance

11. Recreational Vehicle Parks

12. Sexually Oriented Businesses (see definition of “Adult Uses” in Nye County Code Title 17, Chapter 17.04)

13. Utility Projects:

- a. Transmission Lines (all Aboveground Electric Transmission Lines operating at 200 kilovolts or higher must comply with Nye County Code Title 17, Chapter 17.10 “Aboveground Utility Projects”)
- b. Utility Projects (Major): Sewer/Wastewater Plants, Water, Gas, Electric, major utility projects
- c. Energy Facilities; Fracking; for multiple wells in a drilling program; Geothermal; Solar Projects; Electric Generating Facilities over 10 megawatts (MW)

**17.13.040: SPECIAL USES NOT LISTED:**

- A. In those instances where a requested use is not listed above, the Planning Director shall determine whether the requested use is allowed as a permissive use or if the use requires a Special Use Permit.
  - 1. The Planning Director shall make his determination and shall provide a written response stating such determination to the applicant within fourteen (14) calendar days of applicant’s request for determination on a special use not listed.
  - 2. If the Planning Director determines that the requested use is a permissive use, the applicant is not required to obtain a Special Use Permit.
  - 3. If the Planning Director determines that a Special Use Permit is required for the applicant’s requested use, the applicant may appeal the decision to the Board within ten (10) calendar days, in accordance with Section 17.13.120.

**17.13.050: APPLICATIONS FOR SPECIAL USE PERMITS:**

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



### **17.13.060: APPLICATION FORMS:**

A. Materials That Are Required: Where applicable to the use for which a Special Use Permit is requested and where necessary to a decision on the application for a Special Use Permit, all applicants shall provide the following:

1. A completed application form as provided by the Planning Department;
2. The name, address, and phone number of the applicant or its agent with power of attorney, and property owner's name, address, phone number and written, notarized approval if property ownership is other than the applicant;
3. The legal description and physical address of the property of the proposed use;
4. A statement describing in detail the character and intended use of the property; and
5. A conceptual site plan.
6. If an applicant intends to apply for a Special Use Permit for property which is located within the boundaries of a town located in the County, the applicant must approach the elected or advisory board for presentation and approval for their proposed project within the boundaries of the Town. (This excludes Pahrump). A copy of their approval letter will be required as part of the required documents to be considered a complete application submittal.

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

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

C. Supplemental Materials:

1. During processing of any application, if it is determined by the Planning Director that additional information is required to make the necessary findings bearing on its approval, disapproval, or conditions and safeguards to be attached, such information may be requested. Failure to supply such supplemental information may be used as grounds for disapproval of the permit. Such supplemental information shall be supplied at least fourteen (14) business days prior to the hearing on the application.
2. During processing of any application, if it is determined by the Board that additional information is required to make the necessary findings bearing on its approval, disapproval, or conditions and safeguards to be attached, such information may be requested. The hearing on the application shall be continued to the next meeting of the Board, or as soon thereafter as practicable. Failure to supply such supplemental information may be used as grounds for disapproval of the permit. Such supplemental information shall be supplied at least fourteen (14) business days prior to the continued hearing on the application.

### **17.13.070: PUBLIC HEARING ON APPLICATION:**



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

1. Set a date, time and place for public hearing on the matter not to exceed sixty-five (65) calendar days after filing of a complete application and receipt of all applicable fees. The Planning Department shall review the application and shall determine what, if any, other supplemental materials are required and referrals to make to other agencies, bodies, or officers, for review, analysis, or technical findings. If any supplemental information is requested, the Planning Department shall inform the applicant and the applicant shall supply such supplemental information at least fourteen (14) business days prior to the hearing on the application.
2. The Planning Department shall give notice setting forth the date, time and place of such hearing in accordance with Nevada Revised Statutes 278.315.

#### **17.13.080: GENERAL FINDINGS FOR MARKING DETERMINATIONS:**

A. The Board shall review the particular facts and circumstances of each application. The Board shall make a determination regarding the application for the Special Use Permit upon weighing the following factors:

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

#### **17.13.090: BOARD ACTION:**

A. The Board shall take one of the following actions on an application for a Special Use Permit:

1. Approval of the application, as submitted;
  2. Approval of the application, with conditions and safeguards for the protection of the public health, safety, morals and general welfare attached; or
  3. Disapproval of the application.
- B. Board Action Following Decisions on Special Use Permits: After the Board makes determinations on Special Use Permits, the following actions shall be taken:
1. Notification Of Applicant in Cases of Approval/Approval With Conditions And Safeguards: Where a Special Use Permit application is approved, with or without conditions and safeguards, a copy shall be transmitted by the Board to the applicant within five (5) business days of the decision.
  2. Notification Of Applicant in Cases of Disapproval: Where a Special Use Permit application is disapproved, applicant shall be provided written notice by the Board, within five (5) business days of the decision.
  3. Notification Of Affected County Agencies in Cases of Approval/Approval With Conditions And Safeguards: Where a Special Use Permit application is approved, with or without conditions and safeguards, affected agencies or officials shall be informed by the Board within five (5) business days of the decision by copy of the Special Use Permit, including any conditions and safeguards attached thereto. As appropriate to the circumstances of the case, upon such notification, such agencies or officials shall proceed to decide matters concerning any building permit, occupancy permit, or other action dependent upon issuance of the Special Use Permit, without further action by the applicant therefor, and shall perform their duties with regard to administration, inspection, or enforcement in the case.
  4. Notification Of Affected County Agencies in Cases of Disapproval: Where a Special Use Permit application is disapproved, affected agencies or officials shall be informed by the Board within five (5) business days of the decision by copy of the written notice provided to the applicant.
- C. The Board may make referrals to other agencies, bodies, departments or officers, for review, analysis, or technical findings.
- D. The decision of the Board is a final decision for the purpose of judicial review.

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

- A. Grounds: Any of the following conditions or occurrences are grounds for the suspension of a Special Use Permit:
1. Any violation of the terms or conditions of the Special Use Permit;
  2. Any misrepresentation made in an application for a Special Use Permit;



3. Any act or failure to act by the permittee or its agents in connection with the use for which the Special Use Permit was obtained which creates or tends to create or constitute a public nuisance;
4. Refusing or neglecting to comply with any provision of this chapter.
5. Any act or failure to act by the permittee or its agents which the Planning Director determines is detrimental to the public health, safety, or general welfare of the public.

B. Suspension Procedure:

1. The Planning Director, may suspend any Special Use Permit pursuant to any one or more of the grounds listed above. The Planning Director shall provide written notice of the reasons for suspension of the Special Use Permit to the permittee. The permittee shall have fourteen (14) calendar days from the date of receipt of the notice to correct or mitigate the grounds which caused the suspension. Upon correction or mitigation of the grounds the Planning Director shall determine whether to proceed with the suspension of the Special Use Permit and shall provide written notice of such determination.
2. If the permittee does not correct or mitigate the grounds which caused the suspension, or if the Planning Director determines that the corrective or mitigating actions are insufficient, the Planning Director may proceed with revocation procedures, pursuant to this chapter.
3. Appeal: An aggrieved party may appeal to the Board in accordance with Section 17.13.120.

C. Emergency Suspension by Planning Director:

1. The Planning Director, without prior notice, may suspend any Special Use Permit until the next practicable meeting of the Board when the public health, safety, or general welfare will be endangered by the continued existence of the special use authorized by the Special Use Permit. The Planning Director shall, within forty-eight (48) hours of the suspension, give written notice of the suspension to the permittee and the Board.
  - a. Grounds for the emergency suspension include, but are not limited to, the following:
    - (1) Any violation of the terms or conditions of the Special Use Permit; or
    - (2) When it is discovered that the approval of the Special Use Permit has inadvertently caused a situation where the continued use jeopardizes public health, safety or general welfare of the public or adjacent properties.
2. At the Board's next practicable meeting after the emergency suspension and in accordance with all applicable notice requirements, the Board shall determine whether the emergency suspension shall be rescinded or shall continue and remain in effect. If the Board determines that the emergency suspension shall remain in effect, then, suspension proceedings shall be initiated.
3. Appeal: An aggrieved party may appeal the final decision of the Board in accordance with Section 17.13.120.

### 17.13.110: REVOCATION OF SPECIAL USE PERMIT

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

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

B. Revocation Procedure:

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

### 17.13.115 HEARING PROCEDURE:

At all hearings before the Board, the following procedure shall apply:

1. At the hearing, the permittee may be represented by an attorney.2. Oral testimony may be taken only upon oath administered by the clerk;
2. The parties to the hearing have the right to:
  - a. Call and examine witnesses.
  - b. Introduce exhibits relevant to the issues of the case, including transcripts of testimony at any previous hearing conducted by or on behalf of the Board.



- c. Introduce transcripts of hearings conducted in courts of record of the state, any other state, and courts of the United States.
- d. Cross examine opposing witnesses on any matters relevant to the issues of the case, even though the matter was not covered on direct examination.
- e. Impeach any witness regardless of which party first called him to testify, and
- f. Offer rebuttal evidence;
- 3. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action;
- 4. The parties or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection;
- 5. The Board may take official notice of any generally accepted information and of any other fact which may be judicially noticed by the courts of this state. The parties must be informed of any information, matters or facts so noticed, and must be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the Board;
- 6. Consider all evidence and testimony in support of and in opposition to the charges;
- 7. Failure to appear at the hearing constitutes an admission by the permittee of all facts alleged in the charging instrument. The Board may take action based on such an admission and on other evidence without further notice to the permittee. If the Board takes action based on such an admission, it shall include on the record what evidence such action was based on
- 8. Enter in the minutes of the Board the findings, conclusions, decision and action taken by the Board. Any sanctions imposed upon a permittee by the Board may include expenses and costs of the proceedings.
- C. Permit Fees: Upon any revocation of a Special Use Permit, after notice and hearing, the County shall be entitled to retain any permit fee collected from the permittee.
- D. Appeals: An aggrieved party may appeal the final decision of the Board in accordance with Section 17.13.120.
- E. Reapplication: Any person who had his or her Special Use Permit revoked may reapply for a Special Use Permit six (6) months after the date of the Board's decision.

#### **17.13.120: APPEALS:**

##### **A. Appeals Of Decisions of The Planning Director to The Board Of County Commissioners:**

- 1. Any person aggrieved by a decision the Planning Director may file an appeal with the Board.

2. The appeal must be in writing and accompanied by the required fee for a public hearing appeal, must clearly specify which part of the decision is being appealed and must be filed within thirty (30) calendar days after the date the aggrieved party was notified of the final decision of the Planning Director.
  3. The Board shall schedule a public hearing on the appeal as early as practicable, and in no case not more than sixty-five (65) calendar days after receipt of the appeal. Notice setting forth the date, time, place and purpose of the public hearing shall be sent at least ten (10) calendar days before the hearing to:
    - a. the appellant and permittee;
    - b. each owner of real property, if consent of the property owner was provided as set forth in section 17.13.050, at the address provided by the owner on the consent form;
    - c. any advisory board which has been established for the affected area by the Board;  
and
    - d. Any town board, citizens' advisory council or town advisory board, whichever is applicable.
  4. The Board shall render its decision within sixty-five (65) days of receipt of the appeal and may affirm, modify or reverse the decision made by the Planning Director.
  5. Within five (5) business days of the Board's appeal hearing, the Planning Director or the Board shall provide written notice of the Board's decision to the appellant.
  6. The decision of the Board is a final decision for the purpose of judicial review.
- B. Any person who is aggrieved by a final decision of the Board may appeal that decision to the district court by filing a petition for judicial review within twenty-five (25) calendar days after the date of filing of notice of the decision with the clerk of the Board.

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

In granting any Special Use Permit, the Board may, as a condition, specify a reasonable time within which use under such Special Use Permit shall commence. Failure to meet such time period shall result in revocation of the Special Use Permit unless, upon application to the Board and on good cause shown, the Board extends the time period originally set. Application of such extension shall be filed not less than thirty (30) calendar days prior to the date of expiration of the time period. If the Board does not specify a reasonable time period, all Special Use Permits shall expire three (3) years following approval if the use has not started. If revocation procedures are commenced, the revocation procedures set forth in Section 17.13.110 shall apply.

**17.13.140: CONTROL OF POTENTIALLY ADVERSE EFFECTS:**

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



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

#### **17.13.150: CONDITIONS AND SAFEGUARDS:**

The Board shall have authority to attach to the grant of a Special Use Permit such conditions and safeguards as may be necessary for the purposes of this chapter. Such conditions and safeguards, if attached to the grant of a Special Use Permit, shall be based upon and consistent with the general standards, and considerations and standards applicable to the type of Special Use Permit involved as set out in this chapter, and to other provisions relating to the particular type of permit. The requirement for any such conditions or safeguards shall be supported by stated reasons therefor, based upon such consideration and standards, and no such condition or safeguard shall establish special limitations or requirements beyond those reasonably necessary for the accomplishment of the purpose for which attached. Failure to comply with conditions and safeguards, when attached to the grant of a Special Use Permit, shall be deemed a violation of this chapter, and may result in the suspension or revocation, or both, of the Special Use Permit under sections 17.13.100 and 17.13.110 of this chapter.

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

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

#### **17.13.170: MODIFICATIONS TO APPROVED SPECIAL USE PERMITS:**

If the permittee requests any modification to the permittee's approved Special Use Permit, the Board shall decide regarding the requested modification.

#### **17.13.180: RENEWAL PROCEDURES FOR SPECIAL USE PERMITS WHICH REQUIRE RENEWAL:**

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

1. A renewal application.

2. A signed statement indicating that conditions of the original approval have not changed.
  3. A notarized statement from the property owner, if ownership is other than the permittee, authorizing the permittee to continue the use on the property; and
  4. Renewal fee, if applicable.
- B. When the permittee has supplied all necessary information, the Planning Department shall set a date, time and place for public hearing and issue notice of such hearing to the permittee in accordance with this chapter.
- C. Completion Before Processing: For purposes of establishing time limitation on processing, no renewal application shall be deemed to have been filed unless and until the renewal application shall have been completed, and all plans, reports or other information, exhibits, or documents required by this chapter shall have been provided, and all fees, due at the time of filing, shall have been paid.
- D. When the permittee has supplied all necessary information, the Planning Director shall set a public hearing on the renewal application in accordance with the procedures set forth in Section 17.13.070 of this chapter. The Board shall review the particular facts and circumstances relative to the renewal application and shall weigh the factors set forth in Section 17.13.080 when making its determination.

#### **17.13.190: BUILDING AND CONSTRUCTION PERMITS:**

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

#### **17.13.200: PLANNING REVIEW REQUIRED:**

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



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

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

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

#### **17.13.220: PLANNING DEPARTMENT REPORT REQUIRED:**

A. As appropriate to the nature of the Special Use Permit involved and the circumstances of the case, the Planning Department shall report to the Board on the following standards in addition to any other standards and requirements set forth concerning the type of Special Use Permit being considered:

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

comply with the requirements contained in Nye County Code Title 15, Chapter 15.12 “Flood Damage Prevention.”

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

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

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

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

An application for a Special Use Permit may be withdrawn by the applicant at any time prior to public hearing notices being sent and the time limitations set forth in Section 17.13.250 shall not apply. Any required processing fee is nonrefundable.

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

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



**17.13.260: CESSATION OF USE:**

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

**SEVERABILITY.** If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

**CONSTITUTIONALITY.** If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

**EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the \_\_\_\_ day of \_\_\_\_\_, 2022.

Proposed on the \_\_\_\_ day of \_\_\_\_\_, 2022

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

Adopted on the \_\_\_\_ day of \_\_\_\_\_, 2022

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: \_\_\_\_\_  
Frank Carbone, Chair  
Nye County Board of  
County Commissioners

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