



**NYE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM REQUEST FORM**

Department: Planning/Code Compliance	Meeting Date:
Category: Timed Agenda Item - 10:00 a.m.	March 21, 2023
Prepared by: Steve Osborne	Phone: (775) 751-4246
Presented by: Brett Waggoner	Phone: (775) 751-4244

Action requested: (Include what, with whom, when, where, why, and terms)

Public hearing, discussion and deliberation to adopt, amend and adopt, or reject Nye County Bill No. 2022-12: A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, by amending Chapter 17.04 entitled Pahrump Regional Planning District, relating to Section 17.04.805 Mobile Food Vending; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)

This Bill was reviewed by the Pahrump Regional Planning Commission (RPC) at their December 14, 2022 meeting and was recommended by the RPC for approval. Adoption of this Bill would bring Nye County Code into alignment with State health regulations pertaining to mobile food vending units. Staff received one comment from the twelve mobile food vendors who were contacted for comment; the one comment was in support of the proposed Bill. Staff recommends adoption with an effective date of April 10, 2023.

Recommendation:

Staff recommends adoption with an effective date of April 10, 2023.

Financial Impact

Cost:	Fund Name:	Fund #:
Budgeted: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	FY:	<input type="checkbox"/> One-Time <input type="checkbox"/> Recurring
Comments:		

Review & Approval

Legal Review Required: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Legal Approval Received: <input checked="" type="checkbox"/>	Date: 10/10/22
Financial Review Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Submitted to Finance: <input type="checkbox"/>	Date:
Administrative Manager Review: <input checked="" type="checkbox"/>	Place on Agenda: <input checked="" type="checkbox"/>	Initials: ST

Item #

9

NYE COUNTY ORDINANCE NO. _____

SUMMARY: A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, by amending Chapter 17.04 entitled Pahrump Regional Planning District, relating to Section 17.04.805 Mobile Food Vending; 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 AMENDING CHAPTER 17.04 ENTITLED PAHRUMP REGIONAL PLANNING DISTRICT, RELATING TO SECTION 17.04.805 MOBILE FOOD VENDING; AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

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

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

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

WHEREAS, pursuant to NAC 446.742, for the purpose of promoting the health, safety, and general welfare of the community of Nye County, the Board is authorized and empowered to regulate and restrict operation of a Mobile Food Vendor.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF NYE, STATE OF NEVADA DO ORDAIN: (NRS 244.110)

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

17.04.805: MOBILE FOOD VENDING:

- A. Scope: This section applies to all mobile food vending units within the Pahrump Regional Planning District.
- B. Purpose: The purpose of this section is to provide regulations for vendors that are mobile in nature with respect to food and beverage sales
- C. Definitions: For purposes of this section, the following definition applies:

COTTAGE FOOD OPERATION: As defined in NRS Chapter 446.866.

ENVIRONMENTAL HEALTH SPECIALIST: This person will conduct establishment inspections and investigate illnesses and other public health problems. The Environmental Health Specialist's functions include permitting, education, enforcement, consultation, and emergency response to prevent and mitigate environmental health hazards and to promote and protect public health and the environment in the following areas: food protection; bottled water plants and distributors; cosmetic plants; public accommodations; recreational vehicle parks; institutional environmental health; recreational swimming areas and waters; individual sewage disposal systems; invasive body decoration; and emergency preparedness.

MOBILE FOOD VENDING UNIT: Means any vehicle operating from an approved servicing area in which food, beverages, frozen desserts or dairy products and mixes are prepared, processed or converted for human consumption and which is used to sell and dispense food and beverages to customers. The term does not include a pushcart or any similar operation.

PRODUCER CERTIFICATES: Are issued by the Nevada Department of Agriculture to farmers who sell raw and unprocessed crops of their own production, including honey and eggs.

PRODUCER VENDOR CERTIFICATE: Is required in Nevada to sell produce not grown by that vendor or produce that is grown in another state and brought into Nevada for sale.

SPECIAL EVENT: Covers all aspects of special events which operates at a fixed location for a temporary period of time, not to exceed two (2) weeks. Some examples include, but are not limited to, swap meets, flea markets, craft fairs, farmers markets, trade shows, conventions, consumer shows, community or association picnics, fairs, carnivals, fundraisers or similar transitory gatherings.

E. Home Office: A home office used in support of the mobile food vending business is permitted, provided that:

1. The home office is clearly incidental and subordinate to the residential use.
2. The home office shall not exceed twenty percent (20%) of the gross floor area of the residence.
3. There will be no signage advertising the mobile business at the residence.
4. There shall be no addition, alteration or remodeling which would change the residential character of the residence.

Bill No. 2022-12 Amending Chapter 17.04 entitled Pahrump Regional Planning District, relating to Section 17.04.805 Mobile Food Vending_Clean

5. There shall be no outdoor storage of goods or materials, supplies or solid wastes associated with the mobile food vending business at the residence.
6. Truck deliveries to a residence in support of a mobile food vending or service provider business shall be limited to daily delivery by Federal or private mail and/or express package delivery services.
7. There shall be no visitors or customers to the mobile food vending home office.
8. Must obtain a Town of Pahrump Business License and all other applicable permits and licenses from state, federal and local agencies.

F. Requirements: Any person desiring to operate a mobile food vending unit in the Pahrump Regional Planning District must first obtain County approval as provided herein:

1. Applicant for mobile food vending is required to provide upon initial application;
 - a. a valid Health Department certificate for the mobile food vending unit to be used,
 - b. days and times of operation,
 - c. written permission from each property owner,
 - d. location mobile unit will be parked,
 - e. show distance from proposed food unit to all property lines and structures, and
 - f. list of items that will be sold.
2. A Mobile Food Vending Unit must meet all state vehicle construction, identification, and water system tank/wastewater system design requirements per the Nevada Division of Public and Behavioral Health Food Establishment Mobile Vehicle Guide. The Division of Public and Behavioral Health Food establishment Mobile Vehicle Guide is available either from Nye County's website or the Nye County Planning Department.
3. Applicant shall maintain the mobile food vending unit in proper working order, and the unit shall be properly and legally licensed, registered and insured.
4. Applicant shall show Proof of vehicle insurance liability in the amount of \$100,000/\$300,000 and property damage in the amount of \$25,000. The Owner Name and/or Business Entity Insurance should list VIN Numbers of Vehicle and/or Trailer.
5. A mobile unit must not operate from a specific fixed location for more than four (4) hours unless approved by the Town of Pahrump or Nye County. This does not apply to Special Events.
 1. If restrooms are not available to the food employees, a mobile food vending unit may not remain parked longer than one (1) hour at any one location unless prior approval is received from the Environmental Health Specialist.
 - a. Mobile food vending units located at active construction sites, farmers markets and special events are exempt from the provisions of this chapter.

b. Should the operator of a mobile food vending unit wish to remain in one location longer than the above stated limits, the following procedures shall be followed:

(1) Must be a special event and have obtained prior approval from the Environmental Health Specialist.

6. Parking a mobile food vending unit in a Nye County or State right-of-way is strictly prohibited. Customer parking must follow Nye County dust control ordinance, Title 15, Chapter 15.28 of this Code.
7. It is unlawful for any mobile food vendor to sell, solicit or park a vehicle within one thousand (1,000) feet in any direction from the extreme outside perimeter of school property during the hours that schools are in session and for one (1) hour after the close of the school session.
8. Mobile food vending units shall maintain a minimum separation of three hundred feet (300') from entry door of existing restaurants.
9. Any person violating any of the provisions of this section or failing to comply with any of the mandatory requirements of any ordinance of the County is guilty of a misdemeanor. Except in cases where a different punishment is prescribed by an ordinance of the County, any person convicted of a misdemeanor under the ordinances of Nye County shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment, unless otherwise specified. (Ord. 500, 2016)
10. Any person wanting to sell raw and unprocessed crops of their own production, including honey and eggs shall obtain a Producer Certificate issued by the Nevada Department of Agriculture. A Producer Vendor Certificate is required in Nevada to sell produce not grown by that vendor or produce that is grown in another state and brought into Nevada for sale. (NRS 576.128).
11. A mobile food vending permit is not transferable from one mobile food vehicle to another vehicle.
12. Any proposed change in location, equipment or operation of a mobile unit must receive prior approval from the Health Authority and the Nye County Planning Department.

F. Prohibited:

1. No food items can be sold on street corners other than in an approved mobile food vending unit. This includes tamales, honey, fruits and vegetables, and eggs.
2. Items sold on the private property of the natural person who manufactures or prepares the food item or at a location where the natural person who manufactures or prepares the food item sells the food item directly to a consumer, including, without limitation, a farmers' market licensed pursuant to chapter 244 or 268 of NRS, flea market, swap meet, church bazaar, garage sale or craft fair, by means of an in-person transaction that does not involve selling the food item by telephone or via the Internet unless approved by the Environmental Health Specialist

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 23rd day of January, 2023

Proposed on the 3rd day of January, 2023.

Proposed by:

Adopted on the _____ day of _____, 2023.

Vote: Ayes: Commissioners:

 Nays: Commissioners:

 Absent: Commissioners:

BY: _____
Frank Carbone, Chair
Nye County Board of County

ATTEST: _____
Mark F. Kampf
Clerk and Ex-Officio

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3. Applicant shall maintain the mobile food vending unit in proper working order, and the unit shall be properly and legally licensed, registered and insured.
4. Applicant shall show Proof of vehicle insurance liability in the amount of \$100,000/\$300,000 and property damage in the amount of \$25,000. The Owner Name and/or Business Entity Insurance should list VIN Numbers of Vehicle and/or Trailer.
5. ~~A mobile food vending unit shall not be stationary in one location for more than a maximum of twelve (12) hours in every twenty-four (24) hour period.~~ A mobile unit must not operate from a specific fixed location for more than four (4) hours unless approved by the Town of Pahrump or Nye County. This does not apply to Special Events.
 1. If restrooms are not available to the food employees, a mobile food vending unit may not remain parked longer than one (1) hour at any one location unless prior approval is received from the Environmental Health Specialist.
 - a. Mobile food vending units located at active construction sites, farmers markets and special events are exempt from the provisions of this chapter.
 - b. Should the operator of a mobile food vending unit wish to remain in one location longer than the above stated limits, the following procedures shall be followed:

- (1) Must be a special event and have obtained prior approval from the Environmental Health Specialist.
6. Parking a mobile food vending unit in a Nye County or State right-of-way is strictly prohibited. Customer parking must follow Nye County dust control ordinance, Title 15, Chapter 15.28 of this Code.
7. It is unlawful for any mobile food vendor to sell, solicit or park a vehicle within one thousand (1,000) feet in any direction from the extreme outside perimeter of school property during the hours that schools are in session and for one (1) hour after the close of the school session.
8. Mobile food vending units shall maintain a minimum separation of three hundred feet (300') from entry door of existing restaurants.
9. Any person violating any of the provisions of this section or failing to comply with any of the mandatory requirements of any ordinance of the County is guilty of a misdemeanor. Except in cases where a different punishment is prescribed by an ordinance of the County, any person convicted of a misdemeanor under the ordinances of Nye County shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment, unless otherwise specified. (Ord. 500, 2016)
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 - a. 3.

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.

Proposed on (month) _____ (day) _____ (year) _____

Proposed by Commissioner:

Passed (month) _____ (day) _____ (year) _____

Vote: Ayes: Commissioners: _____

Nays: Commissioners: _____

Absent: Commissioners: _____

ATTEST:

BY: _____
Frank Carbone, Chairman
Nye County Board of
County Commissioners

Mark Kampf
Clerk and Ex-Officio
Clerk of the Board

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