

NYE COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

BILL NO 2024-12

NYE COUNTY ORDINANCE NO. ____

SUMMARY: A Bill proposing to enact Nye County Code Chapter 8.44 titled “Hazardous Substances, Materials and Wastes,” related to licensing, regulating and controlling the operations of any facility handling, processing or storage of hazardous substances, materials and wastes, and requiring an application for the issuance of an Operating License including the submittal of an Environmental Impact Report; a Moratorium on the issuance of any Hazardous Substances, Materials and Wastes operating license until January 1, 2026; providing for the severability, constitutionality and effective date hereof, and other matters properly relating thereto.

TITLE: AN ORDINANCE ENACTING NYE COUNTY CODE CHAPTER 8.44 TITLED “HAZARDOUS SUBSTANCES AND WASTES” OF THE NYE COUNTY CODE RELATED TO THE HANDLING, PROCESSING OR STORAGE OF HAZARDOUS AND TOXIC SUBSTANCES, MATERIALS OR WASTES, AND REQUIRING AN APPLICATION FOR THE ISSUANCE OF AN OPERATING LICENSE, SUBMITTAL OF AN ENVIRONMENTAL IMPACT REPORT AND IMPOSING A MORATORIUM ON THE ISSUANCE OF AN OPERATING LICENSE UNTIL JANUARY 1, 2026, 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 Nye County Code, and

WHEREAS, pursuant to Nye County Code Chapter 17.06, the Board has established the process for applying for a Special Operating License for the handling, processing or storage of hazardous and toxic substances, materials or wastes or other chemicals of high concern; and

WHEREAS, the Board finds that hazardous substances, materials or waste or other chemicals of high concern could pose significant risks and hazards to residents of Nye County, Nevada, and who would be exposed to such substances as may result from industrial accidents, spills, fire or other activities; and

WHEREAS, the Board desires to enact policies, regulations and procedures governing operations involving the handling, processing or storage of hazardous and toxic substances, materials or waste or other chemicals of high concern to include a requirement to obtain an operation license to conduct such activities in Nye County located within the designated groundwater basin number 162;

WHEREAS, the Board finds that the County lacks the internal expertise or resources to evaluate adequately the potential impacts of any proposed operations pertaining to the handling, processing or storage of hazardous or toxic materials, substances and materials or that the County is prepared to respond to any release of such matters if licenses are approved;

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

8.44.010: FINDINGS AND PURPOSE

A. Hazardous materials or substances, medical waste and toxic wastes/substances or other chemicals of high concern that are used, processed, handled, stored or disposed of within the groundwater basin number 162 may cause acute chronic health hazards to residents living within said region and could contaminate the only source of potable water relied upon by the residents in the lower regions of Nye County in and around the Town of Pahrump.

B. The people who live and work in said region have a right and need to be advised of the use and potential hazards associated with the presence of hazardous materials or substances, medical waste and toxic wastes/substances or chemicals of high concern in order to prepare for any potential exposure to such materials or the contamination of the sole source of water for the region.

C. The residents, health officials, county planners, elected officials and emergency service providers do not have necessary information needed to determine the location, type and health risks associated with hazardous materials or toxic substances used, stored, handled or disposed of within the region.

D. Such information is of critical importance to enable public officials to protect the public health, safety and welfare of the residents within the region and to develop hazardous materials and toxic substances release response plans and methods by which such materials can be contained and/or mitigated as the result of a release of hazardous/toxic materials into the air or the ground and whether such mitigations are possible or adequately protect the public from the risks associated with such releases.

8.44.020: DEFINITIONS

BOARD: The Board of Nye County Commissioners

CHEMICAL OF HIGH CONCERN: Means a chemical identified on the basis of credible scientific evidence by a state, federal or international agency as being known or suspected with a high degree of probability to harm the normal development of a fetus or child or cause other developmental toxicity; cause cancer, genetic damage or reproductive harm; disrupt the endocrine or hormone system; damage the nervous system, immune system, or organs or cause other systemic toxicity; or be persistent, bioaccumulative, and toxic.

HAZARDOUS SUBSTANCE/TOXIC MATERIAL: Means any material or substance that, because of its quantity, concentration or chemical characteristics poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment and shall include, but not limited to hazardous substances, hazardous waste, toxic waste or pollutant, medical waste, chemical of high concern and any material that reasonably is determined to be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. A mixture shall be deemed to be a hazardous/toxic material if it contains either one-tenth of one percent or more of any carcinogen or one percent or more of any other hazardous, toxic material or chemical of high concern.

LICENSE: Means an authorization issued by the Board to use, process, handle, store, transport, or dispose of any hazardous substance, toxic material or chemical of high concern.

MEDICAL WASTE: Any waste generated by health care activities, involving used needles and syringes; soiled dressings; used bandages; body parts; used diagnostic or test samples for blood, urine or stool; blood; microbiological waste; treatment or test chemicals; pharmaceuticals; medical devices and/or radioactive materials.

RELEASE: Any spilling, leaking, emitting, discharging, pumping, escaping, emptying, injecting, leaching, dumping or disposing a hazardous substance into the environment. A release does not include emissions from the exhaust of a motor vehicle, rolling stock, aircraft, watercraft or pumping station engine or the release resulting from the application of fertilizer or agricultural chemicals.

8.44.030 ZONING REQUIREMENTS

Establishments handling, processing or storing hazardous substance/toxic materials shall be allowed only within the heavy industrial zones if located within the Pahrump Regional Planning District or in any other area outside the Pahrump Regional Planning District that permits heavy industrial uses.

8.44.040 OPERATING LICENSE

A. License Application and Renewal

1. Any operation involving the handling, processing, transporting or disposal of hazardous substance/toxic material or substance, shall require issuance of an operating license by the Board.
2. Any license or renewal license issued pursuant to these provisions shall expire in five (5) years.

8.44.050 ADMINISTRATION AND ENFORCEMENT

A. Licensing

1. Applications for an operating license shall be submitted to Nye County Public Works on a formant provided by the County and require the payment of a \$5,000 application fee.

2. Applicants will be required to provide an environmental impact assessment at the sole expense of the applicant that must include the following:

a. Project description that describes the proposed project and its geographic, ecological, social, and temporal context including off-site improvements that may be required.

b. Potential environmental impacts of proposed activity.

c. Full and complete description of the materials or substances to be handled, processed or transported.

d. Environmental action and pollution prevention plan that addresses mitigating, monitoring, and identification of institutional measures to be taken during implementation and operations to eliminate adverse environmental and/or social impacts.

e. Certification by an environmental engineer/specialist or qualified expert regarding the chemical content and toxicity of any materials or substances banned or otherwise regulated in these provisions that are associated with the handling or byproducts of any materials or substances regulated herein conform with the requirements for licensure.

B. Renewal

1. Applications for a renewal license shall be submitted to Nye County Public Works on a formant provided by the County and require the payment of a \$5,000 application fee.

2. Renewal shall require a re-certification by an environmental engineer/specialist or qualified expert that no new or different substances or materials have been or currently are on site, and that current operations conform with the requirements for licensure.

3. A renewal license may not be issued if the Board finds that the operations have resulted in the release of any prohibited substances or materials and if there have been unauthorized material changes in the operations.

C. Enforcement Actions

1. If the Public Works Director finds that a licensee is handling or processing any Hazardous Substance/Toxic Material in violation of the license requirements, the Director may

a. Issue an order to cease and desist such violation and direct the licensee to achieve compliance as set forth in a detailed time schedule of specific actions the licensee must take to correct any violations of these provisions; or

b. Issue an order revoking or suspending any permit until further order from the Board, which action shall be undertaken by the Board upon application from the licensee within 30 days of the posting of an application for review with the Board.

c. The Board may require the licensee to pay to the County the costs of extraordinary inspections or monitoring deemed necessary because of a violation as a condition to reissuance of the suspended license.

2. Upon the failure of a licensee to comply with any requirement of this Article, the District Attorney, upon request from the Director, may petition the proper court for injunctive relief and the recovery of any costs incurred with the enforcement of these provisions.

D. Violations

1. Operating without a license issued pursuant to the terms of these provisions.

2. Fraud, willful misrepresentations, or any willfully inaccurate or false statement in an application or in support of an application for a license or renewal.

3. Fraud, willful misrepresentation, or any willfully inaccurate or false statement in any report required by these provisions.

4. Failure to correct conditions constituting an unreasonable risk of an unauthorized release of any Hazardous substance/Toxic material within the time set after notice from Public Works.

5. Any person that violates any of the provisions of 8.44.050 is guilty of a misdemeanor and may be punished by imprisonment in the county jail for not more six (6) months, or by a fine of not more that \$1,000, or by both fine and imprisonment for each violation. Each day a licensee operates in violation of any of these provisions shall constitute a separate offense.

8.44.060 PUBLIC DISCLOSURE

Any person may request information regarding any application submitted hereunder or any enforcement actions undertaken. If a licensee/applicant believes that any information required to be reported involves the release of a trade secret or is otherwise not appropriate for release pursuant to the requirements of the Nevada laws pertaining to public records releases, the licensee shall provide the information in support thereof to the Director in writing. If the Director intends to release the information to the public, the Director shall give the licensee five (5) days written notice of the intent to release the requested information.

8.44.070 MORATORIUM ON ISSUANCE OF LICENSES

The Nye County Board of County Commissioners finds that in the best interests of the citizens of Nye County the Board hereby imposes a temporary moratorium on the processing of any application for a license or the issuance of any license under Chapter 8.44 until January 1, 2026. Nothing herein contained shall be construed as waiving or removing the prohibition on the operation of any activity as required hereunder or the requirements for the enforcement of any activities undertaken in violation of the licensing requirements.

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application there 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 13th day of January, 2025.

Proposed on the 3rd day of December, 2024

Proposed by: Commissioner Carbone.

Adopted on the ____ day of _____, 2024

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: _____
Debra Strickland, Chair
Nye County Board of
County Commissioners

ATTEST: _____

Cori Freidhof
Clerk and Ex-Officio
Clerk of the Board