

BILL NO. 2022-17

NYE COUNTY ORDINANCE NO. 587

SUMMARY: An Ordinance Amending Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, Section 17.04.920: Conditional Use Permit Procedures, by deleting Board of County Commissioners approval and adding “Reconsideration of Conditions”, and providing for the severability, constitutionality, and effective date thereof; and other matters properly relating thereto.

TITLE: AN ORDINANCE AMENDING NYE COUNTY CODE TITLE 17, COMPREHENSIVE LAND USE PLANNING AND ZONING, SECTION 17.04.920: CONDITIONAL USE PERMIT PROCEDURES, BY DELETING BOARD OF COUNTY COMMISSIONERS’ APPROVAL AND ADDING “RECONSIDERATION OF CONDITIONS”; 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/and the general welfare of the residents of Nye County, the Board is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

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

**WHEREAS** the Board finds this change to be appropriate and an improvement to the regulations;

**NOW THEREFORE**, the Board of County Commissioners of the County of Nye, State of Nevada, does hereby adopt, promulgate, and order compliance therewith within the Pahrump regional Planning District of Nye County the following amendments and regulations:

**17.04.920: Conditional Use Permit Procedures**

A. Intent; Generally:

1. In addition to zoning procedures and requirements relating generally to issuance of building permits and certificates of occupancy, conditional use permit procedures are hereby established. It is intended that these procedures shall assure special examination, review, and findings by appropriate agents, agencies, or bodies of the county or region in connection with proposed actions particularly specified in this section and in article V of this chapter.

2. Conditional use permit procedures and requirements as set out herein are intended to apply in relation to use, occupancy, location, construction, design, character, scale, manner of operation, or the necessity for making complex or unusual determinations, and to assure consideration of the particular circumstances of each case and the establishment of such conditions and safeguards as are reasonably necessary for protection of the public interest generally, and of adjacent or local properties, and the region as a whole.
3. In establishing conditional use permit procedures, it is intended to increase efficiency and reduce time required for processing applications by relating administrative responsibilities and procedural requirements to the degree of complexity and potential impact of the matters being considered.
4. A conditional use permit is a grant of authority under the terms of this chapter from and by the Planning Commission to an applicant for the use of property in the manner set out in the grant of a conditional use permit. Uses or occupancies requiring conditional use permits, and the type of conditional use permit required in each instance, are set out in the regulations in this chapter.
5. In addition to the listing of such uses, the Board of County Commissioners intends that both the general standards, and the more specific requirements established in this chapter, shall be used by the Planning Commission to direct deliberations upon applications for the approval of conditional uses. It is the express intent of the Board of County Commissioners to delineate the areas of concern connected with each conditional use and to provide standards by which applications for such use permits shall be evaluated.

B. Conditional Use Permit: It is intended that conditional use permits shall be required when certain uses are likely to have adverse effects on adjacent and local properties.

C. Conditional Use Permits Decided by Planning Commission: The Planning Commission shall be solely responsible for decisions on all applications for conditional use permits. The Planning Commission shall handle all applications according to the provisions of this chapter, and may make referrals to other agencies, bodies, or officers, for review, analysis, or technical findings.

D. Hearing Notice: Upon the filing of a complete application for a conditional use permit, the zoning administrator shall:

1. Set a date and time for public hearing on the matter not to exceed sixty-five (65) days after filing of the application. The zoning administrator shall review the application at its next scheduled meeting and shall determine what, if any, other materials are required and referrals to make to other agencies, bodies, or officers, for review, analysis, or technical findings.
2. The zoning administrator shall give notice setting forth the time, place, and purpose of such hearing in accordance with Nevada Revised Statutes 278.315.

E. Hearing: The Planning Commission shall hear and consider evidence and facts from the testimony of any person at the public hearing or shall consider written communications from any person relative to the application. The right to present such evidence shall not be denied because of nonrequirement of notification as stipulated in this section.

F. Action by The Planning Commission: The Planning Commission shall take one of the following actions on an application for approval of conditional use permits:

1. Approval of the application, as submitted.
2. Approval of the application, with conditions and safeguards attached; such conditions and safeguards shall be for the protection of the public health, safety, morals, and general welfare.
3. Disapproval of the application.

G. Appeal: Any applicant or other person aggrieved by a decision of the Planning Commission may appeal in writing to the Board of County Commissioners in accordance with title 16, chapter 16.36 of this code.

H. Time Requirements to Be Specified in Conditions on Conditional Use Permits; Limitations on Extension: In granting any conditional use permit, the Planning Commission may, as a condition, specify a reasonable limitation of time within which action under such conditional use permit shall be begun or completed, or both. Failure to meet such time limitation shall result in cancellation of the conditional use permit unless, upon application to the Planning Commission and on due cause shown, the Planning Commission shall extend the time limitations originally set. Application of such extension shall be filed not less than thirty (30) calendar days prior to the date of expiration.

I. Renewal Procedures for Conditional Use Permits Which Require Renewal: Prior to the expiration of a conditional use permit, the permit holder shall, within sixty (60) days of expiration apply for renewal of the permit. If the applicant fails to apply for the renewal, it shall expire and the use shall be removed or discontinued. To apply for renewal, the applicant shall provide to the zoning administrator, 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. Renewal fee, if applicable; and
4. Any additional requirements as outlined in the specific standards for individual conditional uses.

When the applicant has supplied all necessary information the zoning administrator shall set a date and time for public hearing and a "Notice of Public Hearing to Consider a Request for A Renewal of a Conditional Use Permit" shall be issued in accordance with this section.

J. Relation of Conditional 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 the county, no such building or occupancy permits shall be issued where this chapter requires conditional use permits unless and until any and all such conditional 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 any and all conditional use permits required herein, in relation thereto, have been obtained.

K. Conditional Use Permits to Be Issued or Disapproved in Accordance with Procedures, Standards, And Requirements of This Chapter: Conditional use permits relating to this chapter shall be required only where specific provision therefor is made by this chapter. No application

for a conditional use permit shall be accepted or approved unless specific provisions for the particular conditional use permit appear in this chapter.

1. Conditional use permits in relation to zoning shall be issued or disapproved only in accordance with the procedures, standards, and requirements of this chapter. Where the Planning Commission finds that applications for conditional use permits demonstrate that general and special standards and requirements for such permits are met, the Planning Commission shall issue such permit, subject to conditions and safeguards, as deemed necessary by the Planning Commission or as required in the particular circumstances of the case and as authorized and limited at section 17.04.700 of this chapter.
2. Where applications for conditional use permits indicate that actions proposed therein, or the manner in which they are proposed to be conducted, do not meet the standards and requirements of this chapter, and could not practically and reasonably be made to do so by attachment of conditions and safeguards so authorized and limited, such applications and permits shall be denied.

L. General Findings for Making Determinations: The Planning Commission shall review the particular facts and circumstances of each proposal in and shall find adequate evidence showing that the proposed use:

1. Will be harmonious with and in accordance with the general objectives or with any specific objectives of the master plan of current adoption, the zoning reference map, and this chapter;
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
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.

M. Applications for Conditional Use Permits, Generally: Except when specifically set out otherwise in this chapter, applications for conditional use permits shall be filed with the zoning administrator, who is charged with responsibility for their receipt, fee collection, processing and distribution.

N. Applications for Conditional Use Permits; When Filed; Who May File: Conditional use permit applications may be filed only by the property owner, its formally designated agent with power of attorney, or a lessee with formal and sufficient consent of the property owner, and

applications may be made only for conditional use permits specifically authorized or required by this chapter.

O. Application Forms; Supplementary Materials: Applications for conditional use permits shall be made on forms provided for that purpose, and shall be accompanied by such plans, reports, or other information, exhibits, or documents as may be reasonably required to make the necessary findings in the case.

P. Application Forms; Materials That Are Required: Where applicable to the activity or development for which a conditional use permit is requested and where necessary to a decision on the application for a conditional use permit, all applications shall provide the following:

1. A completed proper 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 owner's written, notarized approval if property ownership is other than the applicant.
3. The legal description and physical address of the property of the proposed activity.
4. Materials that are required for liquor sales establishments include a straight-line drawing depicting the distances to property boundary lines within two hundred feet (200') for class I establishments, and one thousand five hundred feet (1,500') for class II and III establishments, and the uses of those properties.
5. A conceptual site development plan prepared in accordance with the requirements of article IX of this chapter shall be required for all conditional use permit applications, which shall be submitted with the CUP application.

Q. Application Forms; Materials That May Be Required for All Conditional Use Permits: Where applicable to the activity of development for which a conditional use permit is requested and where necessary to a decision on the application for conditional use permit, any of the following elements may be required:

1. Statement describing in detail the character and intended use of the development or activity.
2. General location map, showing relation of the site or activity for which, the conditional use permit is sought to major streets, schools, existing utilities, shopping areas, important physical features in and adjoining the project or activity and the like.

R. Application Forms; 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.

S. Application Forms; Supplementary Materials: During processing of any application, if it is determined by the planning commission 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 supplementary information may be used as grounds for disapproval of the permit. Such supplemental information shall be supplied at least ten (10) working days prior to hearing on the application.

T. Zoning Administrator Report Required: As appropriate to the nature of the permit involved and the particular circumstances of the case, the zoning administrator shall report to the planning commission on the following standards in addition to any other standards and requirements set forth concerning the kind of permit being considered:

1. Ingress And Egress: Due consideration shall be given to adequacy of ingress and egress to the property and structures and uses thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or another emergency.
2. Off Street Parking and Loading: Due consideration shall be given to off street parking and loading facilities as related to adjacent streets, with particular 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.
3. Refuse And Service Areas: Due consideration shall be given to the location, scale, design, and screening of refuse and service areas; to the manner in which 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.
4. Lighting: Due consideration shall be given to the proposed lighting for the premises, with particular reference to traffic safety, glare, and compatibility and harmony with adjoining and nearby property and the character of the area.
5. Utilities: Due consideration shall be given to utilities required, with particular 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.
6. Drainage: Due consideration shall be given to provision for drainage, with particular reference to the effect on adjoining and nearby properties and on general drainage systems in the area.
7. Roads: Due consideration shall be given to the provision of paved, double layer chip sealed, or roads treated with a dust palliative.

U. Control of Potentially Adverse Effects Generally: In addition to consideration of detailed elements indicated above, as appropriate to the particular kind of 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 or occupancy 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.

V. Conditions and Safeguards: The Planning Commission shall have authority to attach to the grant of any such conditional use permit such conditions and safeguards as may be necessary for the purposes of this chapter in the particular case. Such conditions and safeguards, if attached to grant of the conditional use permit, shall be based upon and consistent with the general standards, and considerations and standards applicable to the kind of conditional use permit involved as set out in section 17.04.700 of this chapter, and to other provisions relating to the

particular kind 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 a grant of a conditional use permit, shall be deemed a violation of this chapter.

**W. Compliance with Conditions; Responsibility of Applicant to Submit Written Report;**

The responsibility for compliance with any conditions or safeguards attached to a granted conditional use permit shall lie with the applicant. For all approved conditional use permits, the applicant shall submit a written compliance report to the planning department not later than six (6) months following the issuance of the conditional use permit, outlining the status of compliance with any such conditions or safeguards attached to the granted conditional use permit. Thereafter, the applicant shall submit annually a written compliance report to the planning department outlining the status of any conditions or safeguards attached to the granted conditional use permit.

**X. Modifications in Approved Conditional Uses:** The Planning Commission must approve any modifications in approved conditional uses.

**Y. Request for Reconsideration of Conditions:** The applicant may request reconsideration of any or all the conditions or safeguards as listed in the final action memo. Applicant's request shall be scheduled for a public hearing before the Planning Commission within forty-five (45) calendar days of the applicant's request.

**Z. Withdrawal of Application for Permit; Effect of Withdrawal:** An application for a conditional use permit may be withdrawn by the applicant at any time prior to decision without limitation on resubmittal. Any required processing fee is nonrefundable.

**AA. Actions Following Decisions on Conditional Use Permits:** Following decisions on conditional use permits, the following actions shall be taken:

1. **Notification Of Applicant in Cases of Approval:** Where conditional use permits are approved, with or without conditions and safeguards, a copy shall be transmitted by the Planning Commission to the applicant within five (5) working days of the decision.
2. **Notification Of Applicant in Cases of Disapproval:** Where applications for conditional use permits are disapproved, applicants shall be so informed by the Planning Commission in writing, within five (5) working days of the decision, with a summary of the reasons therefor and notice that complete records on the case are available in a location specified and are public records.
3. **Notification Of Affected County Agencies in Cases of Approval:** Where conditional use permits are approved, with or without conditions and safeguards, affected agencies or officials shall be informed by the Planning Commission within five (5) working days of the decision by copy of the 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 conditional 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 conditional use permits are disapproved, affected agencies or officials shall be informed by the Planning Commission within five (5) working days by copy of notification provided to the applicant.

AB. Permits to Apply to Property, Not Person: When granted, a conditional use permit, together with any conditions or safeguards attached thereto, shall apply to the land, structure, or use for which it was issued, and shall not apply to a particular person. The use shall be allowed to continue should the property transfer into different ownership.

AC. Cessation of Use: A conditional use permit shall automatically expire and become null and void without further action if, after construction the use has been completed or the use commenced, the use is relocated to a different parcel or location. Additionally, a conditional use permit shall automatically expire and become null and void without further action if, after construction the use has been completed or the use commenced, the use is discontinued or ceases for twelve (12) months or more on the parcel or location where the use was being conducted, or twenty four (24) 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 other calamity. A use is considered to have been discontinued if any required licenses or permits for the use have expired. If reconstruction has commenced within one year of the fire, flood, wind, or other calamity, the conditional use permit shall not expire, providing reconstruction is continuous and building permits do not expire.

AD. Previously Disapproved or Withdrawn Conditional Use Permit Applications: An application for a conditional use permit which was the subject of a previously disapproved application which proposed the same use on the same property that has been previously disapproved or withdrawn after notices have been sent, shall not be accepted until the following periods have elapsed from the date of disapproval or withdrawal:

1. After the first disapproval or withdrawal: Six (6) months.
2. After the second or a subsequent disapproval or withdrawal: Eighteen (18) months.

The time periods described in subsections CC1 and CC2 of this section shall not become effective if, after consideration of the timing and circumstances of the disapproval or withdrawal, the Planning Commission specifically disapproved the application or approved the withdrawal without prejudice. (Ord. 456, 2014)

**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 26<sup>th</sup> day of December, 2022.

Proposed on the 1<sup>st</sup> day of November, 2022

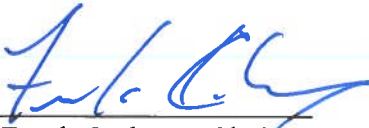
Proposed by: Commissioner Blundo.


Adopted on the 6<sup>th</sup> day of December, 2022

Vote: Ayes: Commissioners: Carbone, Blundo, Cox, Strickland, Jabbour

Nays: Commissioners: Ø

Absent: Commissioners: Ø

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

ATTEST:   
Mark F. Kampf  
Clerk and Ex-Officio  
Clerk of the Board