

NYE COUNTY ORDINANCE NO. 598

SUMMARY: An Ordinance amending Nye County Code Title 17, titled Comprehensive Land Use Planning and Zoning, Chapter 17.04, titled Pahrump Regional Planning District, Article VIII, titled Administration And Procedure, Section 17.04.930, titled Master Plan Amendment Procedures, amending the NRS Reference in section 17.04.930(J)(3)(c); and providing for the severability, constitutionality, and effective date thereof; and other matters property relating there to.

TITLE: AN ORDINANCE AMENDING NYE COUNTY CODE TITLE 17, TITLED COMPREHENSIVE LAND USE PLANNING AND ZONING, CHAPTER 17.04, TITLED PAHRUMP REGIONAL PLANNING DISTRICT, ARTICLE VIII, TITLED ADMINISTRATION AND PROCEDURE; SECTION 17.04.930, TITLED MASTER PLAN AMENDMENT, AMENDING THE NRS REFERENCE IN SECTION 17.04.930(J)(3)(c); AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY, AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERTY RELATING THERE TO.

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;

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:

17.04.930: Master Plan Amendment Procedures

- A. Scope: The following Master Plan amendment procedures shall apply to all properties within the Pahrump Regional Planning District.

- B. Purpose: The "Pahrump Regional Planning District Master Plan Update" dated November 19, 2003 (hereinafter referred to as "Master Plan") serves as a pattern and guide for the orderly physical growth and development of the Pahrump Regional Planning District (PRPD). The purpose of the Master Plan amendment procedures is to ensure that the Master Plan remains timely, dynamic, and responsive to community values. The Master Plan is a tool used to guide the Pahrump Regional Planning Commission and Board of County Commissioners during proceedings regarding land use applications.
- C. Nonconformance To Master Plan: Zone district boundary amendment (zone change) applications that do not conform to the Master Plan shall not be accepted for review and processing unless in compliance with the provisions identified herein.
- D. Conformance To Master Plan Required: These Master Plan amendment procedures are consistent with and further the goals, policies and objectives of the Master Plan. It is the intent of the Board of County Commissioners that regulatory decisions pursuant to this chapter are consistent with the Master Plan. All zone change requests must conform to the adopted Land Use Plan of the Master Plan. A property owner who seeks to develop at densities, intensities or with uses that are not permitted under the current plan designation on the property may initiate a Master Plan amendment.
- E. Conformance Does Not Guarantee Approval: Conformance with the Master Plan does not guarantee approval of a zoning district boundary amendment (zone change) application and shall not be construed to obligate the Commission or Board to approve the maximum density or intensity of the uses permitted within an approved land use category. Land use applications are subject to the discretion of the Commission or Board within the general guidelines for determining such applications. The final determination of the merits of any land use application will be made during the public hearing process.
- F. Zone Change Application: The following procedures are not the zone change procedures, and a separate zone change application must be approved in accordance with section 17.04.895 of this article prior to implementing any approved Master Plan amendment.
- G. Correction Of Errors: The Board of County Commissioners hereby reserves unto itself the right, by majority vote, to direct amendments to the master plan without compliance with the application submittal requirements for the purposes of correcting scrivener's errors, addressing oversights, inconsistencies, or other land use related inequities in the master plan. All review and hearing procedures must be followed.
- H. Initiation Of Amendments: The board of county commissioners or the planning commission may initiate a master plan amendment. An owner of real property or the property owner's authorized agent may initiate an amendment through an application filed with the planning department. Citizen advisory boards established by the board of county commissioners may petition the planning commission to initiate an amendment.
- I. Submittal Requirements And Procedures:
 - 1. Determination Of "Major" Or "Minor" Master Plan Amendment Applications: Submittal requirements and procedures are dependent upon whether an application constitutes a "major" or "minor" amendment.
 - a. Major Amendment: The following criteria shall be used to determine if an application qualifies as a major amendment:
 - 1) Any change from a nonresidential land use to a residential land use on twenty (20) or more gross acres;
 - 2) Any change from one category of residential to another category of residential where increased densities or intensities are proposed on fifty (50) or more gross acres; or
 - 3) Any change from a residential land use category to a nonresidential land use category on ten (10) or more gross acres.

- b. Minor Amendment: The following criteria shall be used to determine if an application qualifies as a minor amendment:
 - 1) Any change not qualifying as a major amendment shall be determined to be a minor amendment; or
 - 2) Any change from one category of residential to another category of residential that would reduce densities or intensities.
 - c. Major Amendment Submittal: A major amendment application may be submitted at any time; however, the board of county commissioners shall consider amendments to the master plan no more than four (4) times per year. In order for an application to be included within one of the amendment cycles, the application must be submitted to the Nye County planning department on or before the last working day of December, March, June or September (no later than 4:00 P.M.). Applications accepted by the December deadline shall be presented to the Pahrump regional planning commission (PRPC) the following March, applications accepted by the March deadline shall be presented to the PRPC in June, applications by the June deadline shall be presented to the PRPC in September, and applications accepted by the September deadline shall be presented to the PRPC in December. All applications shall be forwarded by the PRPC to the board of county commissioners for public hearing within sixty (60) days from the date of the PRPC meeting.
 - d. Minor Amendment Submittal: A minor amendment application may be submitted at any time and will be scheduled for public hearing based on the application submittal date.
2. Application Submittal Appointment: Applicants must contact county staff for a submittal appointment. Staff shall return any incomplete application to the applicant, who is responsible for rescheduling another submittal appointment. No application shall be deemed complete until all information is received, and only complete applications shall be accepted.
 3. Application Submittal Requirements: An application for a master plan amendment shall consist of the following materials and information:
 - a. Form: Application, completed in ink or typed on an application form provided by the planning department.
 - b. Fee: A separate fee shall be collected for each land use map amendment application and text amendment. The application fee for a master plan amendment is set by resolution of the board. This fee is nonrefundable unless the application is withdrawn by the applicant or property owner prior to advertising the matter for public hearing before the regional planning commission.
 - c. Owner Affidavit: The application must be signed and notarized by all owners of the property subject to the application request.
 - d. Impact Reports: All major master plan amendments shall require the following described impact reports. Impact reports and maps provided with the application must be prepared by a qualified engineer or architect, drawn using standard engineering scales (e.g., scale 1" = 100', 1" = 200', 1" = 500', etc.) clearly depicting the area subject to the request in relationship to the exterior property lines. All dimensions shall be clearly labeled, and appropriate symbols and line types shall be included in the map legend to depict the map intent. This map must include a vicinity map showing the surrounding properties within three hundred feet (300') of the subject property, indicating ownership, land use and current master plan designation.

- 1) Traffic Impact Report: The application must include an analysis of how the proposed change would impact the adjacent streets and nearby major intersections within three (3) miles of the subject property. For the purposes of this subsection "major intersection" is defined as any intersection on section line or quarter section line rights of way.
- 2) School Impact Report: The application must include the estimated number of students in each grade level to be generated based on the projected land uses. The location of schools within the project area, current student capacities of those schools, and the current bus routes and bus stops in the area must also be included.
- 3) Park Impact Report: The application must include an analysis of existing parks within three (3) miles of the project site including park(s) size and recreational facilities within the park(s).
- 4) Fire And Sheriff Facilities Report: The application must include the location of fire and sheriff facilities including current staffing levels as well as an analysis of the equipment and other apparatus available at those facilities. Projected response time(s) for emergency services to the project site must also be included.

J. Review And Hearing Procedures:

1. Agency Review: An agency review memorandum shall be circulated to the Nye County sheriff and public works director, Pahrump town board and manager, Pahrump fire chief, Nye County school district, appropriate citizen advisory boards, and other local, county, state and other interested agencies; and the memorandum shall be mailed to the applicant. The memorandum shall include brief descriptions of the proposed amendment(s) with maps identifying the properties involved. Each agency shall review the application(s) and forward its comments to the planning department within fifteen (15) days of mailing.
2. Staff Evaluation And Report: Planning staff shall evaluate the application(s) and agency comments; and shall recommend approval, modified approval, or denial. A staff report shall be prepared including staff findings on the following considerations:
 - a. Does the proposed master plan amendment:
 - 1) Promote the adopted policies related to housing, safety, streets and highways, and adequate public facilities; and not adversely affect the policies and action programs of the master plan.
 - 2) Address oversights, inconsistencies, scrivener's errors or land use related inequities in the plan without adversely impacting the public health, safety or welfare.
 - 3) Address significant changes that have occurred in a particular area since the adoption of the master plan, and represent a more desirable utilization of land.
 - 4) Provide for land uses compatible with existing and planned adjacent land uses and promote the desired pattern of orderly physical growth of the planning district based on projected population growth with the least amount of impairment to the natural resources, and provide for the efficient expenditure of funds for public services.
 - 5) Constitute an overall improvement to the master plan not solely for the good or benefit of a particular landowner or owners at a particular point in time.
 - 6) Adversely impact all or a portion of the planning area by:

1. Altering acceptable land use patterns to the detriment of the master plan; or
 2. Requiring public expenditures for larger and more expensive infrastructure, such as street improvements, sewer, or water systems than are needed to support the proposed land uses.
 - 7) Adversely impact planned uses because of increased traffic.
 - 8) Affect the livability of the area or the health or safety of present and future residents.
 - 9) Adversely impact the natural environment or scenic quality of the area in contradiction to the master plan.
 - b. Will the proposed amendment be consistent with the specific goals and policies contained within the master plan.
 - c. Would the proposed amendment be better addressed through an amendment of the zoning ordinance.
 - d. Would the proposed amendment cause potential conflicts with any other policies or action programs of the master plan.
 - e. Would the proposed amendment require amendment of the zoning ordinance or any other planning, zoning or building related ordinance. If so, approval shall be conditioned upon the applicant's:
 - 1) Submittal of an application for a master plan or ordinance text amendment;
 - 2) Providing how the new language of the master plan or ordinance should read; and
 - 3) Noting other places in the master plan or ordinance that may require amendment or different cross referencing as a result of the amendment.
3. Planning Commission Hearing And Action:
- a. The planning commission shall conduct at least one public hearing in accordance with Nevada Revised Statutes 278.210 for the purpose of receiving evidence related to the application; providing the applicant and all other interested parties an opportunity to speak; and to review the evidence and staff report to determine if the proposed amendment is consistent with the goals, objectives and policies of the master plan, and the considerations required pursuant to subsection J2 of this section.
 - b. Notice of the public hearing shall be provided, outlining the request and providing the date, time and location of the planning commission hearing, by:
 - 1) Publication in at least one newspaper of general circulation within the planning district pursuant to Nevada Revised Statutes; and
 - 2) The planning department providing notice of the public hearing (by U.S. mail) to owners of property within the same distance of the subject site as required for a zoning district boundary amendment (zone change).
 - c. The planning commission shall approve, modify and approve, or deny any amendment via adoption of any resolution in accordance with Nevada Revised Statutes 278.210(3) carried by the affirmative vote of not less than two-thirds (2/3) of the total membership of the commission. The resolution shall contain the commission's findings on the matter; and shall refer to the maps, descriptive matter and other matter intended by the commission to constitute the amendment. The action taken shall be recorded on the map, plan and/or other descriptive matter by the identifying signatures of the secretary and chairperson of the commission.

- d. The planning commission shall not approve increased densities or an increase of the land use intensities proposed in the original application.
 - e. An attested copy of any approved amendment to the master plan adopted by the planning commission must be certified to the board of county commissioners.
 - f. All applications, regardless of action taken by the planning commission, shall be forwarded to the board, unless specifically withdrawn by the applicant.
4. County Commission Hearing And Action:
- a. Before adopting any master plan amendment, the board shall hold at least one public hearing in accordance with Nevada Revised Statutes 278.220, with notice of the hearing provided by publication in at least one newspaper of general circulation within the county pursuant to Nevada Revised Statutes.
 - b. When considering adoption of a master plan amendment adopted by the planning commission the board shall make part of the record its affirmation, modification or rejection of the findings provided in the planning commission's resolution, as well as any other findings that the board deems to be relevant.
 - c. The board may affirm a master plan amendment denied by the planning commission with a simple majority vote of the total membership of the board.
 - d. The board may reverse a master plan amendment denied by the planning commission with a simple majority vote of the total membership of the board.
 - e. The board may consider adoption of a master plan amendment that was approved, or modified and approved, by the planning commission with a simple majority vote of the total membership of the board.
 - f. If the board proposes to make changes or additions to a master plan amendment approved by the planning commission the proposed change(s) or addition(s) shall be remanded to the planning commission for a report thereon, and an attested copy of the report has been filed with the board. Failure of the planning commission so to report within forty (40) days, or such longer period as may be designated by the board, after such reference shall be deemed to be approval of the proposed change or addition.
5. Effective Date: An amendment to the master plan shall become effective immediately upon determination by the board of county commissioners that the amendment is in conformance with the master plan.
6. One Year Wait On Denials: After the denial of a master plan amendment, no application for a master plan amendment for the same or similar amendment on the same property may be accepted for one year immediately following the date of the denial. This section shall not apply to applications denied without prejudice, which may be refiled within one year.
7. Proposed Modifications To Previously Approved Amendments To The Master Plan: Proposed modifications of an approved amendment to the master plan shall require a new application following the same procedure required for the initial application. (Ord. 310, 2006: Ord. 294, 2004)

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.

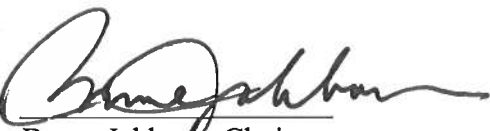
EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 26th day of July, 2023.


Proposed on the 6th day of June, 2023

Proposed by: Commissioner Carbone.

Adopted on the 6th day of July, 2023

Vote: Ayes: Commissioners: Jabbour, Strickland, Cox, Carbone, Boskovich
Nays: Commissioners: Ø
Absent: Commissioners: Ø

BY: 
Bruce Jabbour, Chair
Nye County Board of
County Commissioners

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