

BILL NO. 2018-02

NYE COUNTY ORDINANCE NO. 528

SUMMARY: AN ORDINANCE AMENDING NYE COUNTY CODE TITLE 17, COMPREHENSIVE LAND USE PLANNING AND ZONING, RELATING TO TEMPORARY USE PERMITS; 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, RELATING TO TEMPORARY USE PERMITS; 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, Title 17 was adopted pursuant to the Planning and Zoning Act of the State of Nevada, the purpose of which is to preserve the quality of air and water resources; to promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment; to protect life and property in areas subject to floods, landslides and other natural disasters; to ensure that development on land is commensurate with the character and the physical limitations of the land; to take into account the suitability of the land for development; to promote health and the general welfare; and to be in accordance with the master plan for land use;

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

17.04.925: TEMPORARY USE PERMITS:

- A. Purpose: The purpose of this section is to create procedures for Temporary Use Permits for specific uses of land or activities of a short-term, seasonal, or limited period of time on a particular lot or parcel as set forth in this section.
- B. Types of Uses That May Be Allowed Pursuant to a Temporary Use Permit:
 - 1. Temporary Dwelling Units: The placement of a temporary manufactured home, mobile home, manufactured building, commercial coach, recreational vehicle, or factory-built housing for temporary residential purposes may be allowed as follows with a Temporary Use Permit:
 - a. Watchman's Quarters: On a lot or parcel in the General Commercial (GC), Commercial Manufacturing (CM), Light Industrial (LI), or Heavy Industrial (HI) zoning districts, when used as a watchman's quarters.
 - (1) "Watchman's Quarters" is defined as one accessory single-family dwelling unit located within a principal commercial or industrial non-residential structure, or detached from

but on the same parcel of land as the principal commercial or industrial non-residential structure, for occupancy by the owner, operator, or employee of the principal use acting as caretaker, custodian or security personnel, together with his or her immediate family, if applicable.

- (2) Evidence of an active commercial or industrial operation will be required. Evidence includes, but is not limited to, an active business license for the commercial or industrial operation. The absence of an active business license for the commercial or industrial operation will automatically terminate the Temporary Use Permit.
 - (3) The Temporary Use Permit must be renewed annually, pursuant to the renewal procedures set forth in this section.
- b. Farming or Ranching Operation: On a lot or parcel in the Rural Homestead (RH) or Rural Estates (RE) zoning districts when used as a temporary residence in conjunction with a bona fide functioning farming or ranching operation. The Temporary Use Permit must be renewed every two (2) years, pursuant to the renewal procedures set forth in this section.
- c. During Principal Residential Dwelling Unit Construction: On a lot or parcel in any residential zoning district when placed on the same lot or parcel of land and utilized as a temporary residence during the construction of an on-site principal residential dwelling unit.
- (1) A building permit as required by Nye County Code and state law must be issued, and impact fees paid, if applicable, prior to issuance of a Temporary Use Permit.
 - (2) If construction of the on-site principal residential dwelling unit has not been completed within one year of the approval of the Temporary Use Permit, the Temporary Use Permit must be renewed, if applicable, pursuant to the renewal procedures set forth in this section.
 - (3) The Temporary Use Permit shall terminate upon expiration of the building permit or within thirty (30) calendar days of the issuance of a Certificate of Occupancy.
- d. Alleviate Hardship: On a lot or parcel with a principal residential dwelling unit thereon in any residential zoning district when used to alleviate hardship.
- (1) A Temporary Use Permit may be granted in the following situations to alleviate hardship:
 - (A) A residence for an aged, invalid, or physically or mentally disabled person who requires care;
 - (B) A residence used by an attendant caring for an aged, invalid or physically or mentally disabled person;
 - (2) Evidence demonstrating need, including, but not limited to, letters from a physician, as defined by NRS Chapter 630, may be required.
 - (3) All permittees under this subsection must renew their Temporary Use Permit annually, pursuant to the renewal procedures set forth in this section. e. A recreational vehicle within all residential zoning districts shall be allowed as a temporary, seasonal use for a maximum of one hundred and twenty (120) calendar days per calendar year without a Temporary Use Permit. Occupancies exceeding seven (7) consecutive days shall require connection to an approved permanent wastewater disposal system (i.e., individual septic

system or public sewer system) and an approved permanent water supply (i.e., private domestic well or public water system).

2. Accessory Building with Farming or Ranching Operation: An accessory building may be permitted on a lot or parcel in the Rural Homestead (RH) or Rural Estates (RE) zoning districts when used as a temporary structure in conjunction with a bona fide functioning farming or ranching operation. The Temporary Use Permit must be renewed every two (2) years, pursuant to the renewal procedures set forth in this section.
 3. Construction of Major Development Projects: The following situations during the construction of major development projects shall be allowed without obtaining a Temporary Use Permit, subject to the following conditions:
 - a. Contractor's office and storage yards on the site of an active major development project, so long as the project remains in active status.
 - b. Office trailers for security purposes on the site of an active major development project, so long as the project remains in active status.
 4. Temporary Advertising Devices: Banners, balloons, inflatables or other devices used to attract attention outdoors shall be allowed for the purpose of advertising a grand opening event or special sales event, without obtaining a Temporary Use Permit, subject to the following conditions:
 - a. The use of such temporary advertising devices shall not exceed sixty (60) calendar days per business in a calendar year.
 - b. Temporary advertising devices shall not be placed within or overhang any public right of way, or be placed in any manner which creates a hazard or impacts drivers' sight visibility.
 - c. Temporary advertising devices must be placed only on the site in which the business is located.
 5. Outdoor Sales Events: Certain temporary outdoor sales events shall be allowed without obtaining a Temporary Use Permit.
 - a. The following outdoor sales events shall be allowed without obtaining a Temporary Use Permit, subject to the following conditions:
 - (1).Farmer's markets, outdoor sidewalk sales, parking lot sales, art and craft shows, stands for the sale of jewelry, furs, rugs and similar home-type products, stands for the sale of produce, subject to not more than fifty-two (52) calendar days per calendar year.
 - (2).RV, boat, and auto sales, provided that a DMV temporary sales event permit has been approved, subject to not more than six (6) sales events per calendar year.
 - (3).Christmas tree sales lots, subject to not more than fifty (50) calendar days of site occupation and operation per calendar year.
 - (4).Pumpkin sales lots, subject to not more than thirty (30) calendar days of site occupation and operation per calendar year.
 - b. Temporary uses not described or temporary uses which exceed the timeframes established herein may be authorized by the Planning Director. Any such temporary use shall require the submittal of a Temporary Use Permit application.
- C. Application Procedures Temporary Use Permits:

1. Generally: For uses requiring a Temporary Use Permit, applications for Temporary Use Permits shall be filed with the Planning Department, which is charged with responsibility for their receipt, fee collection, if any, processing and distribution.
2. When Filed; Who May File: Temporary 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 Temporary Use Permits specifically authorized or required by this section.
3. 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 section shall have been provided, and all fees, due at the time of filing, shall have been paid.
4. Decision on Application: The Planning Director shall determine whether an application for a Temporary Use Permit shall be approved or disapproved within thirty (30) calendar days of submission of the complete application to the Planning Director. After the Planning Director makes a determination on the application, the Planning Director shall provide written notice of the decision to the applicant.
5. Appeal: If the Planning Director disapproves the Temporary Use Permit application, the applicant may appeal the decision of the Planning Director, in accordance with Title 16, Chapter 16.36 of this code.
6. Service: Service on the applicant shall be made by personally delivering a copy of the written notice to the permittee, or by mailing a copy of the written notice by certified mail with return receipt requested to the permittee's address as specified on the Temporary Use Permit application.

D. Application Forms:

1. Materials That Are Required: Where applicable to the use for which a Temporary Use Permit is requested and where necessary to a decision on the application for a Temporary Use Permit, all applicants shall provide the following:
 - a. A completed proper application form as provided by the Planning Department;
 - b. The name, address, and phone number of the applicant or its agent with power of attorney, and property owner's written, notarized approval if property ownership is other than the applicant;
 - c. The legal description and physical address of the property of the proposed use;
 - d. A statement describing in detail the character and intended use of the property; and
 - e. An application fee, pursuant to a fee schedule adopted by resolution of the Board of County Commissioners.
2. 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 supplementary information may be used as grounds for disapproval of the permit application.

- E. **Conditions And Safeguards:** The Planning Director shall have authority to attach to the approval of a Temporary Use Permit such conditions and safeguards as may be necessary for the purposes of this section in the particular case. Such conditions and safeguards, if attached to the approval of a Temporary Use Permit, shall be based upon and consistent with the general standards, and considerations and standards applicable to the type of Temporary Use Permit involved as set out in this section, 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 approval of a Temporary Use Permit, shall be deemed a violation of this section, resulting in the suspension or revocation of the Temporary Use Permit under subsections (J) and (K) of this section.
- F. **Compliance With Conditions; Responsibility of Applicant to Submit Written Report:** The responsibility for compliance with any conditions or safeguards attached to an approved Temporary Use Permit shall lie with the permittee. For all approved Temporary 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 Temporary Use Permit, outlining the status of compliance with any such conditions or safeguards attached to an approved Temporary 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 Temporary Use Permit.
- G. **Modifications To Approved Temporary Use Permits:** The Planning Director must approve any modifications to approved Temporary Use Permits.
- H. **Withdrawal of Application For Permit; Effect Of Withdrawal:** An application for a Temporary Use Permit may be withdrawn by the applicant at any time before a determination has been made by the Planning Director, and shall have no effect on future applications for the same proposed use.
- I. **Previously Disapproved Temporary Use Permit Applications:** An application for a Temporary Use Permit which was the subject of a previously disapproved application which proposed the same use on the same property shall not be accepted until the following periods have elapsed from the date of disapproval:
1. After the first disapproval: Six (6) months after the date which applicant received written notice of disapproval from the Planning Director; or
 2. After the second or a subsequent disapproval: Eighteen (18) months after the date which applicant received written notice of disapproval from the Planning Director.

The time periods described above shall not become effective if, after consideration of the timing and circumstances of the disapproval, the Planning Director specifically disapproved the application without prejudice.

- J. **Suspension of Temporary Use Permit:**
1. **Grounds:** Any of the following conditions or occurrences are grounds for the suspension of a Temporary Use Permit:
 - a. Any violation of the terms or conditions of the Temporary Use Permit;
 - b. Any misrepresentation made in an application for a Temporary Use Permit;

- c. Any act or failure to act by the permittee or its agents in connection with the use for which the Temporary Use Permit was obtained which creates or tends to create or constitute a public nuisance;
 - d. Refusing or neglecting to comply with any provision of this section; or
 - e. Any act or failure to act by the permittee or its agents which the Planning Director determines is detrimental to the public health, safety, morals or general welfare of the public.
2. Suspension Procedure:
- a. The Planning Director, without prior notice, may suspend any Temporary 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 Temporary 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 which caused the suspension, the Planning Director shall determine whether to rescind the suspension of the Temporary Use Permit.
 - b. 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 not sufficient, the Planning Director may proceed with revocation procedures, pursuant to this section.
3. Appeal: If the permittee disagrees with the suspension, the permittee may appeal the decision of the Planning Director, in accordance with Title 16, Chapter 16.36 of this code. If, after correction or mitigation of the grounds which caused the suspension, the Planning Director determines that the grounds still exist and does not rescind the suspension, the permittee may appeal the decision of the Planning Director in accordance with Title 16, Chapter 16.36 of this code.
4. Service: Service on the permittee shall be made by personally delivering a copy of the written notice to the permittee, or by mailing a copy of the written notice by certified mail with return receipt requested to the permittee's address as specified on the Temporary Use Permit application.

K. Revocation of Temporary Use Permit:

- 1. Grounds: Any of the following conditions or occurrences are grounds for the revocation of a Temporary Use Permit:
 - a. Permittee failed to sufficiently correct or mitigate the grounds that caused the suspension of the Temporary Use Permit;
 - b. Any violation of the terms or conditions of the Temporary Use Permit;
 - c. Any misrepresentation made in an application for a Temporary Use Permit;
 - d. The use for which the Temporary Use Permit was originally approved no longer exists, as determined by the Planning Director; or
 - e. Any act or failure to act by the permittee or its agents which the Planning Director determines is detrimental to the public health, safety, morals or general welfare of the public.
- 2. Revocation Procedure: The Planning Director may revoke any Temporary Use Permit pursuant to any one or more of the grounds listed above. The Planning Director shall provide written notice of the reasons for revocation of the Temporary Use Permit to the permittee.

3. Appeal: If the permittee disagrees with the revocation, the permittee may appeal the decision of the Planning Director, in accordance with Title 16, Chapter 16.36 of this code.
 4. Service: Service on the permittee shall be made by personally delivering a copy of the written notice to the permittee, or by mailing a copy of the written notice by certified mail with return receipt requested to the permittee's address as specified on the Temporary Use Permit application.
 5. Reinstatement: Any permittee who had his or her Temporary Use Permit revoked may reapply for a Temporary Use Permit six (6) months after the date which applicant received written notice of disapproval from the Planning Director the revocation.
- L. Renewal Procedures For Temporary Use Permits: For those Temporary Use Permits that require renewal, thirty (30) calendar days prior to the expiration of the Temporary Use Permit, the permittee shall submit an application for renewal. If the permittee fails to apply for renewal, the Temporary Use Permit shall expire and the use shall be removed or discontinued.
1. 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:
 - a. A renewal application;
 - b. A signed statement indicating that conditions of the original approval have not changed; and
 - c. A renewal fee, pursuant to a fee schedule adopted by resolution of the Board of County Commissioners.
 2. During processing of any renewal application, the Planning Director may request additional information to prove that conditions of the original approval have not changed. Failure to supply such supplementary information may be used as grounds for disapproval of the renewal application.
 3. Completion Before Processing: For purposes of establishing time limitations 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.
 4. When the permittee has supplied all necessary information, the Planning Director shall review the renewal application materials. The Planning Director shall make a determination regarding whether the Temporary Use Permit shall be renewed, and shall provide written notice to the permittee of his or her decision, within twenty-one (21) calendar days of the date of receipt of the renewal application by the Planning Department.
 - a. If the Temporary Use Permit is not approved for renewal, the Planning Director shall provide written notice of the reasons for denial of the renewal application. The permittee may appeal the decision of the Planning Director in accordance with Title 16, Chapter 16.36 of this code.
 - b. If the Temporary Use Permit is approved for renewal, the Planning Director shall provide written notice of the approval and a new Temporary Use Permit.

c. Service: Service on the permittee shall be made by personally delivering a copy of the charging instrument to the permittee, or by mailing a copy of the charging instrument by certified mail with return receipt requested to the permittee's address as specified on the Temporary Use Permit application.

M. Revocation, Expiration or Termination of Temporary Use Permit: Following the revocation, expiration or termination of a Temporary Use Permit, the manufactured home, mobile home, manufactured building, commercial coach, recreational vehicle, or factory-built housing must be removed from the property within thirty (30) calendar days of the date of revocation, expiration or termination of the Temporary Use Permit. In cases where a travel trailer or recreational vehicle has been utilized for the purposes of the Temporary Use Permit, said travel trailer or recreational vehicle may remain on the subject property, where allowed, but must be disconnected from any and all utilities and cease to be used for the purposes outlined in this section.

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 7th day of May, 2018.

Proposed on the 12th day of March, 2018.

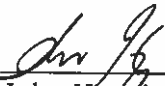
Proposed by: Commissioner Schinhofen.


Adopted on the 17th day of April, 2018

Vote: Ayes: Commissioners: Koenig, Schinhofen, Wichman, Borasky, Cox

Nays: Commissioners: Ø

Absent: Commissioners: Ø

BY: 
John Koenig, Chairman
Nye County Board of
County Commissioners

ATTEST: 
Sandra E. Merlino
Clerk and Ex-Officio
Clerk of the Board