

NYE COUNTY ORDINANCE NO. 574

SUMMARY: An ordinance amending Nye County Code Title 17, titled Comprehensive Land Use Planning and Zoning, by adding Chapter 17.12, titled Craft Distillery, Brewery, Brew Pub, Cidery, Meadery and Winery Zoning Requirements, to establish the zoning, land use and development requirements applicable to distilleries, micro-distilleries, cidery, microbreweries, brew pubs, meaderies and wineries within Nye County, including those areas within the Pahrump Regional Planning District.

TITLE: AN ORDINANCE AMENDING NYE COUNTY CODE TITLE 17, TITLED COMPREHENSIVE LAND USE PLANNING AND ZONING, BY ADDING CHAPTER 17.12, TITLED CRAFT DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY ZONING REQUIREMENTS, TO ESTABLISH THE ZONING, LAND USE AND DEVELOPMENT REQUIREMENTS APPLICABLE TO DISTILLERIES, MICRO-DISTILLERIES, CIDERY, MICROBREWERIES, BREW PUBS, MEADERIES AND WINERIES WITHIN NYE COUNTY, INCLUDING THOSE AREAS WITHIN THE PAHRUMP REGIONAL PLANNING DISTRICT, 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, the Nye County Board of Commissioners (Board) is authorized to amend the Nye County Code relating to Planning and Zoning; and

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

**Chapter 17.12**

**CRAFT DISTILLERY, BREWERY, BREW PUB, CIDERY, MEADERY AND WINERY ZONING REQUIREMENTS**

**17.12.010: INTENT; GENERALLY**

**17.12.020: DEFINITIONS**

**17.12.030: BREW PUB, BREWERY, CRAFT DISTILLERY, CIDERY, MEADERY AND WINERY ESTABLISHMENT ZONING REQUIREMENTS**

**17.12.035: FAMILY FARM OR SMALL WINERY**

**17.12.040: BREW PUB**

**17.12.050: BREWERY**

**17.12.060: CRAFT DISTILLERY**

**17.12.070: CIDERY, MEADERY AND WINERY**

**17.12.080: ALCOHOLIC BEVERAGE LICENSE; MANUFACTURING; COMPLIANCE**

**17.12.010: INTENT; GENERALLY:**

The intent of this Chapter is to establish the zoning, land use and development requirements applicable to agritourism establishments, including distilleries, micro-distilleries, cidery, microbreweries, brew pubs and wineries within Nye County, including those areas within the Pahrump Regional Planning District.

**17.12.020: DEFINITIONS:**

The following definitions are in addition to the definitions set forth in NCC of this title. Unless the context clearly indicates a different meaning, the definitions below shall govern the construction, meaning, and application of words and phrases used in this Chapter:

**ALCOHOL:** A product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

**ALCOHOLIC BEVERAGE:** Means any malt beverage or spirituous, vinous or malt liquor which contains 1 percent or more ethyl alcohol by volume.

**BOARD:** Means the Nye County Licensing and Liquor Board.

**BREW PUB:** An establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230.

**BREWERY:** A brewery is an establishment which manufactures malt beverages but does not sell those malt beverages at retail.

**CATERING LIQUOR:** A business which:

- A. Prepares food at a licensed location for delivery or service to consumers, and may, in conjunction therewith, provide the service of alcoholic beverages; or
- B. Delivers or serves alcoholic beverages from a licensed location to consumers or at a banquet-reception hall which is operated by the catering liquor business.

**CIDER:** Fermented apples or other fruit juices often made sparkling by carbonation or fermentation in a sealed container.

**CLUB:** An association of persons, incorporated or not, for the promotion of some common object, but not including associations organized for any commercial or business purpose, owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests.

**CRAFT DISTILLERY:** An establishment which (a) manufactures distilled spirits from agricultural

raw materials through distillation and (b) is authorized to sell those distilled spirits pursuant to the provisions of NRS Chapter 597.235.

**DEMONSTRATION MEAL:** An event held at a restaurant with bar or resort hotel wherein a special meal is prepared and served, with or without a fee, to invited guests only, is not open to the public and wherein beer, wine, or spirit-based products are sampled at various stages of the meal and made available for sale for off-premises consumption at the time of the event.

**DIRECTOR:** The Nye County Planning Director.

**DISTILLATION:** The process of producing or purifying spirituous liquor by successive evaporation and condensation.

**ESTATE DISTILLERY:** An establishment which:

- A. Manufactures distilled spirits from agricultural raw materials through distillation, provided that eighty-five (85) percent of such agricultural raw materials, in the aggregate, were grown on land within this State which is owned or controlled by the owner of the distillery; and
- B. Is authorized to sell those distilled spirits pursuant to the provisions of this NRS 597.

**IMPORTER:** Any person who, in the case of liquors which are brewed, fermented, or produced outside the State, is first in possession thereof within the State after completion of the act of importation.

**INSTRUCTIONAL WINE-MAKING FACILITY:** Any facility that, for a fee, provides a person of legal age with instruction and the opportunity to participate directly in the process of wine making on the premises of the facility. The term does not include:

- A. A wine maker or winery that is licensed pursuant to NRS Chapter 369.
- B. A university, state college or community college that is part of the Nevada System of Higher Education or any other postsecondary educational institution that is licensed by a federal or state agency and is accredited by a nationally recognized educational accrediting association

**LIQUOR:** Means beer, wine, gin, whiskey, cordials, ethyl alcohol or rum, and every liquid containing one-half of 1 percent or more of alcohol by volume and which is used for beverage purposes.

**LIQUOR MANUFACTURER:** An establishment where the primary business is the manufacture, production, and bottling of alcoholic liquor and spirit-based products of all kinds, including brewing, distilling, and rectifying activities. A liquor manufacturer licensee is subject to all federal and state laws and regulations applicable to such business activities.

**LIQUOR SALES ESTABLISHMENT:** Liquor sales establishments shall be organized into the following classes:

- A. Class I, Packaged Liquor Sales Establishment: Any establishment selling liquor to individuals in its original corked or unopened package for consumption off premises and includes convenience-liquor-grocery stores and other similar types of stores.

- B. Class II, Retail Liquor Sales Establishment: Any establishment selling retail liquor by the drink for consumption on premises, and in a bar setting, which may or may not include a restaurant as an accessory use.
- C. Class III, Special Club Liquor Sales Establishment: Any establishment dispensing liquor by the drink for consumption on premises only, and which is restricted in use to members and guest(s) accompanied by a member.
- D. Class IV, Liquor Manufacturer: Any establishment that manufactures liquor for sale to the public which includes distilleries, wineries, cideries, meaderies and breweries.
- E. Class V, Wholesale Dealer, as defined in this Chapter below.
- F. Class VI, Special Event Liquor License, as defined in this Chapter below.
- G. Class VII, 72-Hour Liquor License, as defined in this Chapter below.

**MALT BEVERAGE:** Beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

**MEAD:** An alcoholic beverage created by fermenting honey with water, sometimes with various fruits, spices, or hops. The alcoholic content ranges from about 3.5% ABV to more than 20%. The defining characteristic of mead is that the majority of the beverage's fermentable sugar is derived from honey.

**NONPROFIT CLUB:** A nonprofit organization classified in one of the categories defined in Section 501 of the United States Internal Revenue Code as being exempt from payment of federal income tax, that owns, rents or leases a building or space suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, but does not include associations organized for any commercial or business purpose.

**OFF-SALE:** The sale of alcoholic beverages in original sealed or corked containers for consumption off the premises where the same are sold or provided free of charge.

**ON-SALE:** The sale or serving of alcoholic beverages for consumption on the premises where the same are sold or provided free of charge.

**OPERATION:** The conduct of any business regulated or licensed by this Chapter.

**PROCESS OF WINE MAKING:** The usual and customary steps taken to produce wine, which may include, without limitation as stated in NRS 597.240(1)(b):

- A. Growing, buying and importing agricultural products and ingredients.
- B. Selecting, preparing and processing agricultural products and ingredients.
- C. Barreling, fermenting, aging, filtering, bottling, labeling, racking, warehousing and storing.
- D. Importing bulk wine or juice from a bonded winery in another state, to be fermented into wine or, if already fermented, to be blended with other wine or aged in a suitable cellar.

**RESORT HOTEL:** A building or group of buildings kept, used, maintained, advertised, and held out to the public to be a hotel where sleeping accommodations are offered to transient guests, which has a minimum of two hundred (200) rooms used for sleeping accommodations, and which

has a minimum of the following amenities, all of which are directly connected to the building or group of buildings upon the premises:

- A. One main bar with more than thirty (30) permanent seats wherein alcoholic liquors are dispensed by the drink to customers at such bar; and
- B. One service bar wherein alcoholic liquor is prepared for service only at tables and not direct to customers at such bar; and
- C. Entertainment which includes at least one of the following:
  1. One facility with at least twenty-five (25) seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artist) on a regularly scheduled basis; or
  2. One facility with at least one hundred (100) seats wherein live entertainment is provided by at least one professional entertainer (musician or variety artists) on a semi-regular basis (at least six (6) times per year).
- D. One restaurant with permanent seating capacity for more than sixty (60) patrons that is open to the public twenty-four (24) hours a day, seven days per week; and
- E. Room service to all rooms, including, without limitation, service of meals; and
- F. A recreational facility which includes at least one of the following:
  1. Four (4) regulation tennis courts with locker rooms and attendant facilities;
  2. One (1) swimming pool that is swimmable and adequate in relationship to the size of the resort hotel as approved by the Board;
  3. One (1) regular golf course consisting of at least nine holes comprising at least twenty-five (25) acres;
  4. One (1) gymnasium with dimensions of at least forty (40) feet in width, sixty (60) feet in length, and twenty (20) feet in height and equipped with exercise equipment; or
  5. Any other type of recreational facility as approved by the Board.
- G. A gaming area within the building or group of buildings. When determining whether a particular applicant complies with the resort hotel definition, the Board may consider:
  1. The physical layout of buildings and facilities; and
  2. The unity of title and ownership of the buildings or group of buildings; and
  3. The operation and management relationship of gaming to hotel administration; and
  4. The proximity of the proposed resort hotel to residential development.

**SPECIAL EVENT LIQUOR LICENSE:** A license which authorizes an existing licensee to sell, serve, or give away alcoholic beverages for consumption only on the premises for which the license is issued and only for such time as specified on the license, but not to exceed nine (9) consecutive calendar days. This license must be approved by the Board and is limited to one (1) per applicant per calendar quarter.

**72-HOUR LIQUOR LICENSE:** A license for selling liquor by:

1. A Nonprofit Club or Club which otherwise does not hold a liquor license; or
2. A currently licensed for profit business or other for profit or nonprofit entity which desires to sell liquor outside of its licensed premises.
3. This license shall be subject to the following restrictions:
  - A. Must be applied for a minimum of 15 days prior to the scheduled event.
  - B. Must be administratively approved by the Nye County Licensing Department.
  - C. Restricted to no more than two (2) events per calendar month not to exceed a time frame deemed excessive by the board.

**TASTING ROOM:** Part of a winery or brewery, typically located on the premises of the winery or brewery's production facilities, at which guests may sample the winery or brewery's products.

**TAVERN:** An establishment primarily engaged in selling or serving alcoholic beverages at retail by the drink to the general public for on-premises consumption, with the ability to request approval for the following ancillary activities: a dance hall, live entertainment, food service, and restricted gaming.

**WHOLESALE DEALER:** Any person licensed to sell liquor as it is originally packaged to retail liquor stores or to another licensed wholesaler.

**WINE:** Any alcoholic beverage obtained by the fermentation of the natural content of fruits or other agricultural products containing sugar.

**WINERY:** A business which produces, bottles, blends or ages wine, or that imports wine or juice from a winery:

- A. Has been issued a winemaker's license in accordance with NRS 369.200; and
- B. Is bonded and permitted in accordance with NRS 597.240.

**17.12.030 BREW PUB, BREWERY, CRAFT DISTILLERY, CIDERY, MEADERY and WINERY ESTABLISHMENT ZONING REQUIREMENTS:**

Brew Pub, Brewery, Craft Distillery, Cidery, Meadery and Winery establishments, to include liquor manufacturers, distributors, importers, and wholesalers, shall be allowed within the Light Industrial (LI), Heavy Industrial (HI), General Commercial (GC), Neighborhood Commercial (NC), Calvada Commercial (CC), Town Center (TC), Commercial Manufacturing (CM) zones if located within the Pahrump Regional Planning District. Cideries, Meaderies and Wineries may also be allowed in Business Overlay (BO) zone if located within the Pahrump Regional Planning District. In any other area outside of the Pahrump Regional Planning District that permits General Commercial, Manufacturing, Light Industrial and/or Heavy Industrial uses, subject to compliance with the distance separation requirements and other restrictions contained in this Chapter and upon the approval of a Special Use Permit as required in this Chapter.

**17.12.035: FAMILY FARM OR SMALL WINERY**

A Family Farm Winery or Small Winery are permissive in RH 4.5 and RH 9.5 zoning districts to sell wine at their vineyard locations with a Conditional Use Permit and are subject to the following conditions:

- A. Minimum acreage required is 5 gross acres.
- B. Must have at least 200 vines in cultivation.
- C. Can only be open for sales on Saturdays, Sundays and holidays between the hours of 12 noon and 5:00pm.
- D. Limited to one Special Event Liquor License per calendar quarter.
- E. Case sales are limited to 1000 cases per calendar year.
- F. Are exempt from the paving requirements for parking or paved road access with the installation and maintenance of compacted type II gravel in all parking and traffic areas.
- G. Must comply with all Federal, State and Local licensing regulations.
- H. Must meet all safety and public health standards and regulations.

#### **17.12.040: BREW PUB**

A Brew Pub is authorized for the manufacture and sale of malt beverages at an establishment provided that the owner or operator of such establishment maintains in a primary capacity, at the same location, a Brew Pub license pursuant to NCC 5.04.060:

(A) A Brew Pub license shall only be issued subject to the following conditions:

- (1) That the manufacture and sale of the malt beverages produced at the location shall comply with all Federal, State and Local laws regarding the manufacture and sale of malt beverages;
- (2) The manufacture and sale of malt beverages may occur as an ancillary activity to the activities permitted by the primary license; and
- (3) Prior to issuance of a Brew Pub license by the Board, the applicant shall present proof of State licensure of the establishment as a Brew Pub.

(B) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, the holder of a Brew Pub license may dispense beer or cider in a container sold or provided by the licensee, or a sanitary container provided by the customer, with a maximum capacity which does not exceed one (1) gallon subject to the following:

- (1) The licensee or the licensee's employee fills the container at the time the beer or cider is sold; and
- (2) The container is thereafter sealed with a plastic adhesive or tamper-evident seal; and
- (3) The beer or cider is not consumed on the licensee's premises.

- (C) Any brew pub or tavern license in existence prior to the adoption of the ordinance codified in this Section may continue to operate as currently licensed unless the operation of the establishment is discontinued for a period of greater than twelve (12) consecutive months. Upon the expiration of a period of discontinuance for greater than twelve (12) months, the establishment must obtain and maintain alcoholic beverage licenses pursuant to the applicable regulations then in effect.

**17.12.050: BREWERY**

A Brewery is authorized for the manufacture, sale and distribution of malt beverages at an establishment provided that the owner or operator of such establishment maintains in a primary capacity, at the same location, a license pursuant to NCC 5.04.060:

(A) A Brewery license shall only be issued subject to the following conditions:

- (1) That the manufacture and sale of the malt beverages produced at the location shall comply with all Federal, State and Local laws regarding the manufacture and sale of malt beverages;
- (2) The manufacture and sale of malt beverages may occur as an ancillary activity to the activities permitted by the primary license; and
- (3) Prior to issuance of a permanent liquor license by the Board, the applicant shall present proof of State licensure of the establishment as a Brewery.

**17.12.060: CRAFT DISTILLERY**

(A) A Craft Distillery is authorized for the manufacture, sale and distribution of distilled beverages at an establishment, but only if the owner or operator of the establishment maintains, in a primary capacity, at the same location, a license pursuant to NCC 5.04.060 and any and all licenses necessary under NRS Chapter 369 that authorize that activity. A license under this Section is subject to the following conditions and requirements, in addition to any and all others that apply:

- (1) In order to qualify for a license under this Section, the applicant must first present proof of State licensure of the establishment under NRS Chapter 369.
  - (2) The manufacture and sale of distilled beverages produced at the location shall comply with all relevant Federal, State and Local laws regarding the manufacture and sale of distilled beverages.
- (B) In connection with the sale of beverages for on-premises consumption, a Liquor Sales Establishment licensed under this Section shall comply with the following requirements and limitations regarding such sales:
- (1) The manufacture and sale of distilled beverages produced at the location shall comply with all Federal, State and Local laws regarding the manufacture and sale of distilled beverages.

- (2) The operator or licensee must submit to the Board for approval, on an annual basis, a proposed outdoor event schedule where on-premises consumption will take place with groups of 50 persons or more, which must include the following:
  - (a) Dates, hours, and descriptions of the proposed events.
  - (b) The approximate number of persons expected to attend each event.
  - (c) An attestation that only those ages twenty-one (21) years and older may be in attendance without being accompanied by an adult at all times while on the premises.
- (C) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, a Liquor Sales Establishment with a Craft Distillery alcoholic beverage license may, pursuant to NRS 597.235.

#### **17.12.070 CIDERY, MEADERY AND WINERY:**

- (A) A Cidery, Meadery or Winery is authorized for the manufacture, sale and distribution of cider, mead or wine at an establishment, but only if the owner or operator of the establishment maintains, in a primary capacity, at the same location, a license pursuant to NCC 5.04.060 and any and all licenses necessary under Federal, State and Local laws that authorize that activity.
- (B) In connection with the sale of beverages for on-premises consumption, a Liquor Sales Establishment licensed under this Section shall comply with the following requirements and limitations regarding such sales:
  - (1) The operator or licensee must submit to the Board for approval, on an annual basis, a proposed outdoor event schedule where on-premises consumption will take place, with groups of fifty (50) persons or more, which must include the following:
    - (a) Dates, hours, and descriptions of the proposed events.
    - (b) The approximate number of persons expected to attend each event.
    - (c) An attestation that only those ages twenty-one (21) years and older may be in attendance without being accompanied by an adult at all times while on the premises.
- (C) Notwithstanding any provision of this Chapter that might otherwise prohibit or limit the activity, a Liquor Sales Establishment, Class IV, with a Cidery, Meadery or Winery license may:
  - (1) Serve to consumers samples of its manufactured cider, mead or wine; and
  - (2) Sell to consumers, for off-site consumption, its cider, mead or wine.

#### **17.12.080: ALCOHOLIC BEVERAGE LICENSE; MANUFACTURING; COMPLIANCE**

Pursuant to this Chapter, a Class IV liquor manufacturer's license authorizes the manufacture, production and bottling of alcoholic beverages of all kinds, including the brewing, distilling and

rectifying activities associated therewith. The holder of such a license is subject to all Federal, State and Local statutes and regulations including Title 26 Subtitle E of the Internal Revenue Code applicable to those activities.

**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 9<sup>th</sup> day of August, 2021.

Proposed on the 2<sup>nd</sup> day of June, 2021.

Proposed by: Commissioner Blundo.

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

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

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