BILL NO. 2026-14

NYE COUNTY ORDINANCE NO. 633

SUMMARY: AN ORDINANCE AMENDING CHAPTER 17.10 OF THE NYE COUNTY CODE TO ESTABLISH LAND USE REGULATIONS, SPECIAL USE PERMIT REQUIREMENTS, AND DEVELOPMENT STANDARDS FOR DATA CENTERS NOT LOCATED WITHIN HYDROGRAPHIC BASIN 162 AND RELATED INFRASTRUCTURE BY AMENDING SECTION 17.10.010: DEFINITIONS, SECTION 17.10.020: PURPOSE AND INTENT, SECTION; AND BY ADDING A NEW SECTION 17.10.155: DATA CENTER SPECIAL USE PERMIT REQUIREMENTS, AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

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WHEREAS, pursuant to NRS 244.119, the Nye County Board of Commissioners ("Board") is authorized to amend the Nye County Code; and

WHEREAS, NRS 278 authorizes the Board to regulate land use, zoning, and development within the unincorporated areas of Nye County; 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, Title 17 of the Nye County Code establishes zoning, development standards, and Special Use Permit requirements to ensure that land uses are compatible with surrounding properties and consistent with the County's Comprehensive Master Plan; and

WHEREAS, Chapter 17.10 currently provides permitting and development requirements for large-scale infrastructure projects, including renewable energy generation facilities, transmission infrastructure, and related utility uses, requiring Special Use Permits and Development Agreements approved by the Board; and

WHEREAS, data centers and related digital infrastructure represent a growing land use within Nevada and can have significant impacts on land use planning, water resources, energy demand, public services, and surrounding properties; and

WHEREAS, the Board finds that data centers, due to their scale, infrastructure requirements, and operational characteristics, are similar in intensity and impact to other large utility or infrastructure projects already regulated under Chapter 17.10; and

WHEREAS, it is the intent of the Board to ensure that data centers are developed in a manner that protects the public health, safety, and welfare, ensures compatibility with surrounding land uses, and provides appropriate review through the Special Use Permit process and Development Agreements;

WHEREAS, the Board finds these changes to be appropriate and an improvement to the regulations;

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

CHAPTER 17.10 SPECIAL USE PERMITS

17.10.010: Definitions

ACRONYM GUIDE

BOCC – Nye County Board of County Commissioners

EMS – Emergency Management Services

NCNRD – Nye County Natural Resources Department

NCDEM – Nye County Department of Emergency Management

OHV – Off Highway Vehicle

PRPC – Pahrump Regional Planning Commission

PRPD – Pahrump Regional Planning District

SECS – Solar Energy Conversion System

SUP – Special Use Permit

WDGB – Water District Governing Board

WECS – Wind Energy Conversion System

ABOVE GROUND TRANSMISSION LINE: An overhead power line is a structure used in electric power transmission and distribution to transmit electrical energy along large distances. It consists of one (1) or more conductors (commonly multiples of three (3)) suspended by towers or poles.

AMBIENT BASELINE SOUND PRESSURE LEVEL: The average A-weighted sound pressure level (LAeq) for a project area prior to construction as determined by a baseline acoustics emissions study. The sound pressure level shall be measured over a minimum period of twenty-four hours (24) hours using a "Fast" time constant.

APPLICANT: When used in connection or with respect to a project, shall mean the person(s) and/or entity(s) which is/are the developer and/or owner and/or operator of the project, The term shall include all successors and assigns of the initial Applicant. When used in this Ordinance to affix liability or for a binding agreement or obligation, Applicant shall include the Owner or Operator of the project that intends to be legally liable or so bound.

A-WEIGHTED DECIBLE: An A-weighted decibel (written as **dBA** or **dB(A)**) is a unit for measuring sound pressure levels adjusted to match how the human ear actually perceives moderate-volume loudness

BATTERY ENERGY STORAGE SYSTEM: Battery Energy Storage Systems (BESS), are devices that enable energy to be stored and then released when the power is needed.

BOCC: The Nye County Board of County Commissioners.

CO-APPLICANT: When used in connection or with respect to a renewable energy project, shall mean a person or entity which executes an application for a project solely because of an ownership interest in real property to be used in connection with the project. The Co-Applicant requirement is not applicable to those lands owned or managed by the Federal government.

COLLECTOR: Any power line that carries electrical power from one or more solar panels or transformers or converters associated with solar panels to the point of interconnection with the electrical power grid, in the case of interconnection with high voltage transmission systems the point of interconnection shall be the substation serving the project.

COUNTY: Nye County, Nevada.

CRITICAL WIND SPEED: The wind speed at which WECS turbine sound pressure levels are at greatest variance with Ambient Baseline Sound Pressure Levels.

DATA CENTER: A facility or group of facilities not located within hydrographic basin 162, including one or more buildings, used primarily to house computer systems, servers, network equipment, data storage, and associated electrical, mechanical, and cooling infrastructure for the processing, storage, management, and transmission of digital data, together with all accessory structures and equipment that are a direct functional part of the facility, including without limitation electrical substations, backup electrical generation, fuel storage, battery energy storage, cooling systems, water treatment and storage, security infrastructure, and administrative space. The term does not include a renewable energy generation facility, an above ground transmission line, a battery energy storage system, an electrical substation, or a gen-tie connection regulated under Sections 17.10.030 through 17.10.150 of this Chapter, except where such facilities are accessory to and/or located on (or adjacent to) the same site as a Data Center. This Section does not apply to server rooms, telecommunications closets, or similar computing facilities that are accessory to a primary non-data center use, provided such facilities occupy less than twenty-five percent (25%) of the total building square footage and have a critical IT power load of less than five hundred (500) kilowatts.

DECOMMISSIONING PLAN: With regards to a project shall have the meaning and include the requirements set forth in Nye County Code Sections 17.10.110 (E) and (H) and 17.10.160.

DECOMMISSIONING SECURITY: With regards to a project shall have the meaning and meet the requirements as set forth at Nye County Code Sections 17.10.110 (E) and (H) and 17.10.160.

DEVELOPMENT AGREEMENT: A written agreement, adopted pursuant to state statutes and the provisions of this chapter, for a specified period of time between the county and any person having a legal or equitable interest in real property for the purpose of developing such property in accordance with specified laws, ordinances, codes, resolutions, rules, regulations and plans adopted by the BOCC; and in effect at the time such agreement is executed, in return for additional development requirements that may include, but are not limited to, provision of affordable housing, design standards, and on and off site/off tract infrastructure and other improvements and dedications, and which shall be approved by the BOCC and/or other reciprocal obligations from the County.

DISTAL SOLAR PANEL: Means each solar panel closest to an adjoining non-participating property line.

DRAINAGE PLAN: With regard to a project shall mean the storm water management plan approved by Nye County Public Works for the project as required by Nye County Code Section 17.10.110 (C).

ELECTRICAL SUB-STATION: Substations contain specialized equipment that allows the voltage of electricity to be transformed (or 'switched'). The voltage is stepped up or down through pieces of equipment called transformers, which sit within a substation's site.

GEN-TIE: These are facilities that connect the original source of electric power (generation) to the transmission system.

NON-PARTICIPATING: Property or the property-owner of land adjacent to a SECS project and Data Center that is not participating in the project as a Co-Applicant.

NON-RENEWABLE ENERGY GENERATION FACILITY: Coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

OPERATOR: When used in connection with or in relation to a project means any person or entity which has primary involvement with or responsibility for the use, operation, or maintenance of all or a portion of a project.

OWNER: When used in connection with or in relation to a project shall mean any person or entity and his, her, or its assigns and successors in interest which has any ownership interest in any or all of the necessary devices to convert solar energy into electricity. The term "Owner" does not include any person or entity whose ownership interest in a SECS is limited to an interest in real property which is used in a SECS.

PROJECT: Means any Renewable Energy Generation Facility, Above Ground Transmission Lines (not located within an established utility corridor), Battery Energy Storage, Electrical Substation and Gen-Tie connections.

RENEWABLE ENERGY: Means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

1. Biomass;
2. Fuel cells;
3. Geothermal energy;
4. Solar energy;
5. Waterpower; and
6. Wind; and
7. Battery Energy Storage Systems (BESS)

The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

RENEWABLE ENERGY GENERATION FACILITY: Means a project involving an electric generating facility or system that uses renewable energy as its primary source of energy to generate

electricity. The term does not include a project involving an electric generating facility or system that uses nuclear energy, in whole or in part, to generate electricity.

RENEWABLE ENERGY PROJECT: Means the development, construction, deployment, alteration or repair of any project, technology, product, service, function, or measure that generates electric power from renewable energy.

SAFETY AND SECURITY PLAN: The SECS project site safety and security plan as provided by Nye County Code Section 17.10.110(D).

SCHOOL: Means any public, private, or parochial educational facility for students from K-12 registered with the State of Nevada and does not include home schools.

SECS NET SALVAGE VALUE: The net value of all the saleable parts and commodities which make up the SECS whether sold as used parts or on a commodity/scrap basis or any combination thereof (whichever is greater) after deducting all estimated costs and expenses of dismantling, removal, and transportation and all costs and expenses of sale (including but not limited to all commissions and fees) and the amount necessary to pay and satisfy all liens, security interests, and other encumbrances attaching to the SECS. The commodity/scrap value shall be based on the prior five (5) years average scrap value of the commodity.

SOLAR ENERGY CONVERSION SYSTEM (SECS): The generating equipment and all ancillary equipment used in the production of electrical energy from solar resources, but not including electrical transmission facilities to transmit energy generated by a SECS from the SECS project site to the point of interconnection

TOWN: The area within the territorial limits of any unincorporated town within Nye County.

TOWN BOARD: The Town Board form of government established pursuant to Nevada Revised Statutes 269.016 through 269.022.

TRANSPORTATION PLAN: The detailed route plan used for construction and maintenance by a project as required in Nye County Code Section 17.10.120(B).

VIEWSHED AREA: Means the areas of visual impact of a project as set forth in Section Nye County Code 17.10.110(F).

17.10.020: Purpose And Intent

The intent of this chapter is to establish the land use and permitting requirements applicable to all Renewable Energy Generation Facilities, Above Ground Transmission Lines (not located within an established utility corridor), Battery Energy Storage, Electrical Substation and Gen-Tie Connections, as authorized by Nevada state law for all areas within County, including those areas within the Pahrump Regional Planning District.

Data Centers, as defined in Section 17.10.010, are additionally governed by the land use and permitting requirements set forth in Section 17.10.155, which establishes a self-contained framework specific to Data Centers. The provisions of Section 17.10.155 apply to Data Centers in lieu of the provisions of Sections 17.10.030 through 17.10.150, which govern Renewable Energy Generation Facilities and related utility projects.

17.10.030: Permit For Construction Of A Special Utility Project Not Located In A Master Plan Designated Utility Corridor

Any Renewable Energy Generation Facility, Above Ground Transmission Lines (not located within an established utility corridor), Battery Energy Storage, Electrical Substation, Gen-Tie Connections, and Data Centers not located within hydrographic basin 162 which is planned to be located within County requires an approval of a Special Use Permit and a Development Agreement with County.**17.10.040: Special Utility Permit For Renewable Energy Generation Facility, Above Ground Transmission Lines (Not Located Within An Established Utility Corridor), Battery Energy Storage, Electrical Substation And Gen-Tie Connections**

A. Special Use Permit for Construction of a Renewable Energy Generation Facility, Above Ground Transmission Lines (not located within an established utility corridor), Battery Energy Storage, Electrical Substation, Gen-Tie Connections, and Data Centers:

    1. A Special Use Permit shall be required for any Renewable Energy Generation Facility, Above Ground Transmission Lines (not located within an established utility corridor), Battery Energy Storage, Electrical Substation, Gen-Tie Connections, and Data Centers. In addition to the general criteria for approving the Special Use Permit, no Special Use Permit application shall be approved unless the Applicant establishes that the proposed Renewable Energy Generation Facility, Above Ground Transmission Lines (not located within an established utility corridor), Battery Energy Storage, Electrical Substation, Gen-Tie Connections, and Data Centers meet the following additional criteria:

        1. Proposed developments must not conflict with any existing or planned infrastructure or utility projects;

        2. Proximity of the proposed developments or corridors to any school, hospital, or urban residential area with a dwelling density greater than two (2) units per gross acre shall be taken into consideration and appropriate setbacks shall be applied.

17.10.050: Requirement To Obtain A Special Use Permit

Any Renewable Energy Generation Facility, Above Ground Transmission Lines (not located within an established utility corridor), Battery Energy Storage, Electrical Substation, Gen-Tie

Connections, and Data Centers shall require the approval of the BOCC and be conducted in compliance with the terms and conditions of a Special Use Permit.

A. Administration and Enforcement:

1. Designation of Planning Authority: For purposes of the administration of Special Use Permits as provided for in this chapter, the BOCC shall be designated as the planning authority for all areas in County, to include those areas which may be located within a planning district or under the authority of a planning commission.

2. Penalties: Any person violating any provision of this chapter is guilty of a misdemeanor and is subject to a fine of not more than one thousand dollars ($1,000.00) and/or imprisonment in the County jail for a period not to exceed six (6) months. Any act that is prohibited, or is the result of the failure to perform required acts, shall constitute a violation of this chapter. Any person is guilty of a separate offense for each and every day, or any portion of a day, of which any violation of this chapter is committed or continued.

3. Abatement Proceedings: In addition to any penalties that may be imposed, any use of property, or the establishment of any building, structure or use contrary to the provisions of this chapter or in violation of any condition attached to the granting of a Special Use Permit, County may commence proceedings for the abatement in accordance with this code or state law or may pursue other remedies as provided by law.

4. Revocation of Special Use Permit: Failure to abide by and faithfully comply with the provisions of this chapter with respect to use, development standards, or maintenance requirements, with any other requirement of this code, with any applicable requirement of the Nevada Revised Statutes or Nevada Administrative Code, or with any and all conditions attached to the granting of any land use application hereunder is unlawful and a public nuisance, and shall constitute grounds for the revocation of the same, or any permit or license issued in conjunction with the application.

    a. Upon discovery of such a violation, County may commence proceedings for the revocation thereof in accordance with applicable provisions of this code or may pursue other remedies as provided by law. If the BOCC determines that there is sufficient cause to revoke the application or permit, a public hearing shall be scheduled before the BOCC, at which time the Owner or other interested party may show cause as to why the permit should or should not be revoked. If the BOCC revokes the permit, it shall specify for the record the reasons for its action.

b. The revocation of a business license, or the revocation of permits, which are no longer appealable, to conduct a use or the failure to obtain an approved Site Development Plan shall cause any SUP to become invalid with the hearing specified in subsection A (4)(a) of this section.

5. Term of Special Use Permit: If a project does not commence construction within a five (5) year period after the SUP is approved by the BOCC the SUP is deemed expired, unless a further extension is mutually agreed upon by the Applicant and BOCC. Any SUP issued herein shall remain in effect only for a period of one (1) year from the date of issuance. The SUP granted herein is restricted to the building and process as described in the application and approved by the BOCC, any expansion or modifications will require an amendment to the SUP. One (1) year from the date of issuance, and each year following until construction commences, projects that receive SUP approval are required to pay a renewal fee of five thousand dollars ($5,000.00) and submit application no later than 30 days prior to expiration for annual renewal that consists of a detailed compliance report for review demonstrating that the project conforms to all SUP conditions of approval and this chapter. The SUP renewal is to be reviewed and acted upon administratively by the planning director within thirty (30) days of the renewal submission and shall be granted so long as the Applicant demonstrates satisfaction of the conditions and adherence to this chapter.

6. Transferability of Special Use Permit: Any SUP approved by the BOCC shall be specific to the Renewable Energy Generation Facility, Above Ground Transmission Lines (not located within an established utility corridor), Battery Energy Storage, Electrical Substation, Gen-Tie Connection, and Data Center owner as specified on the permit. Any change in ownership of the project that is approved by the BOCC shall be transferrable to a new owner by application to the planning department and approval from the BOCC, and the Special Use Permit will be valid for the same terms as the original Special Use Permit and shall be subject to the same use at the same location. BOCC approval may not be unreasonably withheld, delayed, or conditioned, except approval will be conditioned upon the assignor or successor satisfying the financial criteria set forth in the Development Agreement and section 17.10.110(G) ".

7. Cumulative Remedies: All remedies provided herein shall be cumulative and not exclusive.

B. Application Process:

1. Federally Owned Land: If the project is on federally owned land, prior to submitting the application for the Special Use Permit for construction of a project, and at the beginning of the federal review and permit application process, the Applicant must

have a pre-submittal meeting with County staff to discuss the project and the application. The Applicant then shall submit, as the application, the appropriate documents related to the environmental review by state and federal land management agencies. If the Applicant is required to apply for a permit to construct under the utility environmental protection act from the public utilities commission of Nevada, then the Applicant's service of the permit to construct application to the County, pursuant to Nevada Revised Statutes 704.870(4), shall constitute the environmental review documents that make up the application.

2. Special Use Permit Fee: A Special Use Permit fee, as established by County Resolution, shall be collected for any application for a Special Use Permit for construction of a project.

3. Town Boards: If the proposed location of the project is within the boundaries of a Town and outside the Town of Pahrump, the Applicant shall contact the applicable elected or advisory Town Board office and request an agenda item be placed on the Town Board's agenda to present the project and obtain a written letter from the Town Board in support of, or in opposition to, or acknowledgement the Applicant made a presentation for the proposed aboveground utility project and/or energy generation facility. Any Town Board receiving such request shall not be later than forty-five (45) days after receiving such request place the item on the agenda to hear the proposal and within fifteen (15) days after hearing the request the Town Board shall provide a written letter to the Applicant. The Applicant shall submit a copy of the Town Board's written letter to the Planning Department along with the application for a Special Use Permit. If the Town Board does not provide the letter within fifteen (15) days, the Applicant must provide documented evidence of effort to obtain a written letter from the Town Board to satisfy this section.

C. Public Hearing Notice Requirements: Upon the filing of a complete application for a Special Use Permit, the Planning Director shall give notice setting forth the time, place, and purpose of such hearing. Notice of such hearing must be mailed at least ten (10) calendar days prior to the hearing to:

1. The Applicant;

2. Each owner of real property, as listed on the County Assessor's records, located within three hundred feet (300') of the property in question;

3. Any Advisory or elected Town Board which is affected by the proposed project if it falls within the boundary of the Town;

4. If a military installation is located within three thousand feet (3,000') of the property in question, the commander of the military installation;

5. If an Indian Reservation is located within three thousand feet (3,000') of the property in question, the Chief Executive Officer or Tribal Chairman and Council of the Indian Reservation and the United States Department of the Interior Bureau of Indian Affairs (BIA); and

6. The Nye County Sheriff, EMS, and Fire Department.

D. Standard Findings for Approval of a Special Use Permit: The BOCC shall determine which application submits a plan and proposal that meets the needs of, or otherwise benefits, the residents of Nye County. The following criteria shall be evaluated by the BOCC:

1. Will be in accordance with the general objectives or with any specific objectives of the Comprehensive Master Plan of current adoption, and the zoning map if applicable;

2. Will not be hazardous or disturbing to existing or future neighboring uses;

3. 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;

4. 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; and

5. 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. (Ord. 483, 2014)

E. Appeals: Any person who is aggrieved by a final decision of the BOCC may appeal that decision to the District Court by filing a petition for judicial review within twenty-five (25) days after the date of the filing of notice of the decision with the Clerk of the Board.

17.10.060: Application Of Ordinance

This Section applies to ground-mounted solar energy conversion systems and Data Centers. This Ordinance does not apply to roof-top or integrated solar installations on buildings or facilities and all such installations remain subject to applicable building and safety codes.

A. (SECS-1) Solar Energy Conversion System—Tier 1

B. (SECS-2) Solar Energy Conversion System—Tier 2

C. Data Centers. Any Data Center, as defined in Section 17.10.010, shall require the approval of the BOCC and be conducted in compliance with the terms and conditions of a Special

Use Permit and the specific requirements set forth in Section 17.10.155 of this Chapter. The general administration, enforcement, and appeal provisions of this Section apply to Data Centers except where Section 17.10.155 provides otherwise.

17.10.070: Energy Conversion System Distinctions

Only Photovoltaic systems may be installed in County and will require a Special Use Permit and a Development Agreement to be entered into between the Applicant/Developer and County for all SECS-1 projects. Concentrated Solar Power systems may not be installed in County. Acreage is measured from a perimeter fence surrounding the total solar generation facilities including any substations, energy storage or electrical support buildings. Any solar energy generation facilities intended to be operated as an integrated system shall be regulated according to the aggregate total acreage. Any subsequent phase of an approved project shall meet the criteria required of the total acreage of all phases.

Type	Acreage	Other
SECS-1	Greater than 10 acres or daily aggregate production of (1) megawatt or more per day.	Electricity sold to utility transmission lines.
SECS-2	Up to 10 acres on one or more properties.	Electricity used primarily for on-site use primarily behind the meter, generation for a single property owner.

17.10.080: Designation Of Use In Districts In The PRPD

Subject to the requirements of this Section, the designated solar energy projects are permitted uses (X) or special exception with a Special Use Permit (E) uses in the following districts. Special Use Permits or Building Permits shall not be issued to any Applicant without the BOCC granting preliminary and final approval at public hearings.

District	SEC-1	SEC-2
RH-9.5		X
RH-4.5		X
RE-2		X
RE-1		X

SE		X
VR-20		X
NC		X
GC		X
CM		X
TC		X
CC		X
M		X
VC		X
BO		X
AO		X
SO		X
MU		X
LI	E	X
HI	E	X
OS	E	X
BR		X
OU	E	X
R	E	
CF		X

17.10.090: Approval Process

A. All Tier 1 projects subject to this Section shall be considered at two public hearings before the BOCC and shall comply with all requirements of this Title. The first hearing shall

consider granting preliminary approval. The second hearing shall consider granting final approval. Final approval may not be granted sooner than twenty-eight (28) days after preliminary approval absent extraordinary circumstances proven by the Applicant to the satisfaction of the BOCC.

B. An application for any use designated as a Special Exception shall be heard by the BOCC prior to submission of a site development plan to the BOCC. Applicant may submit the preliminary development plan and the Special Use Permit application at the same time, however, the BOCC must take action on the Special Use Permit Application prior to the Public Hearing on a Preliminary Development Plan before the BOCC

C. Following final approval, the Applicant must comply with the requirements as set forth in this Section with respect to receiving a Special Use Permits for the project.

D. Any Applicant seeking a variance allowed under County Code 17.10.150 (G) from any setback or height restriction requirement of this Section must receive that approval from the applicable Town Board, PRPC if located within the PRPD, or BOCC if outside PRPD with a letter of support or opposition obtained from the Town Board if located within a town boundary and submit such variance recommendation for approval or denial with its final development plan application. Only the BOCC may approve any departure from the procedures for approval or any modification of final approval.

E. All information provided and gathered during a preliminary development plan review and/or a final development plan review may be used by the BOCC in determining whether to approve or disapprove the plan and, if approved, what reasonable additional restrictions or provisions shall be included in the plan in addition to those outlined herein.

17.10.100: Preliminary Development Plan Approval

A completed application for preliminary development plan approval signed by the Applicant shall be filed with the County Planning Department. If the Applicant is not the owner of the real property on which the project is sited, all property owners of the real property where the project is to be located must be Co-Applicants; with the exception of projects sited on lands owned or managed by the Federal government. The application shall include the following items submitted in both hard copy and/or electronic format, as required by the reviewing Agency:

A. PROJECT SUMMARY. An initial project summary including a description of the project stating the approximate total name plate generating capacity and the name plate generating capacity of each solar panel, the total acreage included in the project and the GIS coordinates of the general outline of the project area, the potential equipment manufacturers and type of solar energy conversion system to be used, the number of solar panels, the size and maximum height of the solar panels, and description of substations, power inverters, maintenance structures, storage yards, permanent solar resource monitoring structures and equipment, BESS and other buildings that are a direct functional

part of the project. If any part of the project includes battery storage, the types of batteries to be used, the manufacturer, and the type of installation shall also be included.

B. APPLICANT AND CO-APPLICANTS. A description of the Applicant, Owner and Operator and any other responsible party and if applicable each of their intermediate and ultimate parent companies, listing experience in similar projects and gross capitalization. List names, addresses, email addresses, websites and phone numbers of the Applicants, Owners and Operators and all Co-Applicants.

C. MAPS. A map or maps of the project site and surrounding quarter-mile radius that shows the topography (at 2-foot contours), political and natural features of the project site. The map shall include the individual land parcels by Assessor's tax parcel number and clearly identify whether the property is participating in the project or not. The map shall also identify the zoning designations if applicable, all streets and roadways by classification, municipal and township boundaries, residential structures, public lands, public and private schools (including colleges and universities) existing utilities and transmission lines, public safety facilities, governmental boundaries, public recreational land, OHV trails, RS-2477 Roads, any County minor or major roads, and any commercial or public structure such as stores, churches, airports or landing strips. If more than one map is submitted, all maps shall be drawn at the same scale. All maps shall be submitted in hard copy and electronic format as specified by the Planning Department. public recreation land as identified on County and Nevada department of outdoor recreation maps, including trail maps on the Nevada off-highway vehicle program website off-road Nevada/off road Nevada (nv.org). alternate routes to be provided where trails are cut by section lines.

D. SITE PLAN. The Applicant shall submit a preliminary site development plan at an appropriate scale showing the proposed location of the project facilities; proposed access roads; substations; maintenance structures; storage yards; permanent solar resource measuring or monitoring installations; electrical cabling; ancillary equipment; and any other structures that are a direct functional part of the project. Each contiguous row of solar panels and/or structure should be assigned a unique identification number on the site plan. In addition, the site plan shall show: primary structures within one quarter mile of any project; property lines, including identification of non-participating adjoining properties; setback lines; public roads; County regulated drains, washes, open ditches if located in a public right of way; location of all above-ground utility lines; location of all existing underground utility lines associated with the site; recognized historic or heritage sites as noted by the Nevada Department of Natural Resources; floodplains; and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines, and the location of any other condition or facility regulated by any other agency having jurisdiction of activity on the site. This site plan must also be distributed to emergency management agencies, fire departments serving any part of the project site, the County Sheriff, and the chief executive body of any municipal

government or Town Board whose boundary is within 10 miles of the project site. The site plan shall identify any public, private, or parochial school property (not including home schools) located within two miles of the project boundaries.

E. COORDINATION WITH APPLICABLE AGENCIES. The Applicant shall submit a summary report identifying the entities the Applicant has communicated and coordinated with respect to the project. The report shall list the entity name, the primary contact person at the entity and contact information, the dates of coordination and list of documents submitted to each agency. The report shall also transmit any comments, suggestions, concerns, approvals, or disapprovals with respect to the project issued by the entity and/or communicated to the Applicant. The following entities shall be contacted:

Authority	**Purpose**	**Type of Documentation**	**When Required**
General			
BLM (Bureau of Land Management)	NEPA Compliance on Federal Lands	Record of Decision and ROW grant	Final
FAA (Federal Aviation Administration)	Coordinate to reduce any impacts on flight or airport interference	Determination of no hazard	Preliminary
DOD (Department of Defense) Siting	Coordinate siting to mitigate radar interference or any other interference.	Any recommendations or comments received submitted to lead permitting agency	Preliminary
USFWS (U.S. Fish and Wildlife Service)	Coordination	Summary memorandum of initial survey results submitted to lead agency	Preliminary
State			
NDEP (Nevada Department of environmental Protection) & County (if located within the PRPD)	Surface Area Disturbance (SAD) Permit for disturbance of 5ac or more	Surface Area Disturbance (SAD) Permit for disturbance of 5ac or more	Final

NDWR (Nevada Division of Water Resources) & County Water District Governing Board	As required, provide anticipated water rights permits being used for construction and O&M and point of diversion.	Provide anticipated source of proof of adequate water rights and engineers estimate of water usage	Final
NDOT (Nevada Division of Transportation) & County Road Department	As applicable Encroachment permits for highway and County Road access and Road Maintenance agreements for County Road Use	Letter of compliance and approval from NDOT and County and confirmation that an Encroachment Permit can be issued	Final
NDOW (Nevada Division of Wildlife)	EIS (Environmental Impact Study)	Payment of Cost Recovery Fee	Final
NDOR (Nevada Dept. of Outdoor Recreation)	Site Review	Any Recommendations or Comments	Final
Local			
Local Emergency Response	Lifeline access, safety protocols	Safety and Security Plan	Final
Telecommunication, Power and Cable Infrastructure owners and operators	All telecommunications owners and operators with infrastructure within 2 miles of project boundary shall be notified and consulted	Any comments or recommendations received from owners and operators shall be submitted to the Planning Department	Preliminary
Town Board (if located outside of PRPD)	Presentation of project	A letter of opposition or support and any comments or recommendations received from the Town Board	Final
SNCCD (So. County Conservation District) if	Presentation of project	A letter of opposition or support for the renewable energy project. If an	Final

applicable dependent on project location		Applicant can provide documented evidence of effort to secure a written letter, but does not receive a written letter, this section shall be deemed satisfied.	
NNCCD (No. County Conservation District) if applicable dependent on project location	Presentation of project	A letter of opposition or support for the renewable energy project. If an Applicant can provide documented evidence of effort to secure a written letter, but does not receive a written letter, this section shall be deemed satisfied.	Final

****PLEASE BE AWARE THAT SOME OF THE REQUIRED TOWN BOARDS AND CONSERVATION DISTRICTS FREQUENCIES FOR MEETINGS THAT YOU ARE REQUIRED TO OBTAIN A LETTER OF OPPOSITION OR SUPPORT MEET BI-WEEKLY, MONTHLY AND QUARTERLY. IT IS THE APPLICANT'S RESPONSIBILITY TO VERIFY FREQUENCIES OF MEETINGS TO OBTAIN THIS LETTER.**

F. VISUAL IMPACT EVALUATION REPORT: The Applicant shall submit a Visual Impact Evaluation Report evaluating the visual impact of all solar panels on properties within the view shed area of the project. The report shall assess the visual impact on all properties within the visual impact zones identified below. For Applicants required to comply with the National Environmental Protection Act (NEPA), the viewshed analysis conducted in accordance with NEPA will fulfill the requirements of this ordinance. For Applicants not subject to NEPA, the following shall be included in the Visual Impact Evaluation Report:

1. View Shed Area Defined: One thousand (1,000) foot radius from each Distel Solar Panel adjacent to the project boundary.

2. A map depicting the dimensions of the proposed site that clearly identifies the setbacks distance in feet from each proposed Distal Solar Panel and adjoining property lines, the site of each of the photographic simulations taken in the View Shed Area, town boundaries, historic sites/districts, state and local designated scenic areas and roads, recreational areas, designated open space and designated

conservation areas, schools, parks, water resources, military installations, airports or landing strips.

3. Detailed description of the potential visibility of the SECS from key observation points identified by the Applicant and the methodology used to evaluate visibility within the following View Shed Areas and maps of the applicable View Shed Area identifying town boundaries, historic sites, state and local designated scenic areas and roads, designated recreational areas, designated open space and designated conservation areas, schools, parks, water resources, military installations, airports or landing strips, cell towers, weather, and radar stations.

4. Photographic simulations of the View Shed Area in sufficient number to capture the general visibility of the SECS and a map depicting the location for each photographic simulation.

5. Any mitigation measures proposed to minimize the visual impact of the project.

If a visual resources technical report is prepared for the project, as a part of a Federal Agency Led permitting process, the Applicant shall provide that report to County in lieu of the Visual Evaluation Impact Report described above.

G. NOISE EVALUATION REPORT. The Applicant shall submit a Noise Evaluation Report analyzing potential noise generated by SECS. The report shall identify sensitive receptors (if any) in the vicinity of the SECS with the potential to experience noise generated by the SECS and shall estimate noise levels at those sensitive receptors that would be expected to result from SECS operation. The report shall also provide the manufacturer's technical documentation of the proposed solar energy generating equipment noise levels to the extent possible. The report shall include a map depicting the noise study area radius, project boundaries, sound level monitoring locations and the nearest receptor locations. The Noise Evaluation Report shall include any potential mitigation measures to minimize sound levels. If a noise technical report is prepared for the project as part of a Federal Agency-led permitting process, the project Applicant shall provide that report to County in lieu of the Noise Evaluation Report described above.

H. TELECOMMUNICATIONS AND WIRELESS SIGNALS REPORT. The Applicant shall submit a Telecommunications and Wireless Signals Report identifying any expected interference with over the air communications and information gathering and provide a verified statement that it will mitigate any such interference.

I. NATURAL RESOURCE IMPACT REPORT. The Applicant shall submit a natural Resources Impact Report for the proposed project site. The report shall be concise (typically not more than 20 pages, excluding appendices and attachments) and shall include a desktop-level analysis briefly describing the potential natural resource impacts as a result

of the construction, operation, and maintenance of the SECS. The report's analysis shall consider impacts related to:(a) topography, geology, vegetation, soil types, water resources, special status wildlife and their habitat; (b) compliance with applicable air and water quality standards; (c) Night Sky International's Responsible Outdoor Lighting Principles in the project design (https://darksky.org/resources/guides-and-how-tos/lighting-principles/) (d) compliance with any USFWS solar energy guidelines as applicable. The report shall include a study area map with identification of any areas of importance such as wildlife habitat, flood zones, wetlands and watercourses evaluated in the report. The report shall also include any potential mitigation measures such as open space, erosion control, and habitat replacement to reduce the identified impacts on the project area. If natural resources technical reports pertaining to the resources addressed above are prepared for the project as part of a Federal Agency-led permitting process, the project Applicant may provide reports submitted to the Federal Agency to County in lieu of the Natural Resources Impact Report described.

17.10.110: Final Development Plan Approval

After approval of the Preliminary Development Plan, a petition for Final Development Plan approval shall be submitted to the Planning Department and shall include:

A. REVISED SITE PLAN. A revised site plan indicating any changes to the site plan submitted for the Preliminary Development Plan Approval.

B. TRANSPORTATION PLAN. A Transportation Plan recommended by the County Road Department and approved by the BOCC including a form of financial assurance acceptable to the BOCC for the repair or replacement of all damaged roads, bridges, signage, or other transportation structures during construction, maintenance, and operation.

C. DRAINAGE PLAN. A Drainage Plan approved by the County Public Works Department including a form of financial assurance acceptable to the BOCC for the repair or replacement of all damaged drains and ditches. The Transportation Plan and the Drainage Plan shall state that any newly constructed access roads shall not impede the flow of water and will comply with the County drainage ordinance.

D. SAFETY AND SECURITY PLAN. A Safety and Security Plan which must include adequate provisions for site security and safety. If the plan includes using County or Town services, it should include signatures of the proper authorities indicating they are aware of their role and capable of performing them. The Safety and Security Plan must also contain a summary of coordination with local emergency responders and area hospitals.

E. DECOMMISSIONING PLAN. A Decommissioning Plan to ensure that the project is properly decommissioned. The Decommissioning Plan must be updated and approved by the BOCC every five (5) years after the approval of the initial Decommissioning Plan and after any material improvements are added to the project, in the same manner as the initial

Decommissioning Plan. The Decommissioning Plan shall include financial assurance that the project facilities are properly decommissioned upon the end of the project life or abandonment consistent with this Section. The financial assurance must be provided at the completion of construction and prior to the issuance of any future Special Use Permit. The obligations with respect to decommissioning shall include removal and proper disposal of all physical material pertaining to the project improvements, and restoration of the area occupied by the project improvements such that it is suitable for an equivalent land use to what existed immediately before construction of such improvements. The Decommissioning Plan shall include a contractor cost estimate from a Nevada licensed engineer with experience in these matters for demolition and removal of similar facilities. The Decommissioning Plan must include proper disposal of all hazardous material and Operator must provide to the BOCC or its designee the certification of disposal issued by the entity providing the disposal service and/or the receiving disposal facility. All disposal must comply with local, state and federal law, rules and regulations in effect at the time of decommissioning.

F. DEVELOPMENT AGREEMENT. Applicant shall enter into a Development Agreement pursuant to Nye County Code Chapter 16.32.

G. ADDITIONAL ASSURANCES. The Applicant shall provide a notarized statement acknowledging and affirming the following with respect to the project:

1. All duties and obligations of each of the Applicant, Owner, and Operator shall be joint and several, and shall be binding upon all each of their heirs, successors in interest, and assigns unless and to the extent any successor in interest or assignee assumes in writing assignor's duties and obligations that may arise hereunder. At least forty-five (45) days prior to any Change in Control, written notice shall be given to the County Planning Department for presentation and approval by the BOCC. "Change in Control" is defined as (i) an acquisition of Applicant, Owner, and Operator by another entity by means of any transaction or series of related transactions, (ii) a sale of all or substantially all of the assets of the Applicant, Owner, or Operator.

2. BOCC approval of a Change in Control will be conditioned upon the assignee or successor meeting the following financial conditions: 1) all Financial Assurances (as hereinafter defined) provided to BOCC hereunder have been replaced by the successor or assignee or will be replaced no later than 30-days after the date of the Change in Control occurs and are in compliance with the terms and conditions of this Section; 2) the assignee or successor agrees in writing to be bound by the terms and conditions of the approval of the Final Site Development Plan; and 3) the assignee or successor provides documentation proving that it or its affiliate or parent has a) a net worth of at least $24 million dollars; and b) at least five years of

experience (or has management or an operator on its behalf that has at least five years of experience) in the development and operation of projects similar to the proposed project. If the successor or assignee satisfies the foregoing financial conditions, then approval by the BOCC shall not be otherwise withheld, delayed or conditioned.

3. All bonds, sureties, letters of credit or other financial assurances provided under this Section shall remain in full force and effect upon any transfer, assignment, or conveyance of an ownership interest until the successor in interest delivers an accepted replacement obligation. The transfer, assignment or conveyance of an ownership interest in the project without the advance approval of replacement bonds, sureties, letters of credit or other financial assurances shall constitute a default and shall not relieve the responsible party of liability unless and until the replacement bonds, sureties, letters of credit or other financial assurances provided is/are subsequently approved by the BOCC. However, the transfer of the interest of the Owner(s) shall be allowed without advance approval so long as the bond, surety, letter of credit or other financial assurance posted by the Applicant or Operator covers the successors in interest of the Owner(s) until replacement bonds, sureties, letters of credit or other financial assurances are obtained by such successor.

4. An Owner, or Applicant, or Operator which violates any provision of this Title (including violations by their agents, contractors, or subcontractors) and remains in violation beyond applicable notice and cure periods shall be subject to fines and all legal remedies under 17.10.350 et seq. Any Owner, or Applicant, or Operator or a contractor or agent thereof who engages in any activity prohibited by or under the control of this Title without first obtaining any required approval or permit including but not limited to a Special Use Permit, Building Permit or a Certificate of Occupancy shall be subject to fines and all legal remedies under County Code Section 17.10.350 et seq. Each day a violation occurs or continues constitutes a separate offense. The authority to assess fines rests only with the BOCC. The BOCC shall also have all recourse to address violations as provided by law.

5. Enforcement of this Ordinance shall be in compliance with Chapter 17.10.360 of the Zoning Ordinances of County, as it may be amended.

H. TIME LIMITATION. An application for Final Development Plan approval must be submitted no later than two (2) years after the Preliminary Development Plan approval. If not submitted within two years, the Applicant must re-submit its Preliminary Development Plan for approval before submitting its Final Development Plan. The Applicant may, but is not required, combine its Preliminary and Final Development Plan approval into one submission in that case. No project may exceed the total acreage approved in the Final Development Plan by more than two percent (2%) without further approval by the BOCC.

17.10.120: Building Permits And Commencement Of Construction

After Final Development Plan approval is obtained, but before any construction commences or Building Permits may be issued, all applicable state and federal permits, approvals and licenses must be obtained (with copies provided to the County Planning Department) and all state and federal statutes and regulations must be complied with and the following requirements satisfied:

A. INSURANCE REQUIREMENTS. The Owner, Engineering, Procurement and Construction Contractor, or Operator of the project shall maintain liability policies covering (1) bodily injury and property damage and (2) environmental contamination arising from construction, operation, maintenance, and decommissioning of the project. Limits on the bodily injury and property damage policy shall be two million dollars ($2,000,000) per occurrence and five million dollars ($5,000,000) in the aggregate with a deductible of no more than twenty thousand dollars ($20,000) and on the environmental contamination policy shall be of at least one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in the aggregate with a deductible of no more than fifty thousand dollars ($50,000). All such policies shall name County as an additional insured and a binder shall be provided annually to County.

B. SIGNAGE AND CONTACT. The Applicant shall establish a twenty-four hour (24) toll-free phone number for the registering of complaints and concerns. This number shall be posted at every project service road intersection with a public roadway throughout the project area once Building Permits are issued and before any construction or earth moving can commence. If Applicant receives a complaint about an issue, condition or event that Applicant has reason to believe may cause physical damage or bodily injury to the public and does not remedy, or take reasonable steps to remedy, such issue, condition or event within forty-eight hours (48) of receiving the complaint, County may address these complaints with any expenses incurred to be reimbursed by the Applicant.

C. PRE-CONSTRUCTION MEETING. The Applicant must attend a Pre-Construction Meeting between the Planning Director, Public Works Director, County Building Official, Fire Chief, Director of Emergency Management, and any other public officer or official whose input is deemed appropriate to verify that all requirements in the Title have been met. This meeting shall take place as the final step before construction and all other requirements should already have been met. Once reviewed, if all requirements have been met, the Applicant may then obtain Building Permits. If any requirements have not been met, then further pre-construction meetings will be held until it can be verified that the identified issues have been resolved.

D. FEES. All Licensing and Permit fees must be paid for the entire project before any Permits are issued. No permit shall be issued if the Applicant has overdue amounts owed to County.

17.10.130: Construction Standard

Prior to and during construction the Applicant, Owner and Operator shall be responsible for:

A. Obtaining an approval for a County Dust Control Plan/Permit and a Surface Area Disturbance Permit from NDEP.

B. Complying with existing septic and well regulation as required by the State of Nevada Division of Public and Behavioral Health, Nevada Division of Water Resources and Nevada Department of Environmental Protection.

C. Repairing all damages to County owned or regulated or Non-Participating Landowners' waterways, drainage ditches, or any other infrastructures caused by the construction or maintenance of the project so that the waterways, drainage, and/or other infrastructure is restored to the same or substantially the same condition as it existed prior to such maintenance or construction. Damages must be completely repaired to its original or better condition, and so as not to impede the flow of water. All repairs must be completed in a timely manner and the Owner, Operator, and/or Applicant shall be responsible for loss or damage approximately resulting from its impairment of such drainage structures. All repairs to County regulated drainage structures will commence within fourteen (14) days of notification. To determine if construction activities caused the damage, methods such as visual inspections, comparative survey data, and expert assessments are employed. If the construction group believes the damage was not caused by their activities, they have the right to submit a detailed report based on these methods to prove they are not responsible.

D. Using concrete armoring techniques at each and every location where County regulated drains and subsurface power transmission lines greater than 35,000 volts cross. Unopened bags of premixed concrete shall be laid on top of the transmission lines to cover six inches on both sides of the line and eight feet to each side of the County regulated drain the line is crossing. Open drain and transmission line intersections where the line is below the invert of the open drain shall be armored using the same technique. Red warning tape (printed with "warning electrical line below" or similar language) shall be buried no closer than twelve (12) inches above the actual power line at all crossing locations. The Road Department supervisor or agent designated by the Road Department shall inspect every such crossing before backfilling. Concrete armoring techniques will not be required in cases where directional boring is used.

E. Installing permanent, visible markers where directional boring is used. Markers shall be placed within the line of sight indicating directional changes and borings. Alternatively, operators may use Geographic Information System (GIS) mapping to document and publicly register the locations of all directional borings. Ensuring that the details are readily accessible for future reference and maintenance.

F. Submitting a monthly plan of work detailing construction and transportation activities to the Planning Department. The report shall include notification of any oversize or overweight loads entering or exiting the project as well as any work on roads, drainage, or access roads.

G. Adhering to the approved Transportation Plan. The County Road Department and/or appropriate municipal road personnel shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage. The County Road Department and/or appropriate municipal road personnel may choose to require remediation of road damage during the construction of the project if it is an imminent safety hazard, or upon completion of the project and is authorized to collect fees for oversized load permits. If repairs are not made in a timely manner, the County Road Department and/or appropriate municipal road personnel are authorized to make repairs and charge the Applicant a fee to cover the costs of repair. Such fees shall be established at the start date of construction and may be revised at three-month intervals. Further, a corporate surety bond may be required by the County Road Department and/or appropriate municipal road personnel to ensure the County or affected municipality that future repairs are completed to the satisfaction of the County or affected municipality. The bond shall be released at the conclusion of construction of the project, and it may be reduced to cover any damages or losses from the operation and maintenance of the project. If the Applicant or its contractors require material changes from the approved Transportation Plan or if post completion repairs, improvements, or expansions require oversize and overweight loads or involve new routes, an Amended Transportation Plan must be approved in the same manner as the initial plan. Any violation of the approved Transportation Plan may be subject to fines as provided in Nye County Code Section 17.10.350 et seq. and in addition, may also be subject to fines established by the governing body having jurisdiction over the roadway(s) affected.

H. Adhering to the approved Development Plans. Any non-material proposed changes, modifications, or amendments to the Development Plans must be approved by the Director of Planning and the Director of Planning shall thereafter report the non-material changes, modifications, or amendments to the BOCC. All material changes to the approved Development Plans must be approved by the BOCC. The Director of Planning shall have the authority and discretion, considering all relevant factors, to determine whether the proposed change is material or non-material.

I. Definition of Material and Non-Material Modifications. A nonmaterial modification is a modification made by the Developer by mutual agreement of Developer and Planning Director that: (1) meets or exceeds the requirements of this Agreement by advancing or augmenting the objective of the applicable requirement; or (2) does not materially increase or modify the land area covered by the project; and (3) does not result in an intensification of use or of off-site impacts; (4) does not alter the setbacks, allowed heights, and other bulk

standards of the project; and (5) does not involve a substantial change to the project design as agreed to in the Development Plan. A nonmaterial modification permits the rearrangement of uses and/or additions of existing structures as part of the project design if such change is within the scope of the applicable County, state and federal approvals of the project. A material modification includes any modification that does not qualify as a nonmaterial modification.

17.10.140: Development Standards

A. All installed equipment shall conform to applicable industry standards and the application shall include certificates of design compliance of the proposed equipment from nationally recognized third parties in the business of certifying compliance.

B. All electrical components of the project shall conform to applicable local, state, and national codes, and relevant national and international standards.

C. A visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

D. All solar panels and accessory buildings for the project must be fenced in with a fence not less than eight (8) feet in height.

E. All warning lights in the project shall conform to best industry practices to reduce impacts on migrating birds and other wildlife. No red pulsating incandescent lights or white strobe lights shall be installed. All lighting shall be in compliance with applicable Federal Aviation Administration regulations. All lighting shall be shielded so that no glare extends substantially beyond the boundaries of the project and installed lights shall be Dark Sky compliant certified.

F. At any Non-Participating Landowner's residential lot, public school, public library, or recreational area within one-quarter mile of the project boundaries, for a period of more than ten percent (10%) out of every hour, the audible A-weighted sound pressure levels as a result of the sound emitted by the project shall not exceed either, the greater of forty-five (45) decibels or, five (5) decibels above the Ambient Baseline Sound Pressure Level of the project. The Ambient Baseline Sound Pressure Level, if used, shall be determined by a baseline acoustic emissions study conducted by the County Planning Department and funded by the Applicant. Measurement of sound and vibration levels shall be conducted adhering to best practices within the applicable industry and in compliance with all other applicable County, state and federal regulations.

17.10.150: Setbacks And Height Restrictions

A. No part of the project shall be constructed in any required setback, dedicated public easement, or dedicated public right-of-way without prior written authorization from the BOCC.

B. No solar panel may be located less than one thousand (1000') feet, from any non-participating private landowner property line but may be reduced to three hundred feet (300') if the project agrees to implement one or more of the visual mitigation measures, which will thereby reduce the setback requirement accordingly:

1. Visual Berms with Native Vegetation. Applicant may propose to line some or all of the project boundary with a visual berm, planted with native vegetation, which, in combination with the vegetation will be 6 feet in height, to obfuscate the project. For the boundaries that include the berm, solar panels may be located no less than Three Hundred (300') feet from any non-participating private landowner property line.

2. Fencing with Visual Screens. Applicant may propose to construct fencing around some or all of the project boundary with fencing that include visual screens (which may include, but shall not be limited to, a mix of walls, fencing and Native Vegetation). For the boundaries that include this fencing, solar panels may be located no less than One Hundred (100') feet from any non-participating private landowner property line.

C. If an Applicant proposes a project withing the PRPD no solar panel shall be located less than one (1) mile from a residentially zoned property.

D. If an Applicant proposes a project within the PRPD no solar panel shall be located less than one-half (0.5) mile from State Highway 160.

E. No solar panel may exceed twenty-five (25') feet in height at its highest extended rotation.

F. No SECS - 2 solar panel may exceed the height restriction in the underlying zoning district.

G. Applicant shall give notice to the owner of any FAA certified landing strip located adjacent to the project. Setbacks will be determined based upon the agreement of the landing strip owner, Applicant, and the Planning Department which shall take into consideration the guidelines provided in a U.S. Department of Transportation FAA Advisory Circular dated February 26, 2014, as may be updated. Proof of notice must be included with the Preliminary Development Plan.

H. Allowed Variances. Variances are subject to Nye County Code Section 17.10.090, and may only be granted for relief from setback and height restrictions imposed under Nye County Code Section 17.10.150(B) and (C). A variance application must include an executed agreement between the Applicant and all participating and non-participating private landowners affected by the requested variance prior to consideration of the variance request by the PRPC if located within the PRPD or BOCC if located outside of the PRPD.

I. Allowed Variances. Variances are subject to Nye County Code Section 17.10.090, and may only be granted for relief from setback and height restrictions imposed under Nye County Code Section 17.10.310 (B) or (C). However, the A variance application must include an

executed agreement between the Applicant and all participating and non-participating landowners, municipality, or school district affected by the requested variance prior to consideration of the variance request by the PRPC if located within the PRPD or BOCC in all other areas of County. A variance shall be issued pursuant to this paragraph only upon:

a) A showing of good and sufficient cause;
b) Determination that failure to grant the variance would result in substantial hardship to the applicant; and
c) Determination that granting the variance will not create a nuisance, extraordinary public expense, or conflict with existing local laws or provisions of this code.

J. Allowed Variances. If a variance is requested within the PRPD, the Applicant must hold three public meetings informing the public on the requested variance. Notice of such a public meeting must be mailed at least ten (10) calendar days prior to the meeting to all owners of real property, as listed on the County Assessor's records, located within one quarter (0.25) mile of the property in question. Notice of such a public meeting must also be printed in a local newspaper at least ten (10) calendar days prior to the meeting. A variance shall be issued pursuant to this paragraph only upon:

a) A showing of good and sufficient cause;

b) Determination that failure to grant the variance would result in substantial hardship to the applicant; and

c) Determination that granting the variance will not create a nuisance, extraordinary public expense, or conflict with existing local laws or provisions of this code.

17.10.155: Data Center Special Use Permit Requirements

This Section establishes a self-contained framework governing the siting, special use permitting, construction, and operation of Data Centers within Nye County. The provisions of Sections 17.10.030 through 17.10.090, 17.10.110(E) and 17.10.130 through 17.10.150 do not apply to Data Centers, and the provisions of this Section do not apply to Renewable Energy Generation Facilities, Above Ground Transmission Lines, Battery Energy Storage, Electrical Substations, or Gen-Tie Connections. This Section is organized into three parts: Part A (Zoning) establishes where Data Centers are allowed and how they are approved; Part B (Permitting) establishes the application submittals and the ministerial requirements for construction; and Part C (Operations) establishes the continuing standards applicable to an operating Data Center.

Part A Siting and Approval

a. Purpose and Intent.

The purpose of this Part is to establish the land use and special use permit standards governing Data Centers. The Board of County Commissioners finds that Data Centers,

by reason of their scale, electrical and water infrastructure demands, and operational characteristics, warrant a dedicated regulatory framework distinct from that governing renewable energy and related utility projects. It is the intent of the Board that Data Centers be developed in a manner that protects the public health, safety, and welfare; ensures compatibility with surrounding land uses; ensures that the costs of required infrastructure are borne by the Applicant and not shifted to County residents or utility ratepayers; and provides the County rigorous review through the Special Use Permit process and a Development Agreement.

A. Applicability.

a. **Uses Governed.** This Part applies to all Data Centers, as defined in Section 17.10.010, proposed to be located within the unincorporated areas of Nye County, including those areas within the Pahrump Regional Planning District.

b. **Relationship to Renewable Energy Provisions.** This Section is self-contained. The provisions of Sections 17.10.030 through 17.10.150 and 17.10.160 through 17.10.170 do not apply to Data Centers, and the provisions of this Section do not apply to Renewable Energy Generation Facilities, Above Ground Transmission Lines, Battery Energy Storage, Electrical Substations, or Gen-Tie Connections. Where infrastructure otherwise described in those Sections is accessory to and located on the same site as a Data Center, it shall be reviewed as part of the Data Center application under this Section and not separately under those Sections.

c. **Buildings Excluded.** This Section does not apply to server rooms, telecommunications closets, or similar computing facilities that are accessory to a primary non-data center use and that fall below the thresholds stated in the definition of Data Center in Section 17.10.010. Such facilities remain subject to all applicable building and safety codes.

B. Designation of Use in Districts.

Subject to the requirements of this Section, a Data Center is permitted only as a special exception requiring a Special Use Permit (E) in the Light Industrial (LI) and Heavy Industrial (HI) zoning districts. A Data Center is not a permitted-by-right use in any district and is prohibited in all other districts, including all residential and agricultural districts. A Special Use Permit shall not be issued without the BOCC granting approval at a public hearing.

C. Special Use Permit and Development Agreement Required.

a. No Data Center shall be constructed, established, or operated within the County except in compliance with the terms and conditions of a Special Use Permit approved by the BOCC under this Section and a Development Agreement entered into pursuant to Nye County Code Chapter 16.32.

b. **Planning Authority.** For purposes of administering Special Use Permits under this Section, the BOCC is designated as the planning authority for all areas in the County, including those areas within a planning district or under the authority of a planning commission.

D. Approval Process.

a. An application for a Data Center Special Use Permit shall be considered at one public hearing before the BOCC. The Special Use Permit application shall be accompanied by the development plan submittals required by Part B of this Section.

b. The BOCC shall approve, approve with conditions, or deny the application based on the findings required by this Section. Approval authorizes the Applicant to proceed to the ministerial construction-document and building permit process set forth in Part B.

c. All information provided during the application and review may be used by the BOCC in determining whether to approve the application and, if approved, what reasonable conditions shall be imposed.

d. Town Board Presentation. If the proposed Data Center is located within the boundaries of an unincorporated town other than the Town of Pahrump, the Applicant shall request to present the project to the applicable Town Board and shall seek a written letter of support, opposition, or acknowledgment. If the Town Board does not provide a letter within 45 days after the request, the Applicant may satisfy this requirement by providing documented evidence of its effort to obtain one. This presentation is procedural and does not constitute a condition of approval; the Town Board's position is advisory to the BOCC. Within the Pahrump Regional Planning District, the regional planning process governs and no separate town board presentation is required under this subsection.

E. Findings Required for Approval.

The BOCC shall not approve a Data Center Special Use Permit unless it finds, based on the application and the record, that the proposed Data Center satisfies each of the following:

a. The use is consistent with the general and specific objectives of the Comprehensive Master Plan of current adoption and the zoning map;

b. The use will not be hazardous to existing or planned neighboring uses, having regard to the development standards and conditions imposed under this Section;

c. The use will be served adequately by essential public facilities and services, or the Applicant will provide such facilities and services, such that the use will not create excessive additional requirements at public cost;

d. The costs of electrical, water, transportation, drainage, and other infrastructure required to serve the use will be borne by the Applicant and will not be shifted to County residents or utility ratepayers; and

e. The use will comply with the development, performance, and operational standards of this Section.

F. Term, Transfer, Variances, and Appeals.

a. **Term.** If construction does not commence within five (5) years after the Special Use Permit is approved, the permit is deemed expired unless an extension is mutually agreed upon by the Applicant and the BOCC. The permit is restricted to the buildings and process described in the application and approved by the BOCC; any expansion or modification requires an amendment to the permit, except as provided in the modification provisions of this Section.

b. **Permit Runs With the Land; Transfer by Notice.** The Special Use Permit, together with all conditions of approval and the obligations of the Development Agreement, runs with the land and binds all successors in interest automatically. A sale, assignment, or other transfer of the Data Center, the underlying real property, or the controlling interest in the entity holding the Special Use Permit shall not require BOCC re-approval. The transferee shall, within thirty (30) days after the transfer, provide written notice to the Planning Department identifying the transferee and certifying in writing that the transferee assumes all obligations under the Special Use Permit and the Development Agreement and will maintain any required financial assurances. No transfer relieves the transferor of obligations accruing before the transferee's written assumption is delivered.

c. **Variances.** A variance from the setback or height requirements of this Section may be granted only upon (i) a showing of good and sufficient cause; (ii) a determination that denial would result in substantial hardship to the Applicant; and (iii) a determination that the variance will not create a nuisance, extraordinary public expense, or conflict with this Code or other law. A variance application affecting a non-participating property must include an executed agreement between the Applicant and each affected non-participating landowner.

d. **Appeals.** Any person aggrieved by a final decision of the BOCC under this Section may appeal to the District Court by filing a petition for judicial review within twenty-five (25) days after the filing of notice of the decision with the Clerk of the Board.

Part B. Application and Construction

A. Application Requirements.

A completed application for a Data Center Special Use Permit, signed by the Applicant, shall be filed with the County Planning Department. If the Applicant is not the owner of the real property, all property owners shall be co-applicants, except for lands owned or managed by the federal government. The application shall include:

a. **Project Summary.** A description of the Data Center stating the total electrical load and the critical IT load (in megawatts), the building program (number, size, and height of buildings and total square footage), the total acreage, the GIS coordinates of the project boundary, the type and capacity of backup electrical generation and fuel storage, the cooling method and any on-site water storage or treatment, anticipated water usage for construction and operation, and a description of all accessory structures that are a direct functional part of the Data Center.

b. **Zoning Justification.** A written justification describing the project, its consistency with the Comprehensive Master Plan and the applicable zoning district, the suitability of the site for the use, and how the project satisfies the findings required by this Section.

c. **Maps.** A map of the project site and surrounding quarter-mile radius showing topography at two-foot contours, parcels by assessor parcel number, participating and non-participating status, zoning designations, streets by classification, residential structures, schools, public lands, existing utilities and transmission lines, and public safety facilities.

d. **Site Plan.** A preliminary site plan at an appropriate scale showing proposed buildings, access roads, substations, backup generation and fuel storage, cooling infrastructure, water storage, above ground transmission routing, security fencing, setback lines, property lines and non-participating adjoining properties, regulated drainage features, and floodplains. The site plan shall identify any school located within two (2) miles of the project boundary and shall be distributed to the County Sheriff, fire department(s) serving the site, and emergency management.

e. **Required Studies and Reports.** The studies and reports required by subsection (B) of this Section.

B. Required Studies and Reports.

a. **Power Supply Study.** The Applicant shall submit a power supply study, prepared by a qualified engineer, that describes the Data Center's expected electrical load, stated as total facility load broken into critical IT load, cooling load, and ancillary load (in megawatts); identifies the anticipated point of interconnection; demonstrates available capacity and timing through an interconnection feasibility study or system impact study

from the participating transmission operator or load-serving entity; and confirms that the Applicant will fund any transmission upgrades that are exclusively required to serve the project. This study documents service feasibility and cost responsibility only and does not authorize the County to regulate utility service, which is within the jurisdiction of the Public Utilities Commission of Nevada.

b. **Water System Conceptual Master Plan.** The Applicant shall submit a preliminary water system conceptual master plan, prepared by a licensed professional engineer, that establishes projected water demands (potable, mechanical, and landscape) on an average-day, maximum-day, and peak-hour basis; estimates required water rights; delineates pressure zones; identifies storage tank sizing and siting alternatives; and includes hydraulic modeling results demonstrating that the proposed system meets minimum pressure and fire-flow standards. This plan does not authorize the County to allocate, permit, or regulate water rights, which are within the jurisdiction of the Nevada State Engineer.

c. **Sewer System Conceptual Master Plan.** The Applicant shall submit a preliminary sewer system conceptual master plan, prepared by a licensed professional engineer, that establishes projected sewage flow rates, demonstrates the feasibility of the proposed collection system, identifies connection points to existing infrastructure, and specifies required main sizes and minimum slopes.

d. **Traffic and Access Assessment.** The Applicant shall submit a preliminary trip generation and access assessment, prepared by a qualified traffic engineer, that estimates anticipated site-generated traffic (on a daily and peak-hour basis using accepted trip generation methodologies); documents existing roadway traffic volumes; identifies the location, number, and proposed control of site access points onto the adjacent roadway network; and analyzes the directional distribution and assignment of trips.

e. **Fiber and Telecommunications Connectivity Assessment.** The Applicant shall submit a preliminary fiber connectivity assessment, prepared by a qualified telecommunications consultant, that evaluates existing fiber infrastructure surrounding the site (including carrier routes); identifies viable last-mile and long-haul routing along available corridors; assesses route diversity and redundancy; analyzes latency to relevant interconnection points and internet exchange points; and provides near-term and long-term connectivity strategies with associated findings and recommendations.

f. **Site, Architectural Elevations, Screening, and Landscape Plan.** Building elevations for all primary structures; a description of exterior materials and color palette; a massing rendering or simulation of the development as viewed from the nearest public right-of-way and from any non-participating residential property within the viewshed; and a screening and landscape plan showing perimeter screening and plantings, demonstrating

that exterior design and screening reduce the visual prominence of the Data Center from public roadways and neighboring residential uses.

g. An acoustic study establishing the ambient baseline A-weighted sound level (LAeq) at the property line of the nearest non-participating residential use, estimating operational noise at that property line and at other representative sensitive receptors, identifying the major noise sources (cooling equipment and backup generation), including manufacturer noise data for that equipment, and proposing mitigation sufficient to meet the performance standards of Part C.

h. **Drainage and Flood Report.** A preliminary drainage analysis demonstrating that the site will be engineered so as not to increase off-site stormwater flows and will retain stormwater on site consistent with the County drainage ordinance and the design-storm basis applicable to the site.

i. **Natural and Cultural Resources Review.** For any portion of the project located on public land, a desktop-level analysis of potential impacts to topography, soils, vegetation, water resources, special-status wildlife and habitat, and cultural resources, together with any environmental review prepared under a federal or state permitting process, which may be submitted in lieu of a separate review. This requirement does not apply to portions of the project located on private land.

C. Water Adequacy and Consumption.

a. **Documentation.** The Applicant shall submit documentation of adequate water for the Data Center, including proof of water rights or a will-serve commitment from the serving water utility, and a Nevada-licensed engineer's estimate of construction and operational water usage.

b. **Consumption Standard.** As a development standard governing the intensity of the land use, the Data Center shall not consume more than one quarter (.25) acre-feet of water per acre of developed site area per year. Compliance shall be demonstrated through the annual operations report required by Part C.

c. **Jurisdiction.** Nothing in this Section authorizes the County to allocate, permit, or regulate water rights, which are within the jurisdiction of the Nevada State Engineer, or to regulate utility service or annexation, which are within the jurisdiction of the Public Utilities Commission of Nevada. Subsection (b) regulates the intensity of land use only.

D. Construction-Document Package and Building Permits.

After Special Use Permit approval is obtained, and before construction commences or building permits issue, the Applicant shall submit the following for final approval by the applicable County department director upon a determination of compliance with applicable laws and ordinances:

a. **Transportation Plan and Road Remediation Agreement.** A transportation plan reviewed by the County Road Department, including financial assurance for repair or replacement of damaged roads, bridges, and signage and enter into a Road Remediation Agreement with the County.

b. **Drainage Plan.** A drainage plan reviewed by County Public Works, including financial assurance for repair of damaged drainage structures, demonstrating compliance with the County drainage ordinance.

c. **Safety and Security Plan.** A safety and security plan addressing site security, fire and emergency access, and coordination with local emergency responders, and including a summary of on-site hazardous materials (including backup fuel and battery storage) and the proposed handling and containment of those materials.

d. **Agency Permits and Coordination.** Evidence of the state and federal permits and agency coordination required by subsection (12) of this Section.

e. **Insurance, Contact, and Fees.** Proof of required insurance naming the County as additional insured; a twenty-four-hour toll-free complaint number posted at each project service-road intersection with a public roadway before construction; payment of all licensing, permit, and applicable impact fees; and completion of a pre-construction meeting with the Planning Director, Public Works Director, Building Official, Fire Chief, and Director of Emergency Management.

E. Agency Coordination.

As a condition of building permit issuance, the Applicant shall coordinate with the following agencies and submit the documentation indicated. These items are not conditions of Special Use Permit approval: the Nevada Division of Environmental Protection (Surface Area Disturbance Permit for disturbance of five acres or more, and air permitting for backup generation); the Nevada Division of Water Resources and the Nye County Water District (water source and usage documentation); the Nevada Department of Transportation and the County Road Department (encroachment permits and road maintenance agreements); the serving electric or transmission provider (a will-serve or interconnection coordination letter confirming Applicant-funded upgrades); the serving water utility (a will-serve letter or annexation status); the Federal Aviation Administration or Department of Defense, if applicable (a determination of no hazard); and local emergency response providers (acknowledgment of the Safety and Security Plan).

F. Construction Standards.

During construction, the Applicant, Owner, and Operator shall be responsible for: obtaining a County Dust Control Plan/Permit and a Surface Area Disturbance Permit from the Nevada Division of Environmental Protection; repairing all damage to County or non-participating landowner roads, drainage, and infrastructure caused by construction, restoring them to their prior condition, with repairs to County-regulated drainage commencing within fourteen (14) days of notice; submitting a monthly plan of work detailing construction and transportation activity, including notice of oversize or overweight loads; and adhering to the approved Transportation Plan, Drainage Plan, and development plans, and obtaining approval for any modification in accordance with the modification standard of this Section.

Part C. Operations and Compliance

A. Development Standards.

a. Construction documents will be prepared, signed and stamped by a professional licensed to perform engineering services in Nevada and shall be reviewed and approved by Nye County for compliance with applicable codes and standards.

b. All electrical components shall conform to applicable local, state, and national codes.

c. A visible voltage warning sign shall be placed at the base of all pad-mounted transformers and substations.

d. The Data Center site shall be fully enclosed by a security fence not less than eight (8) feet in height.

e. All lighting shall be fully shielded and down-cast so that no glare extends substantially beyond the project boundary, shall be dark-sky compliant, and shall comply with applicable Federal Aviation Administration regulations. No white strobe or red pulsating incandescent lighting shall be installed except as required by the Federal Aviation Administration. This subsection does not apply to emergency lighting, security lighting required for safe operation, or lighting required by life-safety codes.

f. Architecture and screening facing public rights-of-way shall use desert-appropriate colors and materials. Landscaping shall use native, drought-tolerant plantings; no turf shall be installed.

g. Rooftop mechanical equipment, cooling units, and similar rooftop infrastructure shall be screened from view from adjacent non-participating properties and public roadways by architectural parapets or screens consistent with the building design.

B. Setbacks, Height, Coverage, and Parking.

a. **Setback from Non-Participating Residential Use.** No Data Center building shall be located less than four hundred (400) feet from the property line of any non-participating residentially zoned or residentially used property. Accessory buildings and structures are exempt from this setback but shall comply with the underlying zoning district standards.

b. **Setback from State Route 160.** No Data Center building shall be located less than one hundred (100) feet from the right-of-way of State Route 160. Accessory buildings and structures are exempt from this setback but shall comply with the underlying zoning district standards.

c. **Height.** No Data Center building shall exceed seventy-five (75) feet in height, exclusive of rooftop mechanical equipment, screening, and accessory structures such as transmission and substation infrastructure.

d. **Lot Coverage and Parking.** Lot coverage and parking shall comply with the underlying zoning district, except as modified by the approved development plan and Development Agreement.

C. Performance Standards.

a. **Noise.** At the property line of any non-participating residential use, the A-weighted sound pressure level attributable to the Data Center shall not exceed sixty-five (60) dBA between 7:00 a.m. and 10:00 p.m., and fifty-five (55) dBA between 10:00 p.m. and 7:00 a.m., or, where the measured ambient baseline level is higher, five (5) dBA above the ambient baseline level. Measurement shall be conducted at the property line in accordance with applicable industry practice.

b. **Backup Generator Testing.** Periodic testing and maintenance of backup generators is exempt from the limits, provided that such testing is conducted during Daytime, follows a regular schedule, neighboring non-participating residential property owners are given advance notice of the schedule, and generator sound during does not exceed sixty five (65) dBA at the property line of any non-participating residential property. Sounds created by generators and accessory equipment operating during an emergency (i.e., power outage) or at the request of a utility are exempt from the foregoing limits.

c. **Steady Tonal Sound – C- Weighted Limit.** No Steady Tonal Sound attributable to the Data Center, measured at any location at or within the property line of a non-participating residential use, shall exceed seventy-three (73) dB(C) during Daytime or sixty-eight (68) dB(C) during Nighttime. Such sound shall be assessed using C-weighting (dB(C)) and slow meter response, and the limit shall not be exceeded over any five-minute interval. Where a single C-weighted measurement exceeds the applicable limit, the steady tonal sound level shall not exceed plus or minus three (3)

dB, unless multiple sources on the site are perceptibly beating, in which case the level shall not exceed plus or minus five (5) dB.

d. **Air Emissions.** The Data Center shall produce no process air emissions. Backup electrical generators shall be limited to emergency use and periodic testing and maintenance, shall be air-permitted as required by the Nevada Division of Environmental Protection, and shall comply with all applicable air quality requirements.

e. **Drainage .** The Data Center shall maintain on-site stormwater retention for the life of the facility consistent with the County drainage ordinance and the applicable design-storm basis, and shall not increase off-site stormwater flows.

f. **Cooling and Water Use .** The Data Center shall not employ evaporative cooling systems. The use of air humidifiers shall be exempt from this restriction. This subsection regulates water usage and the method of cooling as a land-use standard and does not regulate water rights.

g. **Security.** The Data Center site shall be fully enclosed and shall maintain private security twenty-four (24) hours per day, seven (7) days per week.

D. Post-Construction and Continued Maintenance.

a. **Inspections.** Upon request of the Building Official, and with reasonable notice, the County or its retained licensed professionals may inspect the Data Center to verify compliance and identify necessary repairs.

b. **Annual Operations Report.** The Operator shall submit a brief annual report to the County limited to: total annual water usage (demonstrating compliance with the water consumption standard of subsection (10)); confirmation of compliance with the noise standard, including a summary of any noise complaints received and their resolution; and confirmation of compliance with the hazardous-materials and waste-handling requirements of this Section. The report shall not require disclosure of proprietary, customer, security, or operational information.

c. **Hazardous Materials and Waste.** All solid and hazardous waste, including spent batteries and used fuel and lubricants, and dialectic fluids and contaminated water, shall be handled and disposed of in compliance with all local, state, and federal requirements.

d. **As-Built Plans.** The Applicant shall deliver as-built site maps to the Planning Department and to emergency service providers and shall cooperate with the fire department's emergency response planning.

e. **Modifications.** A physical modification that replaces, adds, or uprates high-voltage equipment (a substation or transmission-side infrastructure rated above thirty-five thousand (35,000) volts) requires BOCC approval as a material modification. A physical modification that increases the gross building area or total project acreage by more than ten percent (10%) requires BOCC approval as a material modification. A modification that increases the gross building area or total project acreage by ten percent (10%) or less, and does not otherwise meet the definition of a material modification, shall be treated as a non-material modification subject to administrative approval. Like-kind replacements that do not add or uprate high-voltage equipment do not require new permitting.

f. **Repair or Removal of Unsafe Structures.** The County Building Official may declare a Data Center structure unsafe only upon a written determination, supported by specific findings, that the structure presents an actual and identifiable threat to public health or safety by reason of structural failure, fire hazard, or a specific violation of an applicable building or safety code. A determination under this subsection shall not be based on the age of the facility, its level of operation, the County's desire for a different use of the property, or any other reason unrelated to an objective public-safety condition. Upon such a determination, the County shall provide the Owner written notice and a reasonable opportunity, of not less than six (6) months for non-emergency conditions, to repair or rehabilitate the structure. The Owner may, within thirty (30) days of notice, submit a report by a Nevada-licensed engineer rebutting the determination or proposing alternative remediation, which the Building Official shall consider. Only if the structure is not repaired within the cure period, or is abandoned under subsection (a), shall it be subject to removal. Nothing in this subsection limits the County's authority to issue an immediate cease-and-desist order as to a structure posing an imminent threat to life or safety.

E. Material and Non-Material Modifications.

A non-material modification is a modification that, by mutual agreement of the Applicant and the Planning Director: (i) meets or exceeds the requirements of the approved plans; (ii) does not increase the gross building area by more than ten percent (10%); (iii) does not increase total project acreage by more than ten percent (10%); (iv) does not result in an intensification of off-site impacts; (v) does not alter the setbacks or height standards of this Section; and (vi) does not add or uprate high-voltage equipment rated above thirty-five thousand (35,000) volts. A non-material modification may be approved administratively by the Planning Director and reported to the BOCC. A material modification is any modification that does not qualify as non-material and requires BOCC approval. The Planning Director determines whether a modification is material.

F. Enforcement, Penalties, Revocation, and No Preemption.

a. **Penalties.** A violation of this Section is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment of not more than six (6) months, or both. Each day of violation is a separate offense.

b. **Abatement and Nuisance.** Any structure or use contrary to this Section, or in violation of a permit condition, is a public nuisance subject to abatement and all remedies provided by law.

c. **Revocation.** Failure to comply with this Section or any permit condition is grounds for revocation of the Special Use Permit following notice and a public hearing at which the Owner may show cause.

d. **Withholding of Permits.** The County may withhold permits and approvals upon an uncorrected violation of this Section or a permit condition.

e. **No Preemption.** Nothing in this Section preempts applicable state or federal law, except to the extent this Section provides higher or more stringent standards.

f. **Cumulative Remedies.** All remedies are cumulative and not exclusive .

17.10.160: Post-Construction And Continued Maintenance

A. DECOMMISSIONING SECURITY. At the commencement of construction but before any commercial operations begins, the Applicant shall secure and provide to the BOCC a performance bond, surety bond, letter of credit, or other form of financial assurance that is acceptable to the BOCC (the "Decommissioning Security") equal to 100% of the estimated cost of decommissioning the project pursuant to the Decommissioning Plan. Applicant will provide the Decommissioning Security to the BOCC or add the BOCC as an additional policy beneficiary should the Decommissioning Security be provided to another governmental agency. The Decommissioning Security, in computing the estimated cost of decommissioning, shall consider of the Net Salvage Value (as defined) of the project. The amount of the Decommissioning Security shall be adjusted annually by January 31 by an amount equal to the increase in the CPI Index. "CPI Index" shall mean the Consumer Price Index for "All Urban Consumers, U.S. City Average, all items," issued by the Bureau of Labor Statistics of the United States Department of Labor, or, if discontinued or no longer published, such other governmental index that most closely matches the manner in which inflation had been previously tracked as selected by the BOCC. The Decommissioning Plan and Decommissioning Surety shall be re-evaluated every five (5) years commencing with the operation of the project by a licensed engineer approved by the BOCC and qualified to provide an estimate of the cost of decommissioning of the project and the Net Salvage Value of the project (the "Decommissioning Engineer"). A new Decommissioning

Security in the revised amount, if any, shall be provided within sixty (60) days of the approval of the updated Decommissioning Plan.

B. WASTE REMOVAL. All solid waste generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.

C. MODIFICATIONS. Any physical modification to the project that alters the mechanical load, mechanical load path, nameplate generating capacity, size or location or major electrical components shall require a new building permit and/or if there is more than a 2% increase in total acreage of the project. Like-kind replacements that do not have the effects listed above do not require new permitting. Prior to making any physical modification (other than a like-kind replacement), the Applicant shall confer with the Building Official to determine whether the physical modification requires new permitting.

D. INSPECTIONS. Upon request of the Building Official of County, Operator shall provide an annual inspection report for all facilities in the project to the Building Official at Operator's cost. In addition, the Building Official, and approved designees, along with licensed third-party engineers/professionals retained by County for the specific purpose of conducting inspections of the project shall have the right, at any reasonable time and with sufficient prior notice, to accompany the Applicant, or his agent, on the project premises to inspect the project and its construction and maintenance and to identify any necessary repairs. The Applicant of the project may retain a licensed third party professional engineer familiar with the applicable systems to prepare and submit to the County Building Official a written report which addresses the repairs or alterations requested, and which suggest alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary, within thirty (30) days after receiving notice from the County Building Inspector that repairs or alterations are requested, or within a longer period of time mutually acceptable to both parties. The County Building Inspector will consider any such written report and determine whether the repairs or alterations should be made as originally requested or as suggested in the written report. In the event of a dispute between the County Building Inspector and the Applicant or a Nevada licensed third-party professional engineer retained by them, as to the repairs or alterations which are required, the decision of the County Building Inspector shall be final. These inspections do not relieve any liability of the Owner or Operator for damages or injuries arising from or related to the project. The Planning Department or designee will inspect and determine compliance with zoning regulations and approved development plans and the Planning Director or designee shall thereafter make appropriate report(s) to the BOCC for action, if any action is necessary.

E. COMPLAINTS. If, after construction, the Applicant receives a written complaint related to interference caused with local broadcast residential television, telecommunication, communication or microwave transmissions, the Applicant shall promptly resolve the complaint.

F. AS-BUILT PLANS. The Applicant shall deliver to the Planning Department and to all providers of emergency services serving the project area a copy of the as-built site map. Upon request by the local fire department, the Applicant shall cooperate with the local fire department to develop or update the fire department's emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

G. RECORD OF GROUND DISTURBANCE AND ROAD USAGE. On completion of construction the Applicant shall submit to the County Road Department a site map detailing all ground disturbed through construction activity, surface and subsurface as-built infrastructure and all routes over which trucks and equipment traveled. The scale and format of the submitted map shall conform to the County Road Departments specifications.

H. LIABILITY FOR DRAINAGE. For a period of two (2) years following the completion of construction the Applicant shall be liable for all costs of repair to County roads, regulated drains and ditches and other County regulated surface and subsurface structures within fifty (50) feet of the routes used and ground disturbed by project construction, operations, replacement, or maintenance. County may request additional repairs be completed beyond the two (2) year period for any documented damage occurring as a result of operations, replacement or maintenance of the project after the two (2)-year period.

I. ABANDONMENT. A SECS or any individual solar panel constituting a portion of the project is presumed at the end of its useful life and/or abandoned if the SECS or the individual solar panel generates no electricity for a continuing period of twelve (12) months. This presumption may be rebutted by submitting to the BOCC for approval and within ninety (90) days of submission obtaining approval thereof, a plan outlining the steps and schedules for returning the SECS or individual solar panel to service. Any SECS or individual solar panel which pursuant to the terms hereof, has either reached the end of its useful life and/or is abandoned pursuant to the terms hereof shall be subject to removal pursuant to the Decommissioning Plan.

J. UNSAFE STRUCTURES. Any SECS or structure thereof declared to be unsafe by the County Building Official or County Code Compliance or its designee by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair or rehabilitation within six (6) months or be deemed abandoned and at the end of its useful life and subject to Decommissioning. Nothing herein prevents the County Building Official or the Nye County Code Compliance Department from issuing an immediate Cease and

Desist order as to any structure that he or she determines is unsafe during the repair or rehabilitation period.

17.10.170: Post-Construction Modifications

Any post-construction proposed material modifications, alterations, expansions, or changes of any type or size to the Final Development Plan must be approved by the BOCC. All material post construction proposed changes must apply in the same way as a new project. The Planning Director shall have the authority and discretion, considering all relevant factors, to determine whether the proposed post-construction change is material. Refer to Nye County Code Section 17.10.130 (I) for definition of material versus nonmaterial modification.

17.10.180: No Preemption

Nothing in this Ordinance is intended to preempt other applicable State and Federal laws and regulations, except to the extent this Ordinance provides higher or more stringent standards.

17.10.190: Enforcement And Penalties

A. Any person, firm, or corporation who, after fourteen (14) days of receiving written notification of violation of any of the provision(s) of this chapter, knowingly continues to violate said provision(s) of this chapter is guilty of a misdemeanor.

B. Each such person is guilty of a separate offense for each and every day or portion thereof during which violation of any of the provisions of this chapter is committed, continued, or permitted.

C. Upon conviction of any violation of this chapter, such person(s) shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than six (6) months in the County Jail, or by both such fine and imprisonment.

D. Any building or structure hereafter set up, erected, built, moved or maintained or any use of property hereafter contrary to the provisions of this chapter shall be, and the same is declared to be, unlawful and a public nuisance, and the County may immediately commence action or actions, proceeding or proceedings, for the abatement thereof in a manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such building, structure or use and restrain and enjoin any person from setting up, erecting, building, moving and maintaining any such building or structure, or using any property contrary to the provisions of this chapter.

E. Unpermitted Work and Use of the Property:

1. Any building or structure hereafter set up, erected, built, moved or maintained or any use of property hereafter contrary to the provisions of this chapter without the required approvals shall be subject to and the persons, firms, companies,

partnerships or corporations responsible for a violation of this Code shall pay a violation fee in addition to the required application fee, as well as be subject to any other applicable enforcement measures provided in this chapter of the Nye County Code. The violation fee shall be up to four (4) times the amount of the land use application fee as set forth in the adopted fee schedule. The payment of such violation fee shall not exempt any persons, firms, companies, partnerships, or corporations from compliance with other provisions of this code nor from any other penalty prescribed by law. For the purpose of this chapter a firm is defined as a business made up of two or more, in any combination, of the following: persons, companies, partnerships or corporate entities.

2. The planning department may, in considering the amount of the violation fee to assess, take into consideration whether the zoning administrator or their designee has determined that a permit application has been pursued in a timely manner and in good faith by the persons, firm or corporation responsible for a violation of this Code, and whether the assessment of a reduced violation fee is in the best interest of County.

F. Withhold Permit/Application:

1. County may deny or withhold all permits, certificates, applications, or other forms of authorization on any land or structure or improvements upon a determination that there is an uncorrected violation of a provision of this Code or of a condition or qualification of a permit, certificate, application, approval, or other authorization previously granted by the County shall apply regardless of whether the current owner or Applicant is responsible for the violation in question.

2. County may deny or withhold all permits, certificates, applications, or other forms of authorization on any land or structure, or improvements owned or being developed by persons, firms, companies, partnerships, or corporations who own, develop, or otherwise cause an uncorrected violation of a provision of this code or of a condition or qualification of a permit, certificate, application, or other authorization previously granted by County. This provision shall apply regardless of whether the property for which the permit or other approval is sought if the property in violation.

3. County will expediently address any withheld applications with Applicant within three (3) working days after receiving an application, pursuant to NRS 278.02327.

G. Appeals: Any person who is aggrieved by a final decision of the BOCC may appeal that decision to the District Court by filing a petition for judicial review within twenty-five (25) days after the date of the filing of notice of the decision with the Clerk of the BOCC.

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 October 2026.

Proposed on the 15th day of September 2026

Proposed by: Commissioner Strickland

Adopted on the 8th day of October 2026

Vote:	Ayes:	Commissioners: Boskovich, Strickland, Jabbour, Koenig
	Nays:	Commissioners: Ø
	Absent:	Commissioners: Ø
	Abstention:	Commissioners: Bayne

BY: _____
Ron Boskovich, Chair
Nye County Board of
County Commissioners

ATTEST: _____
Cori Freidhof
Clerk and Ex-Officio
Clerk of the Board