

BILL NO. 2015-10

NYE COUNTY ORDINANCE NO. _____

SUMMARY: A Bill proposing to amend Nye County Code Chapter 5.14 Gaming Licenses by adding a new definition of "Establishment"; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE 5.14 GAMING LICENSES BY ADDING A NEW DEFINITION OF "ESTABLISHMENT"; AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

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

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety and the general welfare of the residents of Nye County, the Board is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

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

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

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

NYE COUNTY CODE TITLE 5 IS HEREBY AMENDED AS FOLLOWS, with **Deletions** shown in strike-through red font, and **additions and modifications** shown in underscored blue font:

5.14.020: DEFINITIONS:

For the purpose of this chapter, the following words and phrases have the meanings ascribed to them by this section:

APPLICANT: Any natural person, firm, association of persons, corporation, partnership, limited partnership or limited liability company requesting licensing under the provisions of this chapter.

APPLICATION: A request for issuance of a county gaming license.

BOARD: The Nye County liquor/licensing board, as constituted as a merged board pursuant to chapter 5.02 of this title, and comprised of the five (5) members of the Nye County board of commissioners and the Nye County sheriff.

CLERK OF THE BOARD: The county clerk.

COUNTY: The county of Nye, state of Nevada.

EMERGENCY: A sudden or unexpected or unforeseen health or safety hazard calling for immediate action or remedy to safeguard the public health, safety, morals or welfare of the inhabitants of the county.

ESTABLISHMENT: One or more businesses providing related services pursuant to a written agreement on the same or adjoining parcels of land.

GAME OR GAMBLING GAME: Any game played with cards, dice, equipment or any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fan-tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panguingui, slot machine, any banking or percentage game or any other game or device approved by the Nevada gaming commission, but does not include games played with cards in private homes or residences in which no person makes money for operating the game, except as a player, or games operated by charitable or educational organization which are approved by the Nevada gaming control board pursuant to the provision of Nevada Revised Statutes 463.409.

GAMING DEVICE: Any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss.

GAMING LICENSE: Any license issued by the state or the county which authorizes the person named therein to engage in gaming or pari-mutuel wagering.

GAMING OR GAMBLING: To deal, operate, carry on, conduct, maintain or expose for play any "game" as defined herein.

LICENSEE: Any person to whom a valid gaming license has been issued.

NONRESTRICTED GAMING LICENSE: A gaming license for, or an operation consisting of, sixteen (16) or more slot machines or any number of slot machines together with any other game, gaming device, race book or sports pool.

QUARTER: A period of three (3) consecutive months commencing on January 1, April 1, July 1 or October 1 in any year.

REGULATION: A rule, standard, directive or statement of general applicability which effectuates law or policy, or describes the procedure or requirements for practicing before the Nye County liquor/licensing board. (Ord. 445, 2013)

5.14.030: LICENSE REQUIRED:

Any natural person, firm, association of persons, corporation, partnership, limited partnership or limited liability company who or which conducts or offers entertainment by gambling game or gaming within Nye County must first obtain a county license for each particular device or game or slot machine, and pay the license fees as provided in this chapter. (Ord. 445, 2013)

5.14.090: LICENSE APPLICATION:

- A. Every person, firm, association of persons or corporation desiring to engage in the offer or conduct of entertainment by gambling game or gaming in Nye County shall make an application to the sheriff for a license in such form as prescribed by the board.
- B. The applicant must furnish a complete description of the particular room and premises in which the applicant desires to carry on or conduct the slot machine, device or game, together with the location of the building, its street number, if any, and any other information by which it may be definitely and readily located and recognized.
- C. The applicant must state definitely the particular type of slot machine or the particular game or device which the applicant desires to carry on or conduct in the room and premises.
- D. The sheriff shall use the basic application documents whose form is prescribed by the Nevada gaming control board, but may require such additional information as the board believes necessary to its determination of suitability to hold a license.
- E. The application must be fully completed, and all required supplemental documents and information must be submitted with the application. No application shall be deemed to have been filed until such time as it is complete in all respects, and the board may reject for filing any application not completed on its face.
- F. The applicant or, if the applicant is a nonnatural person, its authorized signatory, must sign and verify under penalty of perjury the application and any waivers or releases requested. (Ord. 445, 2013)

5.14.100: ACTION ON APPLICATION:

- A. The sheriff shall be responsible to conduct such investigation of an applicant as deemed necessary, or as required by the board.
- B. The sheriff shall present the completed application, a report of his or her investigation and his or her recommendation for approval or denial to the board within forty five (45) days after the completed application and all supporting documents are filed with the sheriff.
- C. After receiving the application and the sheriff's report, the board shall at that meeting grant or refuse to grant the license prayed for or enter any other order consistent with this chapter, including, but not limited to:
 1. Refer the application back to the sheriff for additional information.

2. Require a personal interview with the applicant.
3. Require the applicant to submit additional information relative to the application.
4. Limit, or condition the license under the provisions of this chapter.

The applicant shall have until the next regular meeting of the board to furnish such additional information, or to appear for a requested personal interview.

- D. No county gaming license may be granted to any applicant unless that applicant first provides proof that he, she or it has been issued a state gaming license.
- E. The board may accept proof of the issuance of a state gaming license to an applicant as *prima facie* evidence of the suitability of an applicant for a county license.
- F. The board may refuse to grant a license to an applicant it finds unsuitable; but the board shall not deny a gaming license to an applicant solely because he or she is not a citizen of the United States.
- G. The board may refuse to grant a license to any applicant:
 1. Who, within the last ten (10) years, has been convicted of a felony, any crime of moral turpitude, or any crime of sexual assault or violence; or whoever has been convicted of any crime connected to gaming or gambling games;
 2. Who is financially insolvent or who has undergone a prior bankruptcy proceeding filed by or against him, her or it that resulted in creditors receiving less than the total amount of money owed them;
 3. Who has a history of financial instability;
 4. Whose stated financial condition is inadequate or insufficient to offer or conduct entertainment by gambling game or gaming;
 5. Who makes any untrue statement of a material fact in any application, notice, statement or report filed with the board in compliance with the provisions of this chapter, or wilfully omits to state in any such application, notice, statement or report any material fact which is required to be stated therein, or omits to state a material fact necessary to make the facts stated in view of the circumstances under which they were stated, not misleading;
 6. Who has any financial interest in, or connection with any business which is illegal where such business is located;
 7. Whose license location under the provisions of this chapter would be contrary to the health, safety, morals or general welfare of the residents of the county;
 8. Who is under the age of twenty one (21) years;
 9. Whose license issued under this chapter has been revoked for cause;

10. Who, at the time of application for renewal of any license issued under this chapter, would not be eligible for such license upon first application;
11. A corporation, unless it is incorporated in Nevada, or unless it is a foreign corporation which is qualified under Nevada law to transact business in the state;
12. Who intends to operate, in any community in Nye County of five thousand (5,000) population or more (as certified by the Nye County board of commissioners), sixteen (16) or more slot machines or any number of slot machines together with any other game, gaming device, race book or sports pool at one establishment, unless that establishment also offers for rent accommodations of at least:
 - a. Ninety (90) hotel or motel rooms and/or RV spaces with full utility hookups if located within the boundaries of the Pahrump regional planning district as defined by section 16.24.010 of this code; or
 - b. Forty five (45) hotel or motel rooms and/or RV spaces with full utility hookups if located outside the boundaries of the Pahrump regional planning district as defined by section 16.24.010 of this code;
 - c. A block of hotel or motel rooms and/or RV spaces in an establishment can only support one application for a gaming license. If the owner/operator of the hotel or motel or RV spaces is different from the applicant for the gaming license then the establishment must be formalized through a written agreement and provided with the license application.
13. Who is found to be unsuitable for any other material reason, provided that reason is declared by the board on the record during the consideration of the application.

H. No person, firm, association, corporation, partnership, limited partnership or limited liability company currently holding a nonrestricted gaming license and operating sixteen (16) or more slot machines or any number of slot machines together with any other game, gaming device, race book or sports pool at one establishment in Nye County, shall be required to comply with subsection G12 of this section for purposes of continuing to offer gaming at that establishment; nor shall any applicant whose complete application (including all applicable fees) for a nonrestricted gaming license has been filed with the state or the county on or before November 25, 2013, be subject to the requirements of subsection G12 of this section at the establishment or location specified in that application, provided that such applicant thereafter diligently, and without undue delay, takes and/or completes all steps necessary to obtain both the state and the county licenses.

I. An otherwise suitable applicant for a nonrestricted gaming license shall not be denied such license for failure to comply with subsection G12 of this section, when said applicant is seeking licensure or licensure renewal for any gaming establishment or location in Nye County which, as of November 25, 2013, was licensed for nonrestricted gaming, and at which a properly licensed licensee was operating sixteen (16) or more slot machines or any number of slot machines together with any other game, gaming device, race book or sports pool; provided, however, that if any such previously licensed establishment or location is not licensed by the state for nonrestricted gaming for more than three (3) consecutive years, any applicant for a county gaming

license who has not submitted to the state gaming control board a fully completed application for a nonrestricted gaming license for that establishment or location, on or before the expiration of that three (3) year period, shall be required to comply with subsection G12 of this section. (Ord. 445, 2013)

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the _____ day of _____, 2015.

Proposed on the _____ day of _____, 2015.

Proposed by: Commissioner _____.

Adopted on the _____ day of _____, 2015

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: _____
Lorinda Wichman, Chairman
Nye County Board of
County Commissioners

ATTEST: _____
Sandra "Sam" Merlino
Clerk and Ex-Officio
Clerk of the Board