

NYE COUNTY AGENDA INFORMATION FORM

☒ Action
 ☐ Presentation
 ☐ Presentation & Action

Department: Planning		Agenda Date:	
Category: Timed Agenda Item – 10:00 a.m.		July 16, 2019	
Contact: Brett Waggoner	Phone: 775-751-4249	Continued from meeting of:	
Return to: Brett Waggoner	Location: Pahrump	Phone:	

Action requested: (Include what, with whom, when, where, why, how much (\$) and terms)

Public Hearing, discussion and deliberation to: 1) Adopt, amend and adopt, or reject Nye County Bill No. 2019-05: A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled Marijuana and Medical Marijuana Establishments; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto; and 2) Set an effective date.

Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)

Staff recommends adoption of the Bill with an effective date of August 5, 2019.

Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.

Expenditure Impact by FY(s): (Provide detail on Financial Form)

☒ No financial impact

Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date
2.	Date	7. HR	Date
3.	Date	8. Legal	Date <i>CK 01-29-19</i>
4.	Date	9. Finance	Date <i>N/A</i>
5.	Date	10. County Manager	Date <i>[Signature]</i>

☒ Place on Agenda

ITEM # 15

DRAFT

BILL NO. 2019-05

NYE COUNTY ORDINANCE NO. _____

SUMMARY: A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled Marijuana and Medical Marijuana Establishments; 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 TITLE 5, BUSINESS LICENSING AND REGULATIONS, CHAPTER 5.32 ENTITLED MARIJUANA AND MEDICAL MARIJUANA ESTABLISHMENTS; 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 244.335, the Board may regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns; and may fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business; 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;

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:

Chapter 5.32

MARIJUANA ~~AND MEDICAL MARIJUANA~~ ESTABLISHMENTS

5.32.000: ~~RETAIL MARIJUANA~~ AND MEDICAL MARIJUANA LICENSING:

5.32.005: DEFINITIONS:

5.32.010: APPLICATION:

5.32.020: DENIAL CONDITIONS:

5.32.030: BOARD DETERMINATION PROCEDURE:

5.32.040: BOARD DETERMINATION; DENIAL:

5.32.050: MEDICAL MARIJUANA LICENSE FEES:

5.32.055: RETAIL MARIJUANA LICENSE FEES (RECREATIONAL MARIJUANA ESTABLISHMENTS):

5.32.060: FEES; DISBURSEMENT:

5.32.070: PUBLIC DISPLAY REQUIRED:

5.32.080: RENEWAL PROCEDURE:

5.32.090: PROHIBITED ACTS:

5.32.100: PENALTY FOR VIOLATION:

5.32.110: TRANSFERABILITY:

5.32.000: MARIJUANA ~~ESTABLISHMENT~~ AND MEDICAL MARIJUANA LICENSING:

- A. Any license required by this chapter is a separate and distinct license from all other County licenses, and is in addition to any other license required for conducting or carrying on any other business in connection with or separate from the activities licensed by this chapter.
- B. It is unlawful within the County, outside an incorporated city, for a marijuana establishment ~~or medical marijuana establishment~~ to acquire, possess, cultivate, manufacture, process, package, deliver, transfer, transport, supply, dispense or sell marijuana for any purpose without first making application and securing a marijuana license ~~or medical marijuana license~~ to do so. (Ord. 519, 2017)

5.32.005: DEFINITIONS:

For the purposes of this chapter, the following words shall have the meanings set out in this section, unless the context otherwise clearly indicates:

AGENT: A person authorized by the applicant or licensee to act and speak for him or her.

BOARD: The Nye County Board of County Commissioners.

CULTIVATION FACILITY: ~~Has the meaning ascribed to it in Nevada Revised Statutes 453A.056.~~

COMMUNITY FACILITY: ~~Means a facility licensed to provide day care to children, a public park, a public playground, a public swimming pool, a center or facility the primary purpose of which is to provide recreational opportunities or services to children or adolescents, or a church, synagogue, or other building, structure, or place used for religious worship or a~~ ~~Has the meaning ascribed to it by Nevada Revised Statutes 453D.030~~ ~~other religious purpose.~~

CONCENTRATED MARIJUANA: ~~Means the separated resin, whether crude or purified, obtained from marijuana~~ ~~Has the meaning ascribed to it by Nevada Revised Statutes 453D.030~~ ~~na.~~

CONSUMER: ~~Means a person who is 21 years of age or older who purchases marijuana or marijuana products for use by persons 21 years of age or older, but not for resale to others.~~ ~~Has the meaning ascribed to it by Nevada Revised Statutes 453D.030~~

DUAL LICENSEE: ~~Has the meaning ascribed to it by Nevada Revised Statutes 453D.030~~ ~~Means a person or group of persons who possess a current, valid registration certificate issued by the State of Nevada Division of Public and Behavioral Health to operate a medical marijuana establishment pursuant to chapter 453A of Nevada Revised Statutes and a license issued by the Department of Taxation to operate a marijuana~~

~~establishment under chapter 453D of Nevada Revised Statutes.~~

EDIBLE MARIJUANA PRODUCTS: Has the meaning ascribed to it in Nevada Revised Statutes 453A.101.

FACILITY FOR THE PRODUCTION OF EDIBLE MARIJUANA PRODUCTS OR MARIJUANA INFUSED PRODUCTS: Has the meaning ascribed to it in Nevada Revised Statutes 453A.105.

INDEPENDENT TESTING LABORATORY: Has the meaning ascribed to it in Nevada Revised Statutes 453A.107.

MARIJUANA: Has the meaning ascribed to it by Nevada Revised Statutes 453.096 ~~and 453D.~~

MARIJUANA CULTIVATION FACILITY: ~~Has the meaning ascribed to it by Nevada Revised Statutes 453D.030~~ Means an entity licensed to cultivate, process, and package marijuana, to have marijuana tested by a marijuana testing facility, and to sell marijuana to retail marijuana stores and marijuana dispensaries, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

MARIJUANA DISTRIBUTOR: ~~Has the meaning ascribed to it by Nevada Revised Statutes 453D.030~~ Means an entity licensed to transport marijuana from a marijuana establishment to another marijuana establishment.

MARIJUANA ESTABLISHMENT: ~~Has the meaning ascribed to it by Nevada Revised Statutes 453D.030~~ Means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store, or a marijuana dispensary. This term may also be referred to and known as a "recreational marijuana establishment".

MARIJUANA INFUSED PRODUCTS: Has the meaning ascribed to it by Nevada Revised Statutes 453A.112.

MARIJUANA PRODUCT MANUFACTURING FACILITY: ~~Has the meaning ascribed to it by Nevada Revised Statutes 453D.030~~ Means an entity licensed to purchase marijuana, manufacture, process, and package marijuana and marijuana products, and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores and marijuana dispensaries, but not to consumers.

MARIJUANA PRODUCTS: ~~Has the meaning ascribed to it by Nevada Revised Statutes 453D.030~~ Means products comprised of marijuana or concentrated marijuana and other ingredients that are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

MARIJUANA TESTING FACILITY: ~~Has the meaning ascribed to it by Nevada Revised Statutes 453D.030~~ Means an entity licensed to test marijuana and marijuana products, including for potency and contaminants.

MEDICAL MARIJUANA COOPERATIVE: An association of persons who voluntarily cooperate to cultivate or distribute medical marijuana to its members, including any nonprofit community organization or collective owned and managed by the people who use its services to facilitate or coordinate transactions between members.

MEDICAL MARIJUANA DISPENSARY: Has the meaning ascribed to it by Nevada Revised Statutes 453A.115.

MEDICAL MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it by Nevada Revised Statutes 453A.116.

MEDICAL USE OF MARIJUANA: Has the meaning ascribed to it in Nevada Revised Statutes 453A.120.

PHYSICIAN: Has the meaning ascribed to it in Nevada Revised Statutes 0.040.

~~RECREATIONAL RETAIL MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it by Nevada Revised Statutes 453D. See definition of "marijuana establishment". Means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store.~~

RETAIL MARIJUANA STORE: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030 Means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers. (Ord. 519, 2017)

5.32.010: APPLICATION:

A. General: Application for a license provided by this chapter shall be made to the Board ~~of County Commissioners~~ in writing, on the forms provided by the Nye County Planning Department.

B. Requirements: Each application shall:

1. Be filed with the Planning Department;
2. Be accompanied by the ~~present~~current annual license fee;
3. Include the name and address of the applicant, and of any other person having an interest in the business to be licensed. If the applicant is a partnership, the application shall include the names and addresses of all partners and any other person(s) having a financial interest in the business. If the applicant is a corporation, the application shall include the names and addresses of all officers, directors and stockholders having more than three percent (3%) of the issued stock, the designated agent or resident manager, and the principal place of business of the corporation. If it is a corporation whose stock is sold to the general public, the stockholders need not be listed;
4. Include the name, address and telephone number of all individual(s) who will actively manage the business for which the license is sought. At least one such manager must be on site when business is being conducted;
5. Specify the location of the premises for which the license is sought, and the name of the owner(s), agents, lessee or assignee of the premises where the business is to be operated;
6. Specify which type of retail marijuana or medical marijuana establishment license is being requested. The Board may issue licenses for the following types of establishments:
 - a. Marijuana establishments (~~recreational-retail~~ marijuana establishments):
 - (1) Retail Mmarijuana cultivation facility;
 - (2) Retail Mmarijuana independent testing laboratoryfacility;
 - (3) Retail Mmarijuana production facility~~product manufacturing facility~~ for edible marijuana products or marijuana infused products;
 - (4) Retail Mmarijuana distributor; or

(5) Retail marijuana store.

b. Medical marijuana establishments:

(1) Medical marijuana cultivation facility;

(2) Medical marijuana production facility for edible marijuana products or marijuana infused products;

(3) Medical marijuana dispensary; or

(4) Medical marijuana independent testing laboratory.

7. Include a copy of the special use permit granted by the Board ~~of County Commissioners~~ for the ~~marijuana or medical~~ marijuana establishment ~~as applicable~~;

8. Include a copy of the medical marijuana establishment registration certificate, or provisional certificate ~~issued by the State of Nevada Division of Public and Behavioral Health~~, or retail license issued by the State of Nevada Department of Taxation pursuant to Nevada Revised Statute chapter 453A;

9. Be signed by all persons who shall conduct or have an interest in the business activities for which a retail marijuana or medical marijuana license is required. In the case of corporations, clubs or organizations with members, the application shall be verified by the president or secretary or the person who shall actively manage or conduct the business or activity for which a retail marijuana or medical marijuana license is required;

10. Include an attestation regarding excluded felony offenses, signed by each owner, officer and board member of the proposed retail marijuana or medical marijuana establishment affirming that each person has not been convicted of any excluded felony offenses as defined in Nevada Revised Statutes 453A.104 and 453D.030, and affirming that each person understands that any falsification, omission or concealment of a material fact may be cause for disqualification from consideration for the proposed retail marijuana or medical marijuana establishment;

11. Be sworn to as to the truthfulness of the information contained therein.

C. Processing Time: There shall be a maximum processing time of thirty (30) ~~to (60)~~ working days for any application for a retail marijuana or medical marijuana license from the date of a complete application submittal.

D. Corporations: In the case of a corporate licensee, any and all changes in the officers, directors or stockholders, or stockholders owning in the aggregate more than three percent (3%) of the stock of such corporation, shall be reported to the Planning Department within thirty (30) days of the appointment or election of such officers and directors, or acquisition by such stockholder(s), as the case may be, and such officers, directors and stockholder(s) shall be required to qualify for a license as required in this chapter. A list of all shareholders shall be submitted to Nye County on an annual basis.

E. Partnerships: In the case of a partnership licensee, the partnership contract must be submitted with the application. Any change in the partners or other persons with a financial interest in the business shall be reported to the Planning Department within fourteen (14) working days of the change, and if the change involves the addition of a person not previously investigated, that person shall be required to qualify for a license as required by this chapter.

- F. Financials: A financial compilation shall be submitted annually to Nye County along with a list of any persons receiving more than three percent (3%) of the disbursements from the entity.
- G. License Expiration: An approved retail marijuana or medical marijuana license shall expire and become void one calendar year following the date of issuance of the license by the Board of ~~County Commissioners~~ unless revoked or renewed in accordance with the provisions described in this chapter.
- ~~H. One-Time Exemption For Marijuana (Recreational) Establishment License Applicants: In order to support the State of Nevada's Fast Start Marijuana Establishment Program, any applicant who submits an application and applicable fees to the Nye County Planning Department for an initial Nye County marijuana (recreational) license between May 25, 2017 and May 31, 2017 shall be deemed approved by the Board of County Commissioners for the license. In order to qualify for the exemption, applicants must have an operational medical marijuana establishment in good standing with the State of Nevada and Nye County, and the application for the marijuana (recreational) license must be for the same physical location as the medical marijuana establishment. After May 31, 2017, all applications for Nye County marijuana (recreational) licenses shall be processed in the manner and subject to the provisions of this chapter. (Ord. 519, 2017)~~

5.32.020: DENIAL CONDITIONS:

- A. In conformity with the policies of this chapter, the following persons are declared not to be qualified to hold a retail marijuana or medical marijuana establishment license under the provisions of this chapter:
1. A person who does not possess, or who does not have a reputation for possessing a good moral character;
 2. A person under the age of twenty one (21) years;
 3. A person who has ever been convicted of a felony involving a crime of a sexual nature involving children or a heinous crime; has made any intentional false statement or omission in the registration form or any crime involving unlawful possession, use or sale of a controlled substance, sexual abuse or assault, violence, or who has been convicted within the past ten (10) years of any other felony, unless the Board finds, upon examination of the circumstances of the crime and the applicant's criminal history, that the applicant does not present, and is not likely to present in the future, a threat to County safety, morals and welfare, and will likely operate a lawful retail marijuana or medical marijuana establishment in compliance with the letter and intent of all County ordinances;
 4. A person who the Board determines is not a suitable person to receive or hold a license, after due consideration for the protection of the public health, safety, morals, good order and general welfare of the inhabitants of the County, outside an incorporated city; has ever been convicted of a felony involving a crime of a sexual nature involving children or a heinous crime; has made any intentional false statement or omission in the registration form;
 5. A person whose license issued under this chapter has been revoked for cause;
 6. A person who, at the time of application for renewal of any license issued under this chapter, would not be eligible for such license upon a first application;
 7. A co-partnership, unless all of the members of such co-partnership, and any other person having a financial interest in the business, are qualified to obtain a license;
 8. A publicly held corporation, if the designated agent or resident manager would not be eligible to receive a license under this chapter; and a non-publicly held corporation, if any of its officers would not be

eligible to receive a license under this chapter, for any reason other than citizenship and residence or its designated resident manager would not be eligible to receive a license under this chapter;

9. A corporation, unless it is incorporated in the State, or unless it is a foreign corporation which is qualified under the State laws to transact business in the State;
10. A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of an individual licensee;
11. A person who does not beneficially own the premises for which a license is sought, or who does not have a lease thereof for the full period for which the license is to be used; the manager or his/her agent must be on site when business is being conducted;
12. A person who, in the previous year, has failed to comply with any applicable local ordinance, including, but not limited to, a town or city's business license ordinance; or
13. A person who has not obtained a special use permit, if required, for the operation of a marijuana ~~or medical-marijuana~~ establishment or has had a special use permit or State license revoked. (Ord. 519, 2017)

5.32.030: BOARD DETERMINATION PROCEDURE:

- A. After submittal of the application, the Planning Director shall cause the application to be placed upon the agenda for consideration by the Board.
- B. The applicant or applicants or their agent(s) shall appear before the Board at the appointed time.
- C. The Board may act upon the application or defer action until the next meeting of the Board. (Ord. 519, 2017)

5.32.040: BOARD DETERMINATION; DENIAL:

- A. In conformity with the policy of this chapter, the following persons are declared not to be qualified to hold a license under the provisions of this chapter:
 1. A person who is under the age of twenty one (21) years;
 2. A person who has been convicted within the past ten (10) years of:
 - a. A felony crime involving the sale of or furnishing or possession of with intent to sell or to furnish any narcotic, hallucinogenic or dangerous drug, or conspiracy to so sell, furnish or possess;
 - b. A felony or gross misdemeanor crime involving the use of any deadly or dangerous weapon;
 - c. A felony or gross misdemeanor crime involving theft, embezzlement or misappropriation of funds, or possession of stolen property;
 - d. A felony crime involving perjury, bribery or fraud;
 - e. A felony crime involving assault, battery, sexual assault, stalking or harassment, or other physical violence;

3. A person who is presently on probation for any of the crimes listed in subsection A2 of this section; or
 4. A person who, at the time of application for renewal of a marijuana ~~or medical marijuana establishment~~ agent card would not be eligible for the license upon a first application.
 5. For any other good and sufficient reason.
- B. An applicant otherwise barred by the provisions of subsection A of this section may be found suitable, if on review of the denial of a license, the Board finds upon examination of the circumstances of the crime or the revocation, as the case may be, and upon examination of the applicant's criminal history, that the applicant does not present, and is not likely to present in the future, a threat to public safety, morals and welfare, and will likely abide by all applicable regulations.
- C. The Board ~~of County Commissioners~~ will consider the recommendations and input from the particular town advisory board, Sheriff, water district governing board, or other applicable advisory board or committee. (Ord. 519, 2017)

5.32.050: MEDICAL MARIJUANA ESTABLISHMENT LICENSE FEES:

- A. The license fees required to be paid to obtain or renew a medical marijuana establishment license shall be as follows:
1. Fifteen thousand dollars (\$15,000.00) for initial issuance and a seven thousand five hundred dollar (\$7,500.00) annual renewal fee for a medical marijuana dispensary establishment with five thousand dollars (\$5,000.00) nonrefundable for the initial application and two thousand five hundred dollars (\$2,500.00) nonrefundable each year thereafter.
 2. Five thousand dollars (\$5,000.00) for initial issuance and a two thousand five hundred dollar (\$2,500.00) annual renewal fee for a medical marijuana cultivation establishment with two thousand dollars (\$2,000.00) nonrefundable for the initial application and one thousand dollars (\$1,000.00) nonrefundable each year thereafter.
 3. Five thousand dollars (\$5,000.00) for initial issuance and a two thousand five hundred dollar (\$2,500.00) annual renewal fee for a medical marijuana production facility with two thousand dollars (\$2,000.00) nonrefundable for the initial application and one thousand dollars (\$1,000.00) nonrefundable each year thereafter.
 4. Two thousand five hundred dollars (\$2,500.00) for initial issuance and a one thousand two hundred fifty dollar (\$1,250.00) annual renewal fee for a medical marijuana independent testing laboratory with one thousand two hundred fifty dollars (\$1,250.00) nonrefundable for the initial application and seven hundred fifty dollars (\$750.00) nonrefundable each year thereafter.
- B. The license fees specified in subsection A of this section shall be payable in advance for at least one year. Failure to pay the medical marijuana license renewal fee within ten (10) ~~working~~ calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the annual fee and will increase by 25% every 30 days thereafter until renewal fees are brought current within thirty (30) days of the due date, or and shall be grounds for revocation of the license. Failure to pay the medical marijuana license renewal fee within (90) calendar days of the due date will require a show cause hearing and possible suspension and/or revocation of the license by the board.
- C. In addition to the fees specified in subsection A of this section, every medical marijuana establishment, as a condition of the granting of a medical marijuana establishment license or renewal, shall pay no later than ~~ten (10) working~~ twenty five (25) calendar days following the first day of each month, a monthly business

license fee to Nye County, equivalent to two percent (2%) of the total value of all medical marijuana or medical marijuana products that were produced, manufactured, sold or distributed by the medical marijuana establishment for the previous month. Failure to pay the monthly business fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the amount due. Failure to pay the monthly business fee within (90) calendar days of the due date will result in an automatic suspension of the license and require a show cause hearing for possible further suspension and/or revocation of the license by the board. (Ord. 519, 2017)

**5.32.055: RETAIL MARIJUANA ESTABLISHMENT LICENSE FEES
~~(RECREATIONAL RETAIL MARIJUANA ESTABLISHMENTS)~~**

- A. The license fees required to be paid to obtain or renew a retail marijuana establishment license ~~(recreational marijuana)~~ shall be as follows:
1. Fifteen thousand dollars (\$15,000.00) for initial issuance and a seven thousand five hundred dollar (\$7,500.00) annual renewal fee for a retail marijuana store, with five thousand dollars (\$5,000.00) nonrefundable for the initial application and two thousand five hundred dollars (\$2,500.00) nonrefundable each year thereafter.
 2. Five thousand dollars (\$5,000.00) for initial issuance and a two thousand five hundred dollar (\$2,500.00) annual renewal fee for a retail marijuana cultivation facility, with two thousand dollars (\$2,000.00) nonrefundable for the initial application and one thousand dollars (\$1,000.00) nonrefundable each year thereafter.
 3. Five thousand dollars (\$5,000.00) for initial issuance and a two thousand five hundred dollar (\$2,500.00) annual renewal fee for a retail marijuana product manufacturing facility, with two thousand dollars (\$2,000.00) nonrefundable for the initial application and one thousand dollars (\$1,000.00) nonrefundable each year thereafter.
 4. Two thousand five hundred dollars (\$2,500.00) for initial issuance and a one thousand two hundred fifty dollar (\$1,250.00) annual renewal fee for a retail marijuana testing laboratory, with one thousand two hundred fifty dollars (\$1,250.00) nonrefundable for the initial application and seven hundred fifty dollars (\$750.00) nonrefundable each year thereafter.
 5. Two thousand five hundred dollars (\$2,500.00) for initial issuance and a one thousand two hundred fifty dollar (\$1,250.00) annual renewal fee for a retail marijuana distributor, with one thousand two hundred fifty dollars (\$1,250.00) nonrefundable for the initial application and seven hundred fifty dollars (\$750.00) nonrefundable each year thereafter. This fee is waived if the applicant for the retail marijuana distributor license possesses a valid Nye County license for a retail marijuana or medical marijuana establishment or a Nye County wholesale delivery liquor license.
- ~~B. The license fees specified in subsection A of this section shall be payable in advance for at least one year. Failure to pay the marijuana license fee within ten (10) working days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the annual fee within thirty (30) days of the due date, or shall be grounds for revocation of the license.~~
- ~~C. In addition to the fees specified in subsection A of this section, every marijuana establishment, as a condition of the granting of a marijuana establishment license or renewal, shall pay no later than ten (10) working days following the first day of each month, a monthly business license fee to Nye County, equivalent to two percent (2%) of the total value of all marijuana or marijuana products that were produced, manufactured, sold or distributed by the marijuana establishment for the previous month. (Ord. 519, 2017)~~

- B. The license fees specified in subsection A of this section shall be payable in advance for at least one year. Failure to pay the retail marijuana license renewal fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the annual fee and will increase by 25% ever 30 days thereafter until renewal fees are brought current ~~and shall be grounds for revocation of the license~~. Failure to pay the retail marijuana license renewal fee within (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the board.
- C. In addition to the fees specified in subsection A of this section, every retail marijuana establishment, as a condition of the granting of a retail marijuana establishment license or renewal, shall pay no later than twenty five (25) calendar days following the first day of each month, a monthly business license fee to Nye County, equivalent to two percent (2%) of the total value of all marijuana or marijuana products that were produced, manufactured, sold or distributed by the retail marijuana establishment for the previous month. Failure to pay the monthly business fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the amount due for each month that is past due. Failure to pay the monthly business fee within (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the board.

5.32.060: FEES; DISBURSEMENT:

~~The two percent (2%) monthly business license. Any fees collected by virtue of this chapter shall be disbursed according to NRS 372A.290, delivered by the licensee or authorized agent to the County Treasurer, and shall be kept by the Treasurer in the General Fund for the sole use and benefit of the County, and shall be paid out by order of and under the direction of the Board of County Commissioners in the same manner as other General Fund disbursements are made. The County Treasurer shall transmit a copy of the payment receipt along with a copy of each return form for each payment to the Planning Department and Nye County Sheriff's Office on a monthly basis. (Ord. 519, 2017)~~

5.32.070: PUBLIC DISPLAY REQUIRED:

During all of the period of time for which a license has been issued authorizing the operation of a retail marijuana or medical marijuana establishment, the license shall be posted and at all times displayed in a conspicuous place in the facility where such business is carried on so that all persons visiting such place may readily see and read the same. (Ord. 519, 2017)

5.32.080: RENEWAL PROCEDURE:

- A. Application for renewal of licenses shall be made by petition to the Planning Department by filing the same with the Planning Department, together with all fees. Applications for renewal shall be made at least ten (10) working calendar days before the annual license expiration date. County staff shall work with applicants to pro-rate annual license fees in order to achieve a common annual renewal date for all licenses of July 1st of each year.
- ~~B. A financial compilation shall be provided with all renewal applications.~~
- ~~C.B.~~ Notwithstanding any other provisions of this chapter, the procedures set forth in this chapter for the initial application and issuance of retail marijuana or medical marijuana licenses shall not apply to the renewal of licenses previously issued to the same applicant. With respect to such renewal of licenses, the Planning Department shall cause the reissuance or cancellation of such license renewals in the manner following:
1. Upon receipt of a completed request for renewal of a license along with the applicable renewal fees, the Planning Director or his designee shall schedule the renewal request for the next available Board meeting, and ~~meeting and~~ present his recommendations for or against the renewal of each such license.

No existing license required under this chapter shall lapse or be revoked when presentation to the Board of the request for renewal is delayed solely due to administrative reasons.

2. Any licensee whose license renewal has been disapproved by the Board shall be notified of such in writing, in the manner provided in this chapter. The licensee may avail himself of the procedures set forth in this chapter.
3. Renewal of licenses under this chapter must be for a minimum of one calendar year.
4. Notwithstanding any other provision of this chapter, no existing license required under this chapter shall lapse or be revoked when renewal is delayed solely due to the notice and agenda requirements of Nevada's Open Meetings Law, or due to administrative delay. (Ord. 519, 2017)

5.32.090: PROHIBITED ACTS:

It is unlawful for any licensed operation, licensee or employee, agent and/or contractor of any licensee to:

- A. Acquire, possess, cultivate, deliver, transfer, transport, supply, sell, or dispense any marijuana to any person, unless in compliance with all requirements of this chapter and State law pursuant to Nevada Revised Statutes chapters 435A and 453D.
- B. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense any marijuana to or from any person or source located outside the State of Nevada.
- C. Do any act that violates any licensing requirement established pursuant to chapter 453A or 453D of the Nevada Revised Statutes.
- D. Fail to comply with all requirements of the conditions of the an applicable special use permit. (Ord. 519, 2017)

5.32.095 SUSPENSION OR REVOCATION OF LICENSE; SHOW CAUSE HEARING:

A. The board may suspend or revoke a license or request a show cause hearing for any of the following causes:

1. Any cause that would constitute grounds for denial of a license;
2. Violation of this chapter or conviction of any other county ordinance, state or federal law or regulation involving moral turpitude by a licensee;
3. Refusal of the licensee to comply with any lawful order issued by the board;

B. Except as otherwise provided in this chapter, before suspension or revocation of a license the board shall:

1. Provide the licensee against whom the proceedings are brought, a Notice of Show Cause Hearing, providing written specifications charging the licensee with the acts or failures upon which the hearing are brought. The Notice of Show Cause Hearing shall be subscribed to and verified. The licensee must answer within ten (10) calendar days after service of the Notice of Show Cause Hearing. Service shall be effected by mailing said notice to the business address on the license application or by posting a copy of the notice upon the business premises.
2. The licensee answer must:

- a. State in short and plain terms the defenses to each claim asserted;
 - b. Admit or deny the facts alleged in the charging instrument;
 - c. State which allegations he/she is without knowledge or information to form a belief as to their truth. Such allegations shall be deemed denied;
 - d. Affirmatively set forth any matter which constitutes an avoidance or affirmative defense;
 - e. May demand a hearing. Failure to demand a hearing constitutes a waiver of the right to a hearing, and to judicial review of any decision or order of the board, but the board may order a hearing even if respondent so waives his/her right;
3. Failure to answer or to appear at the hearing constitutes an admission by the respondent of all facts alleged in the charging instrument. The board may take action based on such an admission and on other evidence without further notice to the licensee. If the board takes action based on such an admission, it shall include in the record what evidence such action was based on;
 4. Give written notice of hearings, providing the time, date and place;
 6. Conduct a hearing upon the charges alleged against the licensee or employee. (Ord. 434, 2012)

5.32.097 HEARINGS:

A. At all hearings before the board, the following procedure shall apply:

1. Oral testimony may be taken only upon oath administered by the clerk;
2. The parties to the hearing have the right to:
 - a. Call and examine witnesses;
 - b. Introduce exhibits relevant to the issues of the case, including transcripts of testimony at any previous hearing conducted by or on behalf of the board;
 - c. Introduce transcripts of hearings conducted in courts of record of the state, any other state, and courts of the United States;
 - d. Cross examine opposing witnesses on any matters relevant to the issues of the case, even though the matter was not covered on direct examination;
 - e. Impeach any witness regardless of which party first called him to testify, and
 - f. Offer rebuttal evidence;
3. If the licensee does not testify in his or her own behalf, he/she may be called and examined as if under cross examination;
4. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action;

5. The parties or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection;
 6. The board may take official notice of any generally accepted information and of any other fact which may be judicially noticed by the courts of this state. The parties must be informed of any information, matters or facts so noticed, and must be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the board;
 7. Consider all evidence and testimony in support of and in opposition to the charges;
 8. Enter in the minutes of the board the findings, conclusions, decision and action taken by the board. Any sanctions imposed upon a licensee or employee by the board may include expenses and costs of the proceedings.
- B. Notice of the board's findings, decision and order shall be served upon the licensee, or posted upon the premises of the licensed operation.
 - C. Any suspension or revocation of a license shall be effective upon service or posting notice of the same.
 - D. Upon issuance and service of the order, the licensee shall immediately cease the proscribed activity.
 - E. A return of service shall be filed with the clerk by the person effecting such service. (Ord. 434, 2012)

5.32.100: PENALTY FOR VIOLATION:

- A. Persons found guilty of violating any of the provisions of this chapter are guilty of a misdemeanor and subject to a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment. Nothing herein contained shall be construed as limiting any prosecution for acts related to a violation of the Uniform Controlled Substances Act as set forth in chapter 453 of the Nevada Revised Statutes.
- B. In addition to any criminal punishment as may be imposed, any violation of this chapter may result in the revocation of any license issued pursuant to this chapter and result in the forfeiture of any and all property as described in Nevada Revised Statutes 453.301. The civil penalties provided for hereunder are intended to be cumulative and in addition to any criminal fines or punishments imposed. (Ord. 519, 2017)

5.32.110: TRANSFERABILITY:

Licenses shall not be in any manner transferable or assignable, nor shall any person other than as named in the license be authorized to conduct the business, unless such transfer is approved by the State of Nevada and ~~the Nye County Board of Commissioners~~. (Ord. 519, 2017)

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 _____, 20179.

Proposed on the ____ day of _____, 2019

Proposed by: Commissioner _____.

Adopted on the ____ day of _____, 2019

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

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

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

DRAFT

BILL NO. 2019-05

NYE COUNTY ORDINANCE NO. _____

SUMMARY: A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled Marijuana and Medical Marijuana Establishments; 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 TITLE 5, BUSINESS LICENSING AND REGULATIONS, CHAPTER 5.32 ENTITLED MARIJUANA AND MEDICAL MARIJUANA ESTABLISHMENTS; 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 244.335, the Board may regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns; and may fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business; 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;

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:

Chapter 5.32 MARIJUANA ESTABLISHMENTS

5.32.000: RETAIL AND MEDICAL MARIJUANA LICENSING:

5.32.005: DEFINITIONS:

5.32.010: APPLICATION:

5.32.020: DENIAL CONDITIONS:

5.32.030: BOARD DETERMINATION PROCEDURE:

5.32.040: BOARD DETERMINATION; DENIAL:

5.32.050: MEDICAL MARIJUANA LICENSE FEES:

5.32.055: RETAIL MARIJUANA LICENSE FEES

5.32.060: FEES; DISBURSEMENT:

5.32.070: PUBLIC DISPLAY REQUIRED:

5.32.080: RENEWAL PROCEDURE:

5.32.090: PROHIBITED ACTS:

5.32.100: PENALTY FOR VIOLATION:

5.32.110: TRANSFERABILITY:

5.32.000: MARIJUANA ESTABLISHMENT LICENSING:

- A. Any license required by this chapter is a separate and distinct license from all other County licenses, and is in addition to any other license required for conducting or carrying on any other business in connection with or separate from the activities licensed by this chapter.
- B. It is unlawful within the County, outside an incorporated city, for a marijuana establishment to acquire, possess, cultivate, manufacture, process, package, deliver, transfer, transport, supply, dispense or sell marijuana for any purpose without first making application and securing a marijuana license to do so. (Ord. 519, 2017)

5.32.005: DEFINITIONS:

For the purposes of this chapter, the following words shall have the meanings set out in this section, unless the context otherwise clearly indicates:

AGENT: A person authorized by the applicant or licensee to act and speak for him or her.

BOARD: The Nye County Board of County Commissioners.

COMMUNITY FACILITY: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030

CONCENTRATED MARIJUANA: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030

CONSUMER: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030

DUAL LICENSEE: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030

EDIBLE MARIJUANA PRODUCTS: Has the meaning ascribed to it in Nevada Revised Statutes 453A.101.

FACILITY FOR THE PRODUCTION OF EDIBLE MARIJUANA PRODUCTS OR MARIJUANA INFUSED PRODUCTS: Has the meaning ascribed to it in Nevada Revised Statutes 453A.105.

INDEPENDENT TESTING LABORATORY: Has the meaning ascribed to it in Nevada Revised Statutes 453A.107.

MARIJUANA: Has the meaning ascribed to it by Nevada Revised Statutes 453.096

MARIJUANA CULTIVATION FACILITY: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030.

MARIJUANA DISTRIBUTOR: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030

MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030

MARIJUANA INFUSED PRODUCTS: Has the meaning ascribed to it by Nevada Revised Statutes 453A.112.

MARIJUANA PRODUCT MANUFACTURING FACILITY: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030

MARIJUANA PRODUCTS: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030

MARIJUANA TESTING FACILITY: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030

MEDICAL MARIJUANA DISPENSARY: Has the meaning ascribed to it by Nevada Revised Statutes 453A.115.

MEDICAL MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it by Nevada Revised Statutes 453A.116.

MEDICAL USE OF MARIJUANA: Has the meaning ascribed to it in Nevada Revised Statutes 453A.120.

PHYSICIAN: Has the meaning ascribed to it in Nevada Revised Statutes 0.040.

RETAIL MARIJUANA STORE: Has the meaning ascribed to it by Nevada Revised Statutes 453D.030.

5.32.010: APPLICATION:

- A. General: Application for a license provided by this chapter shall be made to the Board in writing, on the forms provided by the Nye County Planning Department.
- B. Requirements: Each application shall:
 1. Be filed with the Planning Department;
 2. Be accompanied by the current annual license fee;
 3. Include the name and address of the applicant, and of any other person having an interest in the business to be licensed. If the applicant is a partnership, the application shall include the names and addresses of all partners and any other person(s) having a financial interest in the business. If the applicant is a corporation, the application shall include the names and addresses of all officers, directors and stockholders having more than three percent (3%) of the issued stock, the designated agent or resident manager, and the principal place of business of the corporation. If it is a corporation whose stock is sold to the general public, the stockholders need not be listed;

4. Include the name, address and telephone number of all individual(s) who will actively manage the business for which the license is sought. At least one such manager must be on site when business is being conducted;
5. Specify the location of the premises for which the license is sought, and the name of the owner(s), agents, lessee or assignee of the premises where the business is to be operated;
6. Specify which type of retail marijuana or medical marijuana establishment license is being requested. The Board may issue licenses for the following types of establishments:
 - a. Marijuana establishments (retail marijuana establishments):
 - (1) Retail marijuana cultivation facility;
 - (2) Retail marijuana independent testing laboratory;
 - (3) Retail marijuana production facility for edible marijuana products or marijuana infused products;
 - (4) Retail marijuana distributor; or
 - (5) Retail marijuana store.
 - b. Medical marijuana establishments:
 - (1) Medical marijuana cultivation facility;
 - (2) Medical marijuana production facility for edible marijuana products or marijuana infused products;
 - (3) Medical marijuana dispensary; or
 - (4) Medical marijuana independent testing laboratory.
7. Include a copy of the special use permit granted by the Board for the marijuana establishment;
8. Include a copy of the medical marijuana establishment registration certificate, or provisional certificate or retail license issued by the State of Nevada Department of Taxation pursuant to Nevada Revised Statute chapter 453A;
9. Be signed by all persons who shall conduct or have an interest in the business activities for which a retail marijuana or medical marijuana license is required. In the case of corporations, clubs or organizations with members, the application shall be verified by the president or secretary or the person who shall actively manage or conduct the business or activity for which a retail marijuana or medical marijuana license is required;
10. Include an attestation regarding excluded felony offenses, signed by each owner, officer and board member of the proposed retail marijuana or medical marijuana establishment affirming that each person has not been convicted of any excluded felony offenses as defined in Nevada Revised Statutes 453A.104 and 453D.030, and affirming that each person understands that any falsification, omission or concealment of a material fact may be cause for disqualification from consideration for the proposed retail marijuana or medical marijuana establishment;

11. Be sworn to as to the truthfulness of the information contained therein.

- C. **Processing Time:** There shall be a maximum processing time of thirty (30) to (60) working days for any application for a retail marijuana or medical marijuana license from the date of a complete application submittal.
- D. **Corporations:** In the case of a corporate licensee, any and all changes in the officers, directors or stockholders, or stockholders owning in the aggregate more than three percent (3%) of the stock of such corporation, shall be reported to the Planning Department within thirty (30) days of the appointment or election of such officers and directors, or acquisition by such stockholder(s), as the case may be, and such officers, directors and stockholder(s) shall be required to qualify for a license as required in this chapter. A list of all shareholders shall be submitted to Nye County on an annual basis.
- E. **Partnerships:** In the case of a partnership licensee, the partnership contract must be submitted with the application. Any change in the partners or other persons with a financial interest in the business shall be reported to the Planning Department within fourteen (14) working days of the change, and if the change involves the addition of a person not previously investigated, that person shall be required to qualify for a license as required by this chapter.
- F. **Financials:** A financial compilation shall be submitted annually to Nye County along with a list of any persons receiving more than three percent (3%) of the disbursements from the entity.
- G. **License Expiration:** An approved retail marijuana or medical marijuana license shall expire and become void one calendar year following the date of issuance of the license by the Board unless revoked or renewed in accordance with the provisions described in this chapter.

5.32.020: DENIAL CONDITIONS:

- A. In conformity with the policies of this chapter, the following persons are declared not to be qualified to hold a retail marijuana or medical marijuana establishment license under the provisions of this chapter:
 - 1. A person who does not possess, or who does not have a reputation for possessing a good moral character;
 - 2. A person under the age of twenty one (21) years;
 - 3. A person who has ever been convicted of a felony involving a crime of a sexual nature involving children or a heinous crime; has made any intentional false statement or omission in the registration form or any crime involving unlawful possession, use or sale of a controlled substance, sexual abuse or assault, violence, or who has been convicted within the past ten (10) years of any other felony, unless the Board finds, upon examination of the circumstances of the crime and the applicant's criminal history, that the applicant does not present, and is not likely to present in the future, a threat to County safety, morals and welfare, and will likely operate a lawful retail marijuana or medical marijuana establishment in compliance with the letter and intent of all County ordinances;
 - 4. A person who the Board determines is not a suitable person to receive or hold a license, after due consideration for the protection of the public health, safety, morals, good order and general welfare of the inhabitants of the County, outside an incorporated city; has ever been convicted of a felony involving a crime of a sexual nature involving children or a heinous crime; has made any intentional false statement or omission in the registration form;
 - 5. A person whose license issued under this chapter has been revoked for cause;

6. A person who, at the time of application for renewal of any license issued under this chapter, would not be eligible for such license upon a first application;
7. A co-partnership, unless all of the members of such co-partnership, and any other person having a financial interest in the business, are qualified to obtain a license;
8. A publicly held corporation, if the designated agent or resident manager would not be eligible to receive a license under this chapter; and a non-publicly held corporation, if any of its officers would not be eligible to receive a license under this chapter, for any reason other than citizenship and residence or its designated resident manager would not be eligible to receive a license under this chapter;
9. A corporation, unless it is incorporated in the State, or unless it is a foreign corporation which is qualified under the State laws to transact business in the State;
10. A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of an individual licensee;
11. A person who does not beneficially own the premises for which a license is sought, or who does not have a lease thereof for the full period for which the license is to be used; the manager or his/her agent must be on site when business is being conducted;
12. A person who, in the previous year, has failed to comply with any applicable local ordinance, including, but not limited to, a town or city's business license ordinance; or
13. A person who has not obtained a special use permit, if required, for the operation of a marijuana establishment or has had a special use permit or State license revoked. (Ord. 519, 2017)

5.32.030: BOARD DETERMINATION PROCEDURE:

- A. After submittal of the application, the Planning Director shall cause the application to be placed upon the agenda for consideration by the Board.
- B. The applicant or applicants or their agent(s) shall appear before the Board at the appointed time.
- C. The Board may act upon the application or defer action until the next meeting of the Board. (Ord. 519, 2017)

5.32.040: BOARD DETERMINATION; DENIAL:

- A. In conformity with the policy of this chapter, the following persons are declared not to be qualified to hold a license under the provisions of this chapter:
 1. A person who is under the age of twenty one (21) years;
 2. A person who has been convicted within the past ten (10) years of:
 - a. A felony crime involving the sale of or furnishing or possession of with intent to sell or to furnish any narcotic, hallucinogenic or dangerous drug, or conspiracy to so sell, furnish or possess;
 - b. A felony or gross misdemeanor crime involving the use of any deadly or dangerous weapon;

- c. A felony or gross misdemeanor crime involving theft, embezzlement or misappropriation of funds, or possession of stolen property;
 - d. A felony crime involving perjury, bribery or fraud;
 - e. A felony crime involving assault, battery, sexual assault, stalking or harassment, or other physical violence;
- 3. A person who is presently on probation for any of the crimes listed in subsection A2 of this section; or
 - 4. A person who, at the time of application for renewal of a marijuana agent card would not be eligible for the license upon a first application.
 - 5. For any other good and sufficient reason.
- B. An applicant otherwise barred by the provisions of subsection A of this section may be found suitable, if on review of the denial of a license, the Board finds upon examination of the circumstances of the crime or the revocation, as the case may be, and upon examination of the applicant's criminal history, that the applicant does not present, and is not likely to present in the future, a threat to public safety, morals and welfare, and will likely abide by all applicable regulations.
 - C. The Board will consider the recommendations and input from the particular town advisory board, Sheriff, water district governing board, or other applicable advisory board or committee. (Ord. 519, 2017)

5.32.050: MEDICAL MARIJUANA ESTABLISHMENT LICENSE FEES:

- A. The license fees required to be paid to obtain or renew a medical marijuana establishment license shall be as follows:
 - 1. Fifteen thousand dollars (\$15,000.00) for initial issuance and a seven thousand five hundred dollar (\$7,500.00) annual renewal fee for a medical marijuana dispensary establishment with five thousand dollars (\$5,000.00) nonrefundable for the initial application and two thousand five hundred dollars (\$2,500.00) nonrefundable each year thereafter.
 - 2. Five thousand dollars (\$5,000.00) for initial issuance and a two thousand five hundred dollar (\$2,500.00) annual renewal fee for a medical marijuana cultivation establishment with two thousand dollars (\$2,000.00) nonrefundable for the initial application and one thousand dollars (\$1,000.00) nonrefundable each year thereafter.
 - 3. Five thousand dollars (\$5,000.00) for initial issuance and a two thousand five hundred dollar (\$2,500.00) annual renewal fee for a medical marijuana production facility with two thousand dollars (\$2,000.00) nonrefundable for the initial application and one thousand dollars (\$1,000.00) nonrefundable each year thereafter.
 - 4. Two thousand five hundred dollars (\$2,500.00) for initial issuance and a one thousand two hundred fifty dollar (\$1,250.00) annual renewal fee for a medical marijuana independent testing laboratory with one thousand two hundred fifty dollars (\$1,250.00) nonrefundable for the initial application and seven hundred fifty dollars (\$750.00) nonrefundable each year thereafter.
- B. The license fees specified in subsection A of this section shall be payable in advance for at least one year. Failure to pay the medical marijuana license renewal fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the annual fee and will increase by 25% every 30 days thereafter until renewal fees are brought current. Failure to pay the medical

marijuana license renewal fee within (90) calendar days of the due date will require a show cause hearing and possible suspension and/or revocation of the license by the board.

- C. In addition to the fees specified in subsection A of this section, every medical marijuana establishment, as a condition of the granting of a medical marijuana establishment license or renewal, shall pay no later than twenty five (25) calendar days following the first day of each month, a monthly business license fee to Nye County, equivalent to two percent (2%) of the total value of all medical marijuana or medical marijuana products that were produced, manufactured, sold or distributed by the medical marijuana establishment for the previous month. Failure to pay the monthly business fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the amount due. Failure to pay the monthly business fee within (90) calendar days of the due date will result in an automatic suspension of the license and require a show cause hearing for possible further suspension and/or revocation of the license by the board. (Ord. 519, 2017)

5.32.055: RETAIL MARIJUANA ESTABLISHMENT LICENSE FEES

- A. The license fees required to be paid to obtain or renew a retail marijuana establishment license shall be as follows:
1. Fifteen thousand dollars (\$15,000.00) for initial issuance and a seven thousand five hundred dollar (\$7,500.00) annual renewal fee for a retail marijuana store, with five thousand dollars (\$5,000.00) nonrefundable for the initial application and two thousand five hundred dollars (\$2,500.00) nonrefundable each year thereafter.
 2. Five thousand dollars (\$5,000.00) for initial issuance and a two thousand five hundred dollar (\$2,500.00) annual renewal fee for a retail marijuana cultivation facility, with two thousand dollars (\$2,000.00) nonrefundable for the initial application and one thousand dollars (\$1,000.00) nonrefundable each year thereafter.
 3. Five thousand dollars (\$5,000.00) for initial issuance and a two thousand five hundred dollar (\$2,500.00) annual renewal fee for a retail marijuana product manufacturing facility, with two thousand dollars (\$2,000.00) nonrefundable for the initial application and one thousand dollars (\$1,000.00) nonrefundable each year thereafter.
 4. Two thousand five hundred dollars (\$2,500.00) for initial issuance and a one thousand two hundred fifty dollar (\$1,250.00) annual renewal fee for a retail marijuana testing laboratory, with one thousand two hundred fifty dollars (\$1,250.00) nonrefundable for the initial application and seven hundred fifty dollars (\$750.00) nonrefundable each year thereafter.
 5. Two thousand five hundred dollars (\$2,500.00) for initial issuance and a one thousand two hundred fifty dollar (\$1,250.00) annual renewal fee for a retail marijuana distributor, with one thousand two hundred fifty dollars (\$1,250.00) nonrefundable for the initial application and seven hundred fifty dollars (\$750.00) nonrefundable each year thereafter. This fee is waived if the applicant for the retail marijuana distributor license possesses a valid Nye County license for a retail marijuana or medical marijuana establishment or a Nye County wholesale delivery liquor license.
- B. The license fees specified in subsection A of this section shall be payable in advance for at least one year. Failure to pay the retail marijuana license renewal fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the annual fee and will increase by 25% ever 30 days thereafter until renewal fees are brought current. Failure to pay the retail marijuana license renewal fee within (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the board.

- C. In addition to the fees specified in subsection A of this section, every retail marijuana establishment, as a condition of the granting of a retail marijuana establishment license or renewal, shall pay no later than twenty five (25) calendar days following the first day of each month, a monthly business license fee to Nye County, equivalent to two percent (2%) of the total value of all marijuana or marijuana products that were produced, manufactured, sold or distributed by the retail marijuana establishment for the previous month. Failure to pay the monthly business fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the amount due for each month that is past due. Failure to pay the monthly business fee within (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the board.

5.32.060: FEES; DISBURSEMENT:

Any fees collected by virtue of this chapter shall be disbursed according to NRS 372A.290.

5.32.070: PUBLIC DISPLAY REQUIRED:

During all of the period of time for which a license has been issued authorizing the operation of a retail marijuana or medical marijuana establishment, the license shall be posted and at all times displayed in a conspicuous place in the facility where such business is carried on so that all persons visiting such place may readily see and read the same. (Ord. 519, 2017)

5.32.080: RENEWAL PROCEDURE:

- A. Application for renewal of licenses shall be made by petition to the Planning Department by filing the same with the Planning Department, together with all fees. Applications for renewal shall be made at least ten (10) calendar days before the annual license expiration date. County staff shall work with applicants to pro-rate annual license fees in order to achieve a common annual renewal date for all licenses of July 1st of each year.
- B. Notwithstanding any other provisions of this chapter, the procedures set forth in this chapter for the initial application and issuance of retail marijuana or medical marijuana licenses shall not apply to the renewal of licenses previously issued to the same applicant. With respect to such renewal of licenses, the Planning Department shall cause the reissuance or cancellation of such license renewals in the manner following:
1. Upon receipt of a completed request for renewal of a license along with the applicable renewal fees, the Planning Director or his designee shall schedule the renewal request for the next available Board meeting and present his recommendations for or against the renewal of each such license. No existing license required under this chapter shall lapse or be revoked when presentation to the Board of the request for renewal is delayed solely due to administrative reasons.
 2. Any licensee whose license renewal has been disapproved by the Board shall be notified of such in writing, in the manner provided in this chapter. The licensee may avail himself of the procedures set forth in this chapter.
 3. Renewal of licenses under this chapter must be for a minimum of one calendar year.
 4. Notwithstanding any other provision of this chapter, no existing license required under this chapter shall lapse or be revoked when renewal is delayed solely due to the notice and agenda requirements of Nevada's Open Meetings Law, or due to administrative delay. (Ord. 519, 2017)

5.32.090: PROHIBITED ACTS:

It is unlawful for any licensed operation, licensee or employee, agent and/or contractor of any licensee to:

- A. Acquire, possess, cultivate, deliver, transfer, transport, supply, sell, or dispense any marijuana to any person, unless in compliance with all requirements of this chapter and State law pursuant to Nevada Revised Statutes chapters 435A and 453D.
- B. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense any marijuana to or from any person or source located outside the State of Nevada.
- C. Do any act that violates any licensing requirement established pursuant to chapter 453A or 453D of the Nevada Revised Statutes.
- D. Fail to comply with all requirements of the conditions of an applicable special use permit. (Ord. 519, 2017)

5.32.095 SUSPENSION OR REVOCATION OF LICENSE; SHOW CAUSE HEARING:

- A. The board may suspend or revoke a license or request a show cause hearing for any of the following causes:
 - 1. Any cause that would constitute grounds for denial of a license;
 - 2. Violation of this chapter or conviction of any other county ordinance, state or federal law or regulation involving moral turpitude by a licensee;
 - 3. Refusal of the licensee to comply with any lawful order issued by the board;
- B. Except as otherwise provided in this chapter, before suspension or revocation of a license the board shall:
 - 1. Provide the licensee against whom the proceedings are brought, a Notice of Show Cause Hearing, providing written specifications charging the licensee with the acts or failures upon which the hearing are brought. The Notice of Show Cause Hearing shall be subscribed to and verified. The licensee must answer within ten (10) calendar days after service of the Notice of Show Cause Hearing. Service shall be effected by mailing said notice to the business address on the license application or by posting a copy of the notice upon the business premises.
 - 2. The licensee answer must:
 - a. State in short and plain terms the defenses to each claim asserted;
 - b. Admit or deny the facts alleged in the charging instrument;
 - c. State which allegations he/she is without knowledge or information to form a belief as to their truth. Such allegations shall be deemed denied;
 - d. Affirmatively set forth any matter which constitutes an avoidance or affirmative defense;
 - e. May demand a hearing. Failure to demand a hearing constitutes a waiver of the right to a hearing, and to judicial review of any decision or order of the board, but the board may order a hearing even if respondent so waives his/her right;
 - 3. Failure to answer or to appear at the hearing constitutes an admission by the respondent of all facts alleged in the charging instrument. The board may take action based on such an admission and on other evidence without further notice to the licensee. If the board takes action based on such an admission, it shall include in the record what evidence such action was based on;
 - 4. Give written notice of hearings, providing the time, date and place;

6. Conduct a hearing upon the charges alleged against the licensee or employee. (Ord. 434, 2012)

5.32.097 HEARINGS:

A. At all hearings before the board, the following procedure shall apply:

1. Oral testimony may be taken only upon oath administered by the clerk;
2. The parties to the hearing have the right to:
 - a. Call and examine witnesses,
 - b. Introduce exhibits relevant to the issues of the case, including transcripts of testimony at any previous hearing conducted by or on behalf of the board,
 - c. Introduce transcripts of hearings conducted in courts of record of the state, any other state, and courts of the United States,
 - d. Cross examine opposing witnesses on any matters relevant to the issues of the case, even though the matter was not covered on direct examination,
 - e. Impeach any witness regardless of which party first called him to testify, and
 - f. Offer rebuttal evidence;
3. If the licensee does not testify in his or her own behalf, he/she may be called and examined as if under cross examination;
4. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action;
5. The parties or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection;
6. The board may take official notice of any generally accepted information and of any other fact which may be judicially noticed by the courts of this state. The parties must be informed of any information, matters or facts so noticed, and must be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the board;
7. Consider all evidence and testimony in support of and in opposition to the charges;
8. Enter in the minutes of the board the findings, conclusions, decision and action taken by the board. Any sanctions imposed upon a licensee or employee by the board may include expenses and costs of the proceedings.

B. Notice of the board's findings, decision and order shall be served upon the licensee, or posted upon the premises of the licensed operation.

C. Any suspension or revocation of a license shall be effective upon service or posting notice of the same.

D. Upon issuance and service of the order, the licensee shall immediately cease the proscribed activity.

E. A return of service shall be filed with the clerk by the person effecting such service. (Ord. 434, 2012)

5.32.100: PENALTY FOR VIOLATION:

- A. Persons found guilty of violating any of the provisions of this chapter are guilty of a misdemeanor and subject to a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment. Nothing herein contained shall be construed as limiting any prosecution for acts related to a violation of the Uniform Controlled Substances Act as set forth in chapter 453 of the Nevada Revised Statutes.
- B. In addition to any criminal punishment as may be imposed, any violation of this chapter may result in the revocation of any license issued pursuant to this chapter and result in the forfeiture of any and all property as described in Nevada Revised Statutes 453.301. The civil penalties provided for hereunder are intended to be cumulative and in addition to any criminal fines or punishments imposed. (Ord. 519, 2017)

5.32.110: TRANSFERABILITY:

Licenses shall not be in any manner transferable or assignable, nor shall any person other than as named in the license be authorized to conduct the business, unless such transfer is approved by the State of Nevada and the Board. (Ord. 519, 2017)

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 _____, 2019.

Proposed on the ____ day of _____, 2019

Proposed by: Commissioner _____.

Adopted on the ____ day of _____, 2019

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

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

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

Mike Floyd
PO Box 2093
Pahrump, NV 89048
mfloyd@pahrump.com

March 27, 2019

Nye County Board of Commissioners
2100 E Walt Williams Dr. #100
Pahrump, NV 89048

RE: Changes to Nye County Code Title 17.06.040.6

Dear Commisssioners:

As the commission discusses changes to the 5.32 marijuana licensing codes, I would request that you also look at title 17, as indicated above, and consider revising the Special Use Permit requirements for marijuana businesses in Nye County.

As it currently reads:

17.06.040.6 Nontransferability Of Special Use Permit: Any special use permit approved by the board shall be specific to the marijuana establishment business owner as specified on the permit. Any change in ownership in the marijuana establishment shall require the submission of an application by the new owner(s) prior to the transfer of ownership. The board shall consider if the change in ownership materially affects the suitability of the operations considered upon issuance of the special use permit to the previous business owner. The issuance of a special use permit to a new business owner shall be valid until the expiration of the term of the special use permit issued to the previous business owner, which shall be required to be renewed as set forth herein.

I would argue that a special use permit should be site specific, and *not* business owner specific as indicated above and should be re-written or removed from the regulation. My reasons are as follows:

- Since the special use permit is a land use approval only, it can only be used by someone who also possesses a Nye County and State of Nevada Marijuana license to operate their business.
- Preventing the transfer of the special use permit is overly burdensome since it prevents persons like myself, from marketing parcels in Nye County towards marijuana specific buyers or leasing space in approved sites to other properly licensed groups. If the parcel has been examined, notices given, fees paid, and the owner has appeared before your board to answer questions, I feel the purpose of the special use permit has been met. Your vote to approve would indicate that.

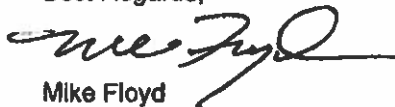
- After looking through the Sterling Codifiers website, I can find no other instances in Nye Title 17 where a special use permit is non-transferable.
- I understand the reasoning for this requirement in July of 2014. As you may remember, the State had not issued any licenses for marijuana businesses and would not until November of that year. The only way Nye County could regulate the industry at that time was through special use permitting, which in part, required the assessment of the individuals or groups requesting the permit. However, since then, all that has changed. The State has issued licenses, Nye County has issued licenses, and the only persons able to operate marijuana businesses are those that are properly licensed by both entities. Nye County now regulates marijuana businesses through the annual business license process and as far as I know, you have been able to do so effectively. Once an Initial license is issued, I don't believe your board ever considers or discusses the special use permit for that parcel again.

In conclusion, I feel your board should be able to remove the non-transferability requirement from Nye Title 17 without harming or degrading your ability to regulate the Nye County marijuana businesses in any way. You have the ability to approve or deny marijuana business on an annual basis through the licensing process. Making this change will allow land owners with parcels in acceptable zones, to lease or sell their properties and able to include a pre-approved special use permit to go along with it. As you know, this can take several months to obtain and is an attractive bonus to potential buyers.

Finally, I feel a revision could be made that ties the special use permit to the parcel and not the individual(s) that applied for it in the first place. This would allow for a second party to use the permit as long as they were properly licensed by your board and State.

I hope you will consider my arguments and can help with this matter.

Best Regards;



Mike Floyd



NCCA
PO BOX 974
Pahrump, NV 89041

April 2, 2019

Nye County Commissioners
2100 E. Walt Williams Dr.
Pahrump, NV 89048

Re: Comments on Proposed Amendments to NCC Title 5, Business Licensing and Regulations of Marijuana Establishments

Greetings Commissioners,

We would like to present a few suggestions in order to make some of the processes easier on both Nye County staff and the cannabis industry.

1. As Planning requests that a copy of the facility's State return be included monthly with every County return, we would request that the due dates that the County set coincide with the due dates that the State forms are due. As there are many forms that facilities are required to turn into the State monthly, it would be beneficial to list which forms the County would like submitted with the returns.
2. We would also request that the County **require** that all marijuana licenses be renewed on July 1st annually. 5.32.080 (A) renewal procedure states: *County staff will work with applicants to pro-rate annual license fees in order to achieve a common annual renewal date for all licenses of July 1st of each year.* There are still licenses that are not on the common renewal date, and we believe making this a requirement will save time and reduce renewal date errors.

As always, we would be happy to take time with County staff to discuss information and contribute ideas regarding the industry including processes, regulations, paperwork, etc., in order to attain mutual objectives. Thank you for your time and consideration; it is very much appreciated.

Sincerely,

Sarah Chapman
President
NCCA

cc: Brett Waggoner, Planning Director
cc: Tim Sutton, County Manager



NCCA
PO BOX 974
Pahrump, NV 89041

July 5, 2019

Nye County Commissioners
2100 E. Walt Williams Dr.
Pahrump, NV 89048

*Re: Comments on Proposed Amendments to NCC 5.32, Business Licensing and Regulations of
Marijuana Establishments*

Greetings Commissioners,

In addition to the suggestions we presented in April, we would like to offer the following comments regarding NCC5.32

1. The draft that was presented at the April meeting had one section which was contradictory. The sections are as follows:

Section 5.32.050 (C) Medical Marijuana Establishment License Fees states that "Failure to pay the monthly business fee within (90) calendar days of the due date will result in an automatic suspension of the license and require a show cause hearing for possible further suspension and/or revocation of the license by the board".

Section 5.32.055 (C) Retail Marijuana Establishment License Fees states that "Failure to pay the monthly business fee within (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the board".

There were two other sections of the draft which discussed late license renewals and the language in both of those did not include "automatic suspension", but did include the language regarding a show cause hearing. We do agree with the language that states that a show cause hearing be "required" or "triggered" in those instances. We would ask that the term "automatic suspension" be removed.

If a facility is automatically suspended, it could be quite some time before the show cause hearing is scheduled before the board. Plants in a cultivation facility need to be cared for daily. A facility's entire crop could die under an automatic suspension. If that were to happen and at the show cause hearing it was proven to be a simple paperwork error between departments, it could be extremely costly. That being said, we request that section 5.32.050 (C) be changed to reflect the language in 5.32.055 (C), deleting the portion referring to automatic suspension.

Thank you for your time and consideration; it is very much appreciated.

Sincerely,

Sarah Chapman
President
NCCA