

# NYE COUNTY AGENDA INFORMATION FORM

Action     Presentation     Presentation & Action

Department: Planning		Agenda Date:
Category: Timed Agenda Item – 10:00 a.m.		August 4, 2020
Contact: Brett Waggoner	Phone: 775-751-4249	Continued from meeting of: June 2, 2020
Return to: Brett Waggoner	Location: Pahrump	Phone:
<b>Action requested:</b> (Include what, with whom, when, where, why, how much (\$) and terms)		
Public Hearing, discussion and deliberation to adopt, amend and adopt, or reject Nye County Bill No. 2020-09: A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled Marijuana Establishments; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.		
<b>Complete description of requested action:</b> (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)		
Staff recommends adoption with an effective date of August 24, 2020.		
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.		
<b>Expenditure Impact by FY(s):</b> (Provide detail on Financial Form)		
<input checked="" type="checkbox"/> No financial impact		

## Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date
2.	Date	7. HR	Date
3.	Date	8. Legal	Verified by MG 01.16.20
4.	Date	9. Finance	Date N/A
5.	Date	10. County Manager	<input checked="" type="checkbox"/> Place on Agenda

MG  
ITEM # 10

Second Amended Version to the  
Proposed Version of Nye County  
Bill No. 2020-09

Being proposed August 4, 2020

NYE COUNTY ORDINANCE NO. \_\_\_\_\_

**SUMMARY:** A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled 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 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:**

**Chapter 5.32**  
**MARIJUANA CANNABIS ESTABLISHMENTS**

**5.32.000: RETAIL ADULT-USE AND MEDICAL MARIJUANA CANNABIS 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~~CANNABIS LICENSE FEES:**

**5.32.055: ~~RETAIL~~ MARIJUANA~~ADULT-USE~~CANNABIS 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~~CANNABIS 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~~cannabis establishment to acquire, possess, cultivate, manufacture, process, package, deliver, transfer, transport, supply, dispense or sell ~~marijuana~~cannabis for any purpose without first making application and securing a ~~marijuana~~cannabis 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 [Title 60 of the Nevada Revised Statutes unless otherwise set out in](#) this section, ~~unless~~ or 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](#).

**DUAL LICENSEE:** Has the meaning ascribed to it by [Title 60 of Nevada Revised Statutes 453D.030](#)

**EDIBLE MARIJUANA PRODUCTS:** Has the meaning ascribed to it in [Title 60 of Nevada Revised Statutes 453A.101](#).

**FACILITY FOR THE PRODUCTION OF EDIBLE MARIJUANA PRODUCTS OR MARIJUANA INFUSED PRODUCTS:** Has the meaning ascribed to it in [Title 60 of 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 [Title 60 of Nevada Revised Statutes 453D.030](#).

**MARIJUANA DISTRIBUTOR:** Has the meaning ascribed to it by [Title 60 of Nevada Revised Statutes 453D.030](#).

~~MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453D.030~~

~~MARIJUANA INFUSED PRODUCTS: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453A.112.~~

~~MARIJUANA PRODUCT MANUFACTURING FACILITY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453D.030~~

~~MARIJUANA PRODUCTS: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453D.030~~

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

~~MEDICAL CULTIVATION FACILITY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes.~~

~~MEDICAL MARIJUANA DISPENSARY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453A.115.~~

~~MEDICAL INDEPENDENT TESTING LABORATORY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes.~~

~~MEDICAL PRODUCTION FACILITY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes.~~

~~MEDICAL MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453A.116.~~

~~MEDICAL USE OF MARIJUANA: Has the meaning ascribed to it in Title 60 of 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 or a limited liability company, the application shall include the names and addresses of all officers, directors, and stockholders having more than three percent (3%) of the issued stock, members, the designated agent or resident manager, and the principal

place of business of the corporation or limited liability company. 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~~cannabis establishment license is being requested. The Board may issue licenses for the following types of establishments:
  - a. Adult-use Marijuanacannabis establishments (~~retail marijuana establishments~~):
    - (1) ~~Retail~~Adult-use ~~marijuana~~cannabis cultivation facility;
    - (2) ~~Retail~~Adult-use ~~marijuana~~cannabis independent testing laboratory;
    - (3) ~~Retail~~Adult-use ~~marijuana~~cannabis production facility ~~for edible marijuana products or marijuana infused products~~; or
    - (4) ~~Retail~~ marijuana distributor; or
    - (5)(4) ~~Retail~~Adult-use ~~marijuana~~cannabis retail store.
    - (5) Cannabis distributor.
  - b. Medical ~~marijuana~~cannabis establishments:
    - (1) Medical ~~marijuana~~cannabis cultivation facility;
    - (2) Medical ~~marijuana~~cannabis production facility ~~for edible marijuana products or marijuana infused products~~;
    - (3) Medical ~~marijuana~~cannabis dispensary; or
    - (4) Medical ~~marijuana~~cannabis independent testing laboratory.
7. Include a copy of the special use permit granted by the Board for the ~~marijuana~~cannabis establishment;
8. Include a copy of the medical ~~marijuana~~cannabis 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 an adult-use~~ or medical ~~marijuana~~cannabis 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 an adult-use~~ or medical ~~marijuana~~cannabis license is

required. In the case of limited liability companies, the application shall be verified by the managing members;

10. Include an attestation regarding excluded felony offenses, signed by each owner, officer and board member of the proposed ~~retail~~ adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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~~adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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) working days for any application for ~~a~~retailan adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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 fourteen~~thirty~~ (14)~~30~~ days after the State grants approval of~~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 after the State grants approval for the changes 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. Limited Liability Companies: In the case of a limited liability company licensee, any and all changes in membership shall be reported to the Planning Department within fourteen~~thirty~~ (14)~~30~~ days after the State grants approval of the changes in membership. A list of all members shall be submitted to Nye County on an annual basis.

~~FG.~~ 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.

~~GH.~~ License Expiration: An approved ~~retail~~adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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~~retailan adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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 ~~adult-use~~ ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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~~cannabis 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~~cannabis 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~~CANNABIS~~ ESTABLISHMENT LICENSE FEES:**

A. The license fees required to be paid to obtain or renew a medical ~~marijuana~~cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the medical marijuana/cannabis 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/cannabis license renewal fee within (90) calendar days of the due date will require result in a show cause hearing and possible suspension and/or revocation of the license by the board.~~  
The license fees specified in subsection A of this section shall be payable in advance for at least one year. License fees shall be submitted to the Nye County Planning Department. Failure to pay the medical use cannabis 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 use cannabis license renewal fee within (90) calendar days of the due date will result in 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 ~~use~~marijuana cannabis establishment, as a condition of the granting of a medical ~~use~~marijuana cannabis establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and 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 ~~use~~marijuana cannabis or medical ~~marijuana~~cannabis products that were produced, manufactured, sold or distributed by the medical ~~use~~marijuana cannabis establishment for the previous month. ~~The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department.~~  
The monthly business license fees shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible

~~suspension and/or revocation~~~~suspension of the license by the board~~~~of the license and require a show cause hearing~~ (Ord. 519, 2017)

### **5.32.055: ~~RETAIL~~ADULT-USE MARIJUANACANNABIS ESTABLISHMENT LICENSE FEES**

A. The license fees required to be paid to obtain or renew ~~a retail~~an adult-use ~~marijuana~~cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the ~~retail~~adult-use ~~marijuana~~cannabis 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 ~~retail~~adult-use ~~marijuana~~cannabis license renewal fee within (90) calendar days of the due date will trigger result in 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 retail~~adult-use~~marijuanacannabis establishment, as a condition of the granting of a ~~retail~~adult-use ~~marijuana~~cannabis 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~~cannabis or ~~marijuana~~cannabis products that were produced, manufactured, sold or distributed by the ~~retail~~adult-use ~~marijuana~~cannabis establishment for the previous month. The monthly business license fees shall be submitted to the Nye County Planning Department. 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. In addition to the fees specified in subsection A of this section, every adult use cannabis establishment, as a condition of the granting of a adult use cannabis establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and 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 adult use cannabis or adult cannabis products that were produced, manufactured, sold or distributed by the adult use cannabis establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible suspension and/or revocation of the license by the board (Ord. 519, 2017)~~

#### **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~~an adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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~~adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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.
  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. Corporations: A list of all shareholders, directors, or stockholders owning in the aggregate more than three percent (3%) of the stock of such corporations or who receive more than 3% or more in disbursements.
5. Limited Liability Companies: A list of all members of the Limited Liability Company.

**64.** 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~~cannabis to any person, unless in compliance with all requirements of this chapter and State law pursuant to Title 60 of Nevada Revised Statutes ~~chapters 435A and 453D~~.
- B. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense any ~~marijuana~~cannabis 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~~ Title 60 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~~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~~Board;
- B. Except as otherwise provided in this chapter, before suspension or revocation of a license the ~~board~~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 is 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~~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~~Board may take action based on such an admission and on other evidence without further notice to the licensee. If the ~~board~~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~~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~~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~~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~~Board;
7. Consider all evidence and testimony in support of and in opposition to the charges;
8. Enter in the minutes of the ~~board~~Board the findings, conclusions, decision and action taken by the ~~board~~Board. Any sanctions imposed upon a licensee or employee by the ~~board~~Board may include expenses and costs of the proceedings.

B. Notice of the ~~board's~~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.

#### **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 24<sup>th</sup> day of August, 2020.

Proposed on the 5<sup>th</sup> day of May, 2020

Proposed by: Commissioner Blundo.

Adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

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

NYE COUNTY ORDINANCE NO. \_\_\_\_\_

**SUMMARY:** A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled 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 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:**

**Chapter 5.32**  
**CANNABIS ESTABLISHMENTS**

**5.32.000: ADULT-USE AND MEDICAL CANNABIS 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 CANNABIS LICENSE FEES:**

**5.32.055: ADULT-USE CANNABIS 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: CANNABIS 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 cannabis establishment to acquire, possess, cultivate, manufacture, process, package, deliver, transfer, transport, supply, dispense or sell cannabis for any purpose without first making application and securing a cannabis license to do so. (Ord. 519, 2017)

**5.32.005: DEFINITIONS:**

For the purposes of this chapter, words shall have the meanings set out in Title 60 of the Nevada Revised Statutes unless otherwise set out in this section, or 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.

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

**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 or a limited liability company, the application shall include the names and addresses of all officers, directors, stockholders having more than three percent (3%) of the issued stock, members, the designated agent or resident manager, and the principal place of business of the corporation or limited liability company. 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 cannabis establishment license is being requested. The Board may issue licenses for the following types of establishments:
  - a. Adult-use cannabis establishments:
    - (1) Adult-use cannabis cultivation facility;
    - (2) Adult-use cannabis independent testing laboratory;
    - (3) Adult-use cannabis production facility ; or
    - (4) Adult-use cannabis retail store.
    - (5) Cannabis distributor.
  - b. Medical cannabis establishments:
    - (1) Medical cannabis cultivation facility;
    - (2) Medical cannabis production facility;
    - (3) Medical cannabis dispensary; or
    - (4) Medical cannabis independent testing laboratory.
7. Include a copy of the special use permit granted by the Board for the cannabis establishment;
8. Include a copy of the medical cannabis 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 an adult-use or medical cannabis 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 an adult-use or medical cannabis license is required. In the case of limited liability companies, the application shall be verified by the managing members;
10. Include an attestation regarding excluded felony offenses, signed by each owner, officer and board member of the proposed adult-use cannabis or medical cannabis 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 adult-use cannabis or medical cannabis 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) working days for any application for an adult-use cannabis or medical cannabis 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 fourteen (14) days after the State grants approval 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.

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 after the State grants approval for the changes, 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. Limited Liability Companies: In the case of a limited liability company licensee, any and all changes in membership shall be reported to the Planning Department within fourteen (14) days after the State grants approval of the changes.

G. License Expiration: An approved adult-use cannabis or medical cannabis 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 an adult-use cannabis or medical cannabis 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 adult-use cannabis or medical cannabis 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 cannabis 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 cannabis 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 CANNABIS ESTABLISHMENT LICENSE FEES:**

A. The license fees required to be paid to obtain or renew a medical cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the medical use cannabis 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 use cannabis license renewal fee within (90) calendar days of the due date will result in 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 use cannabis establishment, as a condition of the granting of a medical use cannabis establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and 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 use cannabis or medical cannabis products that were produced, manufactured, sold or distributed by the medical use cannabis establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible suspension and/or revocation of the license by the board (Ord. 519, 2017)

#### **5.32.055: ADULT-USE CANNABIS ESTABLISHMENT LICENSE FEES**

- A. The license fees required to be paid to obtain or renew an adult-use cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the adult-use cannabis 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 adult-use cannabis license renewal fee within (90) calendar days of the due date will result in 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 adult use cannabis establishment, as a condition of the granting of a adult use cannabis establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and 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 adult use cannabis or adult cannabis products that were produced, manufactured, sold or distributed by the adult use cannabis establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible suspension and/or revocation of the license by the board (Ord. 519, 2017)

#### **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 an adult-use cannabis or medical cannabis 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 adult-use cannabis or medical cannabis 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.
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. Corporations: A list of all shareholders, directors, or stockholders owning in the aggregate more than three percent (3%) of the stock of such corporations or who receive more than 3% or more in disbursements.
5. Limited Liability Companies: A list of all members of the Limited Liability Company.
6. 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 cannabis to any person, unless in compliance with all requirements of this chapter and State law pursuant to Title 60 of Nevada Revised Statutes.
- B. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense any cannabis 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 Title 60 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 is 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.

#### **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 24<sup>th</sup> day of August, 2020.

Proposed on the 5<sup>th</sup> day of May, 2020

Proposed by: Commissioner Blundo.

Adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

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

First Amended Version to the  
Proposed Version of  
Nye County Bill No. 2020-09  
Proposed at the  
June 2, 2020 BOCC Meeting

NYE COUNTY ORDINANCE NO. \_\_\_\_\_

**SUMMARY:** A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled 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 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:**

**Chapter 5.32**  
**MARIJUANA CANNABIS ESTABLISHMENTS**

**5.32.000: RETAIL ADULT-USE AND MEDICAL MARIJUANA CANNABIS 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~~CANNABIS LICENSE FEES:**

**5.32.055: ~~RETAIL MARIJUANA~~ADULT-USE CANNABIS 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~~CANNABIS 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~~cannabis establishment to acquire, possess, cultivate, manufacture, process, package, deliver, transfer, transport, supply, dispense or sell ~~marijuana~~cannabis for any purpose without first making application and securing a ~~marijuana~~cannabis 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 [Title 60 of the Nevada Revised Statutes unless otherwise set out in](#) this section, ~~unless~~ or 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](#).**

**~~DUAL LICENSEE:~~ Has the meaning ascribed to it by [Title 60 of Nevada Revised Statutes 453D.030](#)**

**~~EDIBLE MARIJUANA PRODUCTS:~~ Has the meaning ascribed to it in [Title 60 of Nevada Revised Statutes 453A.101](#).**

**~~FACILITY FOR THE PRODUCTION OF EDIBLE MARIJUANA PRODUCTS OR MARIJUANA INFUSED PRODUCTS:~~ Has the meaning ascribed to it in [Title 60 of 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 [Title 60 of Nevada Revised Statutes 453D.030](#).**

**~~MARIJUANA DISTRIBUTOR:~~ Has the meaning ascribed to it by [Title 60 of Nevada Revised Statutes 453D.030](#).**

~~MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453D.030~~

~~MARIJUANA INFUSED PRODUCTS: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453A.112.~~

~~MARIJUANA PRODUCT MANUFACTURING FACILITY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453D.030~~

~~MARIJUANA PRODUCTS: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453D.030~~

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

~~MEDICAL CULTIVATION FACILITY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes.~~

~~MEDICAL MARIJUANA DISPENSARY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453A.115.~~

~~MEDICAL INDEPENDENT TESTING LABORATORY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes.~~

~~MEDICAL PRODUCTION FACILITY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes.~~

~~MEDICAL MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453A.116.~~

~~MEDICAL USE OF MARIJUANA: Has the meaning ascribed to it in Title 60 of 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 or a limited liability company, the application shall include the names and addresses of all officers, directors, ~~and~~ stockholders having more than three percent (3%) of the issued stock, members, the designated agent or resident manager, and the principal

place of business of the corporation or limited liability company. 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~~cannabis establishment license is being requested. The Board may issue licenses for the following types of establishments:
  - a. Adult-use Marijuanacannabis establishments ~~(retail marijuana establishments)~~:
    - (1) ~~Retail~~Adult-use ~~marijuana~~cannabis cultivation facility;
    - (2) ~~Retail~~Adult-use ~~marijuana~~cannabis independent testing laboratory;
    - (3) ~~Retail~~Adult-use ~~marijuana~~cannabis production facility ~~for edible marijuana products or marijuana infused products; or~~
    - (4) ~~Retail~~ marijuana distributor; or
    - (5) ~~(4)~~ ~~Retail~~Adult-use ~~marijuana~~cannabis retail store.
    - (5) Cannabis distributor.
  - b. Medical ~~marijuana~~cannabis establishments:
    - (1) Medical ~~marijuana~~cannabis cultivation facility;
    - (2) Medical ~~marijuana~~cannabis production facility ~~for edible marijuana products or marijuana infused products;~~
    - (3) Medical ~~marijuana~~cannabis dispensary; or
    - (4) Medical ~~marijuana~~cannabis independent testing laboratory.
7. Include a copy of the special use permit granted by the Board for the ~~marijuana~~cannabis establishment;
8. Include a copy of the medical ~~marijuana~~cannabis 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 an adult-use~~ or medical ~~marijuana~~cannabis 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 an adult-use~~ or medical ~~marijuana~~cannabis license is

required. In the case of limited liability companies, the application shall be verified by the managing members;

10. Include an attestation regarding excluded felony offenses, signed by each owner, officer and board member of the proposed ~~retail~~ adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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~~adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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) working days for any application for ~~a~~retailan adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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. Limited Liability Companies: In the case of a limited liability company licensee, any and all changes in membership shall be reported to the Planning Department within thirty (30) days of the change in membership. A list of all members shall be submitted to Nye County on an annual basis.

PG. 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.

GH. License Expiration: An approved ~~retail~~adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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~~retailan adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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 ~~adult-use marijuana~~ cannabis or medical ~~marijuana~~ cannabis 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~~ cannabis 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~~cannabis 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~~CANNABIS ESTABLISHMENT LICENSE FEES:**

- A. The license fees required to be paid to obtain or renew a medical ~~marijuana~~cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the medical ~~marijuana~~cannabis 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~~cannabis license renewal fee within (90) calendar days of the due date will require result in a show cause hearing and possible suspension and/or revocation of the license by the ~~board~~Board.

C. In addition to the fees specified in subsection A of this section, every medical ~~marijuana~~cannabis establishment, as a condition of the granting of a medical ~~marijuana~~cannabis establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and 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~~cannabis or medical ~~marijuana~~cannabis products that were produced, manufactured, sold or distributed by the medical ~~marijuana~~cannabis establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. The monthly business license fees shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible suspension and/or revocation ~~suspension of the license by the board of the license and require a show cause hearing~~ (Ord. 519, 2017)

### **5.32.055: ~~RETAIL~~ADULT-USE ~~MARIJUANA~~CANNABIS ESTABLISHMENT LICENSE FEES**

A. The license fees required to be paid to obtain or renew ~~a retail~~an adult-use ~~marijuana~~cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the ~~retail~~~~adult-use~~ ~~marijuana~~~~cannabis~~ 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~~~~adult-use~~ ~~marijuana~~~~cannabis~~ license renewal fee within (90) calendar days of the due date will ~~trigger~~ ~~result in~~ 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 ~~retail~~~~adult-use~~ ~~marijuana~~~~cannabis~~ establishment, as a condition of the granting of ~~a~~ ~~retail~~ ~~adult-use~~ ~~marijuana~~~~cannabis~~ establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and pay no later than twenty five (25) calendar days following the first day of each month. ~~;~~ The ~~a~~ monthly business license sales fee due to Nye County ~~is~~, equivalent to two percent (2%) of the total gross value of all ~~marijuana~~~~cannabis~~ or ~~marijuana~~~~cannabis~~ products that were produced, manufactured, sold or distributed by the ~~retail~~~~adult-use~~ ~~marijuana~~~~cannabis~~ establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible suspension and/or revocation of the license by the board ~~trigger a show cause hearing.~~

#### **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~~an adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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~~adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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.
  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~~cannabis to any person, unless in compliance with all requirements of this chapter and State law pursuant to Title 60 of Nevada Revised Statutes ~~chapters 435A and 453D~~.
- B. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense any ~~marijuana~~cannabis 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~~ Title 60 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~~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~~Board;
- B. Except as otherwise provided in this chapter, before suspension or revocation of a license the ~~board~~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 is 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~~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~~Board may take action based on such an admission and on other evidence without further notice to the licensee. If the ~~board~~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~~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~~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~~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~~Board;
7. Consider all evidence and testimony in support of and in opposition to the charges;
8. Enter in the minutes of the ~~board~~Board the findings, conclusions, decision and action taken by the ~~board~~Board. Any sanctions imposed upon a licensee or employee by the ~~board~~Board may include expenses and costs of the proceedings.

B. Notice of the ~~board's~~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.

### **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 22<sup>nd</sup> day of June, 2020.

Proposed on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

Proposed by: Commissioner \_\_\_\_\_.

Adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

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

NYE COUNTY ORDINANCE NO. \_\_\_\_\_

**SUMMARY:** A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled 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 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:**

**Chapter 5.32**  
**CANNABIS ESTABLISHMENTS**

**5.32.000: ADULT-USE AND MEDICAL CANNABIS 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 CANNABIS LICENSE FEES:**

**5.32.055: ADULT-USE CANNABIS 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: CANNABIS 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 cannabis establishment to acquire, possess, cultivate, manufacture, process, package, deliver, transfer, transport, supply, dispense or sell cannabis for any purpose without first making application and securing a cannabis license to do so. (Ord. 519, 2017)

**5.32.005: DEFINITIONS:**

For the purposes of this chapter, words shall have the meanings set out in Title 60 of the Nevada Revised Statutes unless otherwise set out in this section, or 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.

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

**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 or a limited liability company, the application shall include the names and addresses of all officers, directors, stockholders having more than three percent (3%) of the issued stock, members, the designated agent or resident manager, and the principal

place of business of the corporation or limited liability company. 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 cannabis establishment license is being requested. The Board may issue licenses for the following types of establishments:
  - a. Adult-use cannabis establishments:
    - (1) Adult-use cannabis cultivation facility;
    - (2) Adult-use cannabis independent testing laboratory;
    - (3) Adult-use cannabis production facility ; or
    - (4) Adult-use cannabis retail store.
    - (5) Cannabis distributor.
  - b. Medical cannabis establishments:
    - (1) Medical cannabis cultivation facility;
    - (2) Medical cannabis production facility;
    - (3) Medical cannabis dispensary; or
    - (4) Medical cannabis independent testing laboratory.
7. Include a copy of the special use permit granted by the Board for the cannabis establishment;
8. Include a copy of the medical cannabis 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 an adult-use or medical cannabis 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 an adult-use or medical cannabis license is required. In the case of limited liability companies, the application shall be verified by the managing members;
10. Include an attestation regarding excluded felony offenses, signed by each owner, officer and board member of the proposed adult-use cannabis or medical cannabis 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 adult-use cannabis or medical cannabis 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) working days for any application for an adult-use cannabis or medical cannabis 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. Limited Liability Companies: In the case of a limited liability company licensee, any and all changes in membership shall be reported to the Planning Department within thirty (30) days of the change in membership. A list of all members shall be submitted to Nye County on an annual basis.

G. 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.

H. License Expiration: An approved adult-use cannabis or medical cannabis 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 an adult-use cannabis or medical cannabis 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 adult-use cannabis or medical cannabis 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 cannabis 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 cannabis 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 CANNABIS ESTABLISHMENT LICENSE FEES:**

- A. The license fees required to be paid to obtain or renew a medical cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the medical cannabis 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 cannabis license renewal fee within (90) calendar days of the due date will result in 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 cannabis establishment, as a condition of the granting of a medical cannabis establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and 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 cannabis or medical cannabis products that were produced, manufactured, sold or distributed by the medical cannabis establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible suspension and/or revocation of the license by the board (Ord. 519, 2017)

#### **5.32.055: ADULT-USE CANNABIS ESTABLISHMENT LICENSE FEES**

A. The license fees required to be paid to obtain or renew an adult-use cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the adult-use cannabis 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 adult-use cannabis license renewal fee within (90) calendar days of the due date will result in 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 adult-use cannabis establishment, as a condition of the granting of an adult-use cannabis establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and pay no later than twenty five (25) calendar days following the first day of each month. The monthly business license sales fee due to Nye County is equivalent to two percent (2%) of the total gross value of all cannabis or cannabis products that were produced, manufactured, sold or distributed by the adult-use cannabis establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible suspension and/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 an adult-use cannabis or medical cannabis 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 adult-use cannabis or medical cannabis 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.
  - 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 cannabis to any person, unless in compliance with all requirements of this chapter and State law pursuant to Title 60 of Nevada Revised Statutes.
- B. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense any cannabis 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 Title 60 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 is 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.

**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 22<sup>nd</sup> day of June, 2020.

Proposed on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

Proposed by: Commissioner \_\_\_\_\_.

Adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

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

Originally Proposed Version of  
Nye County Bill No. 2020-09

Proposed at the  
May 5, 2020 BOCC Meeting

BILL NO. 2020-09

NYE COUNTY ORDINANCE NO. \_\_\_\_\_

**SUMMARY:** A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled 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 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:**

**Chapter 5.32**  
**MARIJUANA CANNABIS ESTABLISHMENTS**

**5.32.000: RETAIL ADULT-USE AND MEDICAL MARIJUANA CANNABIS 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~~CANNABIS LICENSE FEES:**

**5.32.055: ~~RETAIL~~MARIJUANA ~~ADULT-USE~~CANNABIS 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~~CANNABIS 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~~cannabis establishment to acquire, possess, cultivate, manufacture, process, package, deliver, transfer, transport, supply, dispense or sell ~~marijuana~~cannabis for any purpose without first making application and securing a ~~marijuana~~cannabis 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 [Title 60 of the Nevada Revised Statutes unless otherwise set out in](#) this section, ~~unless or~~ 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.**

**~~DUAL LICENSEE:~~ Has the meaning ascribed to it by [Title 60 of Nevada Revised Statutes 453D.030](#)**

**~~EDIBLE MARIJUANA PRODUCTS:~~ Has the meaning ascribed to it in [Title 60 of Nevada Revised Statutes 453A.101.](#)**

**~~FACILITY FOR THE PRODUCTION OF EDIBLE MARIJUANA PRODUCTS OR MARIJUANA INFUSED PRODUCTS:~~ Has the meaning ascribed to it in [Title 60 of 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 [Title 60 of Nevada Revised Statutes 453D.030.](#)**

**~~MARIJUANA DISTRIBUTOR:~~ Has the meaning ascribed to it by [Title 60 of Nevada Revised Statutes 453D.030.](#)**

~~MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453D.030~~

~~MARIJUANA INFUSED PRODUCTS: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453A.112.~~

~~MARIJUANA PRODUCT MANUFACTURING FACILITY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453D.030~~

~~MARIJUANA PRODUCTS: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453D.030~~

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

~~MEDICAL CULTIVATION FACILITY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes.~~

~~MEDICAL MARIJUANA DISPENSARY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453A.115.~~

~~MEDICAL INDEPENDENT TESTING LABORATORY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes.~~

~~MEDICAL PRODUCTION FACILITY: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes.~~

~~MEDICAL MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it by Title 60 of Nevada Revised Statutes 453A.116.~~

~~MEDICAL USE OF MARIJUANA: Has the meaning ascribed to it in Title 60 of 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 or a limited liability company, the application shall include the names and addresses of all officers, directors, ~~and~~ stockholders having more than three percent (3%) of the issued stock, members, the designated agent or resident manager, and the principal

place of business of the corporation or limited liability company. 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~~cannabis establishment license is being requested. The Board may issue licenses for the following types of establishments:
  - a. Adult-use Marijuanacannabis establishments (~~retail marijuana establishments~~):
    - (1) ~~Retail~~Adult-use ~~marijuana~~cannabis cultivation facility;
    - (2) ~~Retail~~Adult-use ~~marijuana~~cannabis independent testing laboratory;
    - (3) ~~Retail~~Adult-use ~~marijuana~~cannabis production facility ~~for edible marijuana products or marijuana infused products; or~~
    - (4) ~~Retail~~ marijuana distributor; or
    - (5) ~~(4)~~ ~~Retail~~Adult-use ~~marijuana~~cannabis retail store.
    - (5) Cannabis distributor.
  - b. Medical ~~marijuana~~cannabis establishments:
    - (1) Medical ~~marijuana~~cannabis cultivation facility;
    - (2) Medical ~~marijuana~~cannabis production facility ~~for edible marijuana products or marijuana infused products;~~
    - (3) Medical ~~marijuana~~cannabis dispensary; or
    - (4) Medical ~~marijuana~~cannabis independent testing laboratory.
7. Include a copy of the special use permit granted by the Board for the ~~marijuana~~cannabis establishment;
8. Include a copy of the medical ~~marijuana~~cannabis 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 an adult-use~~ or medical ~~marijuana~~cannabis 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 an adult-use~~ or medical ~~marijuana~~cannabis license is

required. In the case of limited liability companies, the application shall be verified by the managing members;

10. Include an attestation regarding excluded felony offenses, signed by each owner, officer and board member of the proposed ~~retail adult-use marijuana~~cannabis or medical ~~marijuana~~cannabis 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 adult-use marijuana~~cannabis or medical ~~marijuana~~cannabis 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) working days for any application for ~~a retail~~an adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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. Limited Liability Companies: In the case of a limited liability company licensee, any and all changes in membership shall be reported to the Planning Department within thirty (30) days of the change in membership. A list of all members shall be submitted to Nye County on an annual basis.

FG. 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.

GH. License Expiration: An approved ~~retail~~adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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~~an adult-use ~~marijuana~~cannabis or medical ~~marijuana~~cannabis 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 ~~adult-use~~ marijuanacannabis or medical ~~marijuana~~cannabis 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~~cannabis 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~~cannabis 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~~CANNABIS ESTABLISHMENT LICENSE FEES:**

- A. The license fees required to be paid to obtain or renew a medical ~~marijuana~~cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the medical ~~marijuana~~cannabis 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~~cannabis license renewal fee within (90) calendar days of the due date will require result in a show cause hearing and possible suspension and/or revocation of the license by the ~~board~~Board.

C. In addition to the fees specified in subsection A of this section, every medical ~~marijuana~~cannabis establishment, as a condition of the granting of a medical ~~marijuana~~cannabis establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and 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~~cannabis or medical ~~marijuana~~cannabis products that were produced, manufactured, sold or distributed by the medical ~~marijuana~~cannabis establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. ~~The monthly business license fees shall be submitted to the Nye County Planning Department.~~ 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 result in an automatic show cause hearing for possible suspension and/or revocation ~~suspension of the license by the board of the license and require a show cause hearing~~ (Ord. 519, 2017)

#### **5.32.055: ~~RETAIL~~ADULT-USE ~~MARIJUANA~~CANNABIS ESTABLISHMENT LICENSE FEES**

A. The license fees required to be paid to obtain or renew ~~a retail~~an adult-use ~~marijuana~~cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the ~~retail adult-use marijuana cannabis~~ 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 ~~retail adult-use marijuana cannabis~~ license renewal fee within (90) calendar days of the due date will trigger result in 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 ~~retail adult-use marijuana cannabis~~ establishment, as a condition of the granting of ~~a retail adult-use marijuana cannabis~~ establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and pay no later than twenty five (25) calendar days following the first day of each month. The a monthly business license sales fee due to Nye County is, equivalent to two percent (2%) of the total gross value of all ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products that were produced, manufactured, sold or distributed by the ~~retail adult-use marijuana cannabis~~ establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible suspension and/or revocation of the license by the board ~~trigger a show cause hearing.~~

#### 5.32.060: FEES; DISBURSEMENT:

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

[Nye County Bill No. 2020-09 Amending Nye County Code Title 5](#)

### **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~~~~an adult-use~~ ~~marijuana~~ ~~cannabis~~ or medical ~~marijuana~~ ~~cannabis~~ 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~~~~adult-use~~ ~~marijuana~~ ~~cannabis~~ or medical ~~marijuana~~ ~~cannabis~~ 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.
  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~~ ~~cannabis~~ to any person, unless in compliance with all requirements of this chapter and State law pursuant to Title 60 of Nevada Revised Statutes ~~chapters 435A and 453D~~.
- B. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense any ~~marijuana~~ ~~cannabis~~ 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~~ Title 60 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~~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~~Board;
- B. Except as otherwise provided in this chapter, before suspension or revocation of a license the ~~board~~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 is 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~~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~~Board may take action based on such an admission and on other evidence without further notice to the licensee. If the ~~board~~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~~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~~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~~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~~Board;
7. Consider all evidence and testimony in support of and in opposition to the charges;
8. Enter in the minutes of the ~~board~~Board the findings, conclusions, decision and action taken by the ~~board~~Board. Any sanctions imposed upon a licensee or employee by the ~~board~~Board may include expenses and costs of the proceedings.

B. Notice of the ~~board's~~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.

**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 22<sup>nd</sup> day of June, 2020.

Proposed on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

Proposed by: Commissioner \_\_\_\_\_.

Adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

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

BILL NO. 2020-09

NYE COUNTY ORDINANCE NO. \_\_\_\_\_

**SUMMARY:** A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled 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 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:**

## **Chapter 5.32 CANNABIS ESTABLISHMENTS**

**5.32.000: ADULT-USE AND MEDICAL CANNABIS 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 CANNABIS LICENSE FEES:**

**5.32.055: ADULT-USE CANNABIS 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: CANNABIS 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 cannabis establishment to acquire, possess, cultivate, manufacture, process, package, deliver, transfer, transport, supply, dispense or sell cannabis for any purpose without first making application and securing a cannabis license to do so. (Ord. 519, 2017)

**5.32.005: DEFINITIONS:**

For the purposes of this chapter, words shall have the meanings set out in Title 60 of the Nevada Revised Statutes unless otherwise set out in this section, or 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.

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

**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 or a limited liability company, the application shall include the

names and addresses of all officers, directors, stockholders having more than three percent (3%) of the issued stock, members, the designated agent or resident manager, and the principal place of business of the corporation or limited liability company. 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 cannabis establishment license is being requested. The Board may issue licenses for the following types of establishments:
  - a. Adult-use cannabis establishments:
    - (1) Adult-use cannabis cultivation facility;
    - (2) Adult-use cannabis independent testing laboratory;
    - (3) Adult-use cannabis production facility ; or
    - (4) Adult-use cannabis retail store.
    - (5) Cannabis distributor.
  - b. Medical cannabis establishments:
    - (1) Medical cannabis cultivation facility;
    - (2) Medical cannabis production facility;
    - (3) Medical cannabis dispensary; or
    - (4) Medical cannabis independent testing laboratory.
7. Include a copy of the special use permit granted by the Board for the cannabis establishment;
8. Include a copy of the medical cannabis 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 an adult-use or medical cannabis 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 an adult-use or medical cannabis license is required. In the case of limited liability companies, the application shall be verified by the managing members;

10. Include an attestation regarding excluded felony offenses, signed by each owner, officer and board member of the proposed adult-use cannabis or medical cannabis 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 adult-use cannabis or medical cannabis 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) working days for any application for an adult-use cannabis or medical cannabis 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. Limited Liability Companies: In the case of a limited liability company licensee, any and all changes in membership shall be reported to the Planning Department within thirty (30) days of the change in membership. A list of all members shall be submitted to Nye County on an annual basis.

G.. 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.

H. . License Expiration: An approved adult-use cannabis or medical cannabis 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 an adult-use cannabis or medical cannabis 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 adult-use cannabis or medical cannabis 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 cannabis 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 cannabis 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 CANNABIS ESTABLISHMENT LICENSE FEES:**

- A. The license fees required to be paid to obtain or renew a medical cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the medical cannabis 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 cannabis license renewal fee within (90) calendar days of the due date will result in 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 cannabis establishment, as a condition of the granting of a medical cannabis establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and 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 cannabis or medical cannabis products that were produced, manufactured, sold or distributed by the medical cannabis establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible suspension and/or revocation of the license by the board (Ord. 519, 2017)

### **5.32.055: ADULT-USE CANNABIS ESTABLISHMENT LICENSE FEES**

A. The license fees required to be paid to obtain or renew an adult-use cannabis 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. License fees shall be submitted to the Nye County Planning Department. Failure to pay the adult-use cannabis 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 adult-use cannabis license renewal fee within (90) calendar days of the due date will result in 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 adult-use cannabis establishment, as a condition of the granting of an adult-use cannabis establishment license or renewal, shall submit their monthly Nye County Business License Sales Fee Form along with the copies of the Nevada Department of Taxation Returns, and pay no later than twenty five (25) calendar days following the first day of each month. The monthly business license sales fee due to Nye County is equivalent to two percent (2%) of the total gross value of all cannabis or cannabis products that were produced, manufactured, sold or distributed by the adult-use cannabis establishment for the previous month. The monthly business license fees, Monthly Business License Sales Fee form and a copy of the Nevada Department of Taxation Returns shall be submitted to the Nye County Planning Department. 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 result in an automatic show cause hearing for possible suspension and/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 an adult-use cannabis or medical cannabis 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 adult-use cannabis or medical cannabis 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.
  - 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 cannabis to any person, unless in compliance with all requirements of this chapter and State law pursuant to Title 60 of Nevada Revised Statutes.
- B. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense any cannabis 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 Title 60 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 is 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.

#### **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 22<sup>nd</sup> day of June, 2020.

Proposed on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

Proposed by: Commissioner \_\_\_\_\_.

Adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2020

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



NCCA  
PO BOX 974  
Pahrump, NV 89041

July 27, 2020

*Sent via e-mail to: [planning@co.nye.nv.us](mailto:planning@co.nye.nv.us) and [sosborne@co.nye.nv.us](mailto:sosborne@co.nye.nv.us) and [stackett@co.nye.nv.us](mailto:stackett@co.nye.nv.us)*

*Re: Comments on Nye County Bill No. 2020-09: A Bill proposing to amend Nye County Code Title 5, Business Licensing and Regulations, Chapter 5.32 entitled Marijuana Establishments*

Nye County Commissioners,

I would like to begin this letter by sending gratitude to staff at Planning, specifically Brett Wagoneer and staff at the DA's office, specifically Christi Kindel for always having open communication and for their time and assistance. Additionally, I would like to thank Steve Osborne and Celeste Sandoval at Planning for the same.

NCCA suggested that some clarifications to code be made regarding timelines. Specifically, those in regards to when notice of ownership changes would begin, and clarification on when the ownership list that is due annually is to be submitted. Those changes are incorporated into the draft. NCCA also suggested that annual financial compilations no longer be submitted as during the last code change it was removed from Section 5.32.080 Renewal Procedure and it was removed from State code during the 2015 Legislative Session. Those suggestions have also been incorporated into the draft.

Additionally, we would like to request the following language be added:

1. Section 5.32.050 (B) (C) & 5.32.055 (B) (C) – Regarding the 25% late fees on license renewals and monthly license fees, we would request that a limit be added to the code, similar to what the Nye County Gaming code reflects. For instance, the following could be added: but not more than one thousand dollars (\$1,000.00) if the fees are less than forty-five (45) days late and in no case more than two thousand five hundred dollars (\$2,500.00).

Thank you so much for your time and consideration!

Sincerely,

Sarah Chapman  
President  
NCCA