



## NYE COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

<b>Department:</b> Planning/Code Compliance	<b>Meeting Date:</b>
<b>Category:</b> Timed Agenda Item - 10:00 a.m.	June 27, 2023
<b>Prepared by:</b> Steve Osborne	<b>Phone:</b> (775) 751-4242
<b>Presented by:</b> Brett Waggoner	<b>Phone:</b> (775) 751-4244

**Action requested:** (Include what, with whom, when, where, why, and terms)

Public Hearing, discussion and deliberation to adopt, amend and adopt, or reject Nye County Bill No. 2023-05: A Bill proposing to amend Nye County Code Title 5, titled Business Licenses and Regulations, Chapter 5.32 titled "Cannabis Establishments," by amending Section 5.32.005 Definitions to include Affiliated Businesses and by amending Section 5.32.050 titled "Medical Cannabis Establishment License Fees," Section 5.32.055 titled "Adult-use Cannabis Establishment License Fees," and Section 5.32.057 titled "Cannabis Consumption Lounge Establishment License Fees," by adding the language pertaining to sales and transfers between affiliated and unaffiliated cannabis businesses; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

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

If adopted this Bill would amend Nye County Code Chapter 5.32 relating to licensing for Cannabis Establishments. On May 16, 2023 the BOCC set a Public Hearing for June 27, 2023 at 10:00 AM in Pahrump, NV.

**Recommendation:**

Staff recommends adoption with an effective date of July 17, 2023.

**Financial Impact**

Cost:	Fund Name:	Fund #:
Budgeted:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	FY: <input type="checkbox"/> One-Time <input type="checkbox"/> Recurring
Comments:		

**Review & Approval**

Legal Review Required: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Legal Approval Received: <input checked="" type="checkbox"/>	Date: 4/19/23
Financial Review Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Submitted to Finance: <input type="checkbox"/>	Date:
Administrative Manager Review: <input checked="" type="checkbox"/>	Place on Agenda: <input checked="" type="checkbox"/>	Initials: ST

Item #

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## BILL NO. 2023-05

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

**SUMMARY:** A Bill proposing to amend Nye County Code Title 5, titled Business Licenses and Regulations, Chapter 5.32 titled “Cannabis Establishments,” by amending Section 5.32.005 Definitions to include Affiliated Businesses and by amending Section 5.32.050 titled “Medical Cannabis Establishment License Fees,” Section 5.32.055 titled “Adult-use Cannabis Establishment License Fees,” and Section 5.32.057 titled “Cannabis Consumption Lounge Establishment License Fees,” by adding the language pertaining to sales and transfers between affiliated and unaffiliated cannabis businesses; 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, TITLED BUSINESS LICENSES AND REGULATIONS, CHAPTER 5.32 TITLED “CANNABIS ESTABLISHMENTS,” BY AMENDING SECTION 5.32.005 DEFINITIONS TO INCLUDE AFFILIATED BUSINESSES AND BY AMENDING SECTION 5.32.050 TITLED “MEDICAL CANNABIS ESTABLISHMENT LICENSE FEES,” SECTION 5.32.055 TITLED “ADULT-USE CANNABIS ESTABLISHMENT LICENSE FEES,” AND SECTION 5.32.057 TITLED “CANNABIS CONSUMPTION LOUNGE ESTABLISHMENT LICENSE FEES,” BY ADDING THE LANGUAGE PERTAINING TO SALES AND TRANSFERS BETWEEN AFFILIATED AND UNAFFILIATED CANNABIS BUSINESSES; 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 Nye County Code Chapter 17.06, the Board has established the process for applying for Special Use Permits for cannabis establishments; and

**WHEREAS**, pursuant to Nye County Code Chapter 5.32, the Board has established the process for obtaining a cannabis license; and

**WHEREAS**, the Board desires to regulate and clarify the license fees pertaining to sales and transfers between cannabis license holders who are affiliated and unaffiliated business entities; and

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

**NYE COUNTY CODE IS HEREBY AMENDED AS FOLLOWS**, with Deletions shown in

strike-through, red font, and additions and modifications shown in underscored blue font:

## **CHAPTER 5.32 CANNABIS ESTABLISHMENTS**

### **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, sell, or allow the consumption of cannabis for any purpose without first making application and securing a cannabis license to do so. (Ord. 550, 2019: Ord. 519, 2017)

### **5.32.005: Definitions**

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

**AFFILIATED BUSINESSES:** Cannabis establishments that have identical ownership.

**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.

**CANNABIS CONSUMPTION LOUNGE:** Has the meaning ascribed to it by Nevada Revised Statutes 678A.087.

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

**CONCENTRATED CANNABIS:** Has the meaning ascribed to it by Nevada Revised Statutes 453.042.

**CONSUMER:** Means a person who purchases, other than for resale, goods used primarily for personal, family or household purposes and not for business or research purposes.

**DUAL LICENSEE:** Has the meaning ascribed to it by Nevada Revised Statutes 678A.142.

**EDIBLE CANNABIS PRODUCTS:** Has the meaning ascribed to it in Nevada Revised Statutes 678A.070.

**FACILITY FOR THE PRODUCTION OF EDIBLE CANNABIS PRODUCTS OR CANNABIS INFUSED PRODUCTS:** Has the meaning ascribed to it in Nevada Revised Statutes 678A.060.

**INDEPENDENT CANNABIS CONSUMPTION LOUNGE:** Has the meaning ascribed to it by Nevada Revised Statutes 678A.157.

**INDEPENDENT TESTING LABORATORY:** Has the meaning ascribed to it in Nevada Revised Statutes 678A.115.

**CANNABIS:** Has the meaning ascribed to it by Nevada Revised Statutes 453.096.

**CANNABIS CULTIVATION FACILITY:** Has the meaning ascribed to it by Nevada Revised Statutes 678A.025.

CANNABIS DISTRIBUTOR: Has the meaning ascribed to it by Nevada Revised Statutes 678A.030.

CANNABIS ESTABLISHMENT: Has the meaning ascribed to it by Nevada Revised Statutes 678A.035.

CANNABIS INFUSED PRODUCTS: Has the meaning ascribed to it by Nevada Revised Statutes 678A.050.

CANNABIS PRODUCT MANUFACTURING FACILITY: Has the meaning ascribed to it by Nevada Revised Statutes 678A.060.

CANNABIS PRODUCTS: Has the meaning ascribed to it by Nevada Revised Statutes 678A.055.

CANNABIS TESTING FACILITY: Means a public or private laboratory licensed and certified, or approved by the Nevada Cannabis Compliance Board or any other regulatory body controlling testing facilities, to conduct research and analyze cannabis, cannabis products, and cannabis concentrate for contaminants and potency.

MEDICAL CANNABIS DISPENSARY: Has the meaning ascribed to it by Nevada Revised Statutes 678A.175.

MEDICAL CANNABIS ESTABLISHMENT: Has the meaning ascribed to it by Nevada Revised Statutes 678A.180.

MEDICAL USE OF CANNABIS: Has the meaning ascribed to it in Nevada Revised Statutes 678A.215.

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

ADULT-USE CANNABIS CONSUMPTION LOUNGE: Has the meaning ascribed to it by Nevada Revised Statutes 678A.237.

ADULT-USE CANNABIS STORE: Has the meaning ascribed to it by Nevada Revised Statutes 678A.065. (Ord. 550, 2019; Ord. 519, 2017)

### **5.32.010: Application**

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

4. Include the name, address and telephone number of all individual(s) who will actively manage the business for which the license is sought. At least one such manager must be on site when business is being conducted;
  5. Specify the location of the premises for which the license is sought, and the name of the owner(s), agents, lessee or assignee of the premises where the business is to be operated;
  6. Specify which type of cannabis establishment license is being requested. The Board may issue licenses for the following types of establishments:
    - a. Cannabis establishments (adult-use cannabis establishments):
      1. Adult-use cannabis cultivation facility;
      2. Adult-use cannabis independent testing laboratory;
      3. Adult-use cannabis production facility for edible cannabis products or cannabis infused products;
      4. Adult-use cannabis distributor; or
      5. Adult-use cannabis store.
    - b. Medical cannabis establishments:
      1. Medical cannabis cultivation facility;
      2. Medical cannabis production facility for edible cannabis products or cannabis infused products;
      3. Medical cannabis dispensary; or
      4. Medical cannabis independent testing laboratory.
    - c. Cannabis consumption lounges:
      1. Independent cannabis consumption lounge; or
      2. Retail cannabis consumption lounge.
  7. Include a copy of the special use permit granted by the Board for the cannabis establishment;
  8. If applicable, include a copy of the medical cannabis establishment registration certificate, or provisional certificate or adult-use license issued by the State of Nevada Cannabis Compliance Board 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 cannabis 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 cannabis or medical cannabis license is required;
  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.
  12. All applications shall be in conformance with all State of Nevada Cannabis Compliance Board regulations, policies and licensing requirements.
- C. Processing Time: There shall be a maximum processing time of thirty (30) to sixty (60) 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. Financials: A financial compilation shall be submitted annually to Nye County along with a list of any persons receiving more than three percent (3%) of the disbursements from the entity.
- G. License Expiration: An approved 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. (Ord. 550, 2019: Ord. 519, 2017)

### **5.32.020: Denial Conditions**

- A. In conformity with the policies of this chapter, the following persons are declared not to be qualified to hold 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 copartnership, unless all of the members of such copartnership, 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 nonpublicly 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. 550, 2019: 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. 550, 2019: 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. 550, 2019: 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 cannabis 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 cannabis 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 cannabis 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 cannabis independent testing laboratory with one thousand two hundred fifty dollars (\$1,250.00) nonrefundable for the initial application and seven hundred fifty dollars (\$750.00) nonrefundable each year thereafter.
- B. The license fees specified in subsection A of this section shall be payable in advance for at least one year. Failure to pay the medical 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 thirty (30) days thereafter until renewal fees are brought current. Failure to pay the medical cannabis license renewal fee within ninety (90) calendar days of the due date will require a show cause hearing and possible suspension and/or revocation of the license by the Board.
- C. In addition to the fees specified in subsection A of this section, every medical cannabis establishment, as a condition of the granting of a medical 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, as established by the State of Nevada, of all medical cannabis or medical cannabis products that were produced, manufactured, sold, transferred, or distributed by the medical cannabis establishment for the previous month. Failure to pay the monthly business fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the amount due. Failure to pay the monthly business fee within (90) calendar days of the due date will result in an automatic suspension of the

license and require a show cause hearing for possible further suspension and/or revocation of the license by the Board. (Ord. 550, 2019: Ord. 519, 2017)

1. Sales and transfers between unaffiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are not affiliated, the 2% fee of the total value of the cannabis product sold or transferred is applicable and due to Nye County. The value of the product is the amount as established by the State of Nevada. The 2% fee is applicable regardless of the location of the unaffiliated business receiving the cannabis product, whether located within the jurisdiction of Nye County or outside of the jurisdiction of Nye County.
2. Sales and transfers between affiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are affiliated, the 2% fee of the total value of the cannabis product sold or transferred is not applicable, provided that both entities engaged in the sale or transfer are located within Nye County. The 2% fee is applicable if the affiliated business receiving the cannabis product is located outside of Nye County.

#### 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 an adult-use cannabis 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 an adult-use cannabis 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 an adult-use cannabis 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 an adult-use cannabis 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 an adult-use cannabis 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 adult-use cannabis distributor license possesses a valid Nye County license for an adult-use cannabis or medical cannabis 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 (1) year. 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 twenty five percent (25%) every thirty (30) days thereafter until renewal fees are brought current. Failure to pay the adult-use cannabis license renewal fee within ninety (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the Board.

- C. In addition to the fees specified in subsection A of this section, every adult-use cannabis establishment, as a condition of the granting of an adult-use 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, as established by the State of Nevada, of all cannabis or cannabis products that were produced, manufactured, sold, transferred, or distributed by the adult-use cannabis establishment for the previous month. Failure to pay the monthly business fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the amount due for each month that is past due. Failure to pay the monthly business fee within ninety (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the Board.
  - 1. Sales and transfers between unaffiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are not affiliated, the 2% fee of the total value of the cannabis product sold or transferred is applicable and due to Nye County. The value of the product is the amount as established by the State of Nevada. The 2% fee is applicable regardless of the location of the unaffiliated business receiving the cannabis product, whether located within the jurisdiction of Nye County or outside of the jurisdiction of Nye County.
  - 2. Sales and transfers between affiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are affiliated, the 2% fee of the total value of the cannabis product sold or transferred is not applicable, provided that both entities engaged in the sale or transfer are located within Nye County. The 2% fee is applicable if the affiliated business receiving the cannabis product is located outside of Nye County.

#### 5.32.057: Cannabis Consumption Lounge Establishment License Fees

- A. The license fees required to be paid to obtain or renew a cannabis consumption lounge 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 consumption lounge, 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. Fifteen thousand dollars (\$15,000.00) for initial issuance and a seven thousand five hundred dollar (\$7,500.00) annual renewal fee for an independent consumption lounge, 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.
- B. The license fees specified in subsection A of this section shall be payable in advance for at least one (1) year. Failure to pay the 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 twenty five percent (25%) every thirty (30) days thereafter until renewal fees are brought current. Failure to pay the license renewal fee within ninety (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the Board.

- C. In addition to the fees specified in subsection A of this section, every cannabis consumption lounge establishment, as a condition of the granting of a 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, as determined by the State of Nevada, of all cannabis or cannabis products that were sold by the consumption lounge establishment for the previous month. Failure to pay the monthly business fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the amount due for each month that is past due. Failure to pay the monthly business fee within ninety (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the Board.
1. Sales and transfers between unaffiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are not affiliated, the 2% fee of the total value of the cannabis product sold or transferred is applicable and due to Nye County. The value of the product is the amount as established by the State of Nevada. The 2% fee is applicable regardless of the location of the unaffiliated business receiving the cannabis product, whether located within the jurisdiction of Nye County or outside of the jurisdiction of Nye County.
  2. Sales and transfers between affiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are affiliated, the 2% fee of the total value of the cannabis product sold or transferred is not applicable, provided that both entities engaged in the sale or transfer are located within Nye County. The 2% fee is applicable if the affiliated business receiving the cannabis product is located outside of Nye County.

#### **5.32.060: Fees; Disbursement**

Any fees collected by virtue of this chapter shall be disbursed according to NRS 372A.290. (Ord. 550, 2019: Ord. 519, 2017)

#### **5.32.070: Public Display Required**

During all of the period of time for which a license has been issued authorizing the operation of an adult-use cannabis, medical cannabis, or cannabis consumption lounge 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. 550, 2019: 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 thirty (30) working 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 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, and present his recommendations for or against the renewal of each such license. No existing license required under this chapter shall lapse or be revoked when presentation to the Board of the request for renewal is delayed solely due to administrative reasons.
2. Any licensee whose license renewal has been disapproved by the Board shall be notified of such in writing, in the manner provided in this chapter. The licensee may avail himself of the procedures set forth in this chapter.
3. Renewal of licenses under this chapter must be for a minimum of one calendar year.
4. Notwithstanding any other provision of this chapter, no existing license required under this chapter shall lapse or be revoked when renewal is delayed solely due to the notice and agenda requirements of Nevada's Open Meetings Law, or due to administrative delay. (Ord. 550, 2019: 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, deliver, transfer, transport, supply, sell, or dispense any cannabis to any person, or to allow consumption of cannabis products in a consumption lounge, unless in compliance with all requirements of this chapter and State law pursuant to Nevada Revised Statutes chapters 453A, 453D and 678B.
- 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 chapter 453A, 453D, or 678B of the Nevada Revised Statutes.
- D. Fail to comply with all requirements of the conditions of an applicable special use permit. (Ord. 550, 2019: 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;
  4. Establishments that fail to produce any sales revenue for six (6) consecutive months.
- 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 affected 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;
  5. Conduct a hearing upon the charges alleged against the licensee or employee. (Ord. 550, 2019: 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. 550, 2019: Ord. 434, 2012)

#### **5.32.100: Penalty For Violation**

- A. Persons found guilty of violating any of the provisions of this chapter are guilty of a misdemeanor and subject to a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment. Nothing herein contained shall be construed as limiting any prosecution for acts related to a violation of the Uniform Controlled Substances Act as set forth in chapter 453 of the Nevada Revised Statutes.
- B. In addition to any criminal punishment as may be imposed, any violation of this chapter may result in the revocation of any license issued pursuant to this chapter and result in the forfeiture of any and all property as described in Nevada Revised Statutes 453.301. The civil penalties provided for hereunder are intended to be cumulative and in addition to any criminal fines or punishments imposed. (Ord. 550, 2019: Ord. 519, 2017)

#### **5.32.110: Transferability**

Licenses shall not be in any manner transferable or assignable, nor shall any person other than as named in the license be authorized to conduct the business, unless such transfer is approved by the State of Nevada and the Board. (Ord. 550, 2019: Ord. 519, 2017)

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

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

**EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 17<sup>th</sup> day of July, 2023.

Proposed on the 16<sup>th</sup> day of May, 2023

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

Adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2023

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: \_\_\_\_\_  
Bruce Jabbour, Chair  
Nye County Board of  
County Commissioners

ATTEST: \_\_\_\_\_  
Mark F. Kampf  
Clerk and Ex-Officio  
Clerk of the Board

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

**SUMMARY:** A Bill proposing to amend Nye County Code Title 5, titled Business Licenses and Regulations, Chapter 5.32 titled “Cannabis Establishments,” by amending Section 5.32.005 Definitions to include Affiliated Businesses and by amending Section 5.32.050 titled “Medical Cannabis Establishment License Fees,” Section 5.32.055 titled “Adult-use Cannabis Establishment License Fees,” and Section 5.32.057 titled “Cannabis Consumption Lounge Establishment License Fees,” by adding the language pertaining to sales and transfers between affiliated and unaffiliated cannabis businesses; 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, TITLED BUSINESS LICENSES AND REGULATIONS, CHAPTER 5.32 TITLED “CANNABIS ESTABLISHMENTS,” BY AMENDING SECTION 5.32.005 DEFINITIONS TO INCLUDE AFFILIATED BUSINESSES AND BY AMENDING SECTION 5.32.050 TITLED “MEDICAL CANNABIS ESTABLISHMENT LICENSE FEES,” SECTION 5.32.055 TITLED “ADULT-USE CANNABIS ESTABLISHMENT LICENSE FEES,” AND SECTION 5.32.057 TITLED “CANNABIS CONSUMPTION LOUNGE ESTABLISHMENT LICENSE FEES,” BY ADDING THE LANGUAGE PERTAINING TO SALES AND TRANSFERS BETWEEN AFFILIATED AND UNAFFILIATED CANNABIS BUSINESSES; 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 Nye County Code Chapter 17.06, the Board has established the process for applying for Special Use Permits for cannabis establishments; and

**WHEREAS**, pursuant to Nye County Code Chapter 5.32, the Board has established the process for obtaining a cannabis license; and

**WHEREAS**, the Board desires to regulate and clarify the license fees pertaining to sales and transfers between cannabis license holders who are affiliated and unaffiliated business entities; and

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

**NYE COUNTY CODE IS HEREBY AMENDED AS FOLLOWS**, with Deletions shown in

strike-through, red font, and additions and modifications shown in underscored blue font:

## **CHAPTER 5.32 CANNABIS ESTABLISHMENTS**

### **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, sell, or allow the consumption of cannabis for any purpose without first making application and securing a cannabis license to do so. (Ord. 550, 2019: Ord. 519, 2017)

### **5.32.005: Definitions**

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

AFFILIATED BUSINESSES: Cannabis establishments that have identical ownership.

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.

CANNABIS CONSUMPTION LOUNGE: Has the meaning ascribed to it by Nevada Revised Statutes 678A.087.

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

CONCENTRATED CANNABIS: Has the meaning ascribed to it by Nevada Revised Statutes 453.042.

CONSUMER: Means a person who purchases, other than for resale, goods used primarily for personal, family or household purposes and not for business or research purposes.

DUAL LICENSEE: Has the meaning ascribed to it by Nevada Revised Statutes 678A.142.

EDIBLE CANNABIS PRODUCTS: Has the meaning ascribed to it in Nevada Revised Statutes 678A.070.

FACILITY FOR THE PRODUCTION OF EDIBLE CANNABIS PRODUCTS OR CANNABIS INFUSED PRODUCTS: Has the meaning ascribed to it in Nevada Revised Statutes 678A.060.

INDEPENDENT CANNABIS CONSUMPTION LOUNGE: Has the meaning ascribed to it by Nevada Revised Statutes 678A.157.

INDEPENDENT TESTING LABORATORY: Has the meaning ascribed to it in Nevada Revised Statutes 678A.115.

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

CANNABIS CULTIVATION FACILITY: Has the meaning ascribed to it by Nevada Revised Statutes 678A.025.

CANNABIS DISTRIBUTOR: Has the meaning ascribed to it by Nevada Revised Statutes 678A.030.

CANNABIS ESTABLISHMENT: Has the meaning ascribed to it by Nevada Revised Statutes 678A.035.

CANNABIS INFUSED PRODUCTS: Has the meaning ascribed to it by Nevada Revised Statutes 678A.050.

CANNABIS PRODUCT MANUFACTURING FACILITY: Has the meaning ascribed to it by Nevada Revised Statutes 678A.060.

CANNABIS PRODUCTS: Has the meaning ascribed to it by Nevada Revised Statutes 678A.055.

CANNABIS TESTING FACILITY: Means a public or private laboratory licensed and certified, or approved by the Nevada Cannabis Compliance Board or any other regulatory body controlling testing facilities, to conduct research and analyze cannabis, cannabis products, and cannabis concentrate for contaminants and potency.

MEDICAL CANNABIS DISPENSARY: Has the meaning ascribed to it by Nevada Revised Statutes 678A.175.

MEDICAL CANNABIS ESTABLISHMENT: Has the meaning ascribed to it by Nevada Revised Statutes 678A.180.

MEDICAL USE OF CANNABIS: Has the meaning ascribed to it in Nevada Revised Statutes 678A.215.

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

ADULT-USE CANNABIS CONSUMPTION LOUNGE: Has the meaning ascribed to it by Nevada Revised Statutes 678A.237.

ADULT-USE CANNABIS STORE: Has the meaning ascribed to it by Nevada Revised Statutes 678A.065. (Ord. 550, 2019; Ord. 519, 2017)

### **5.32.010: Application**

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

4. Include the name, address and telephone number of all individual(s) who will actively manage the business for which the license is sought. At least one such manager must be on site when business is being conducted;
  5. Specify the location of the premises for which the license is sought, and the name of the owner(s), agents, lessee or assignee of the premises where the business is to be operated;
  6. Specify which type of cannabis establishment license is being requested. The Board may issue licenses for the following types of establishments:
    - a. Cannabis establishments (adult-use cannabis establishments):
      1. Adult-use cannabis cultivation facility;
      2. Adult-use cannabis independent testing laboratory;
      3. Adult-use cannabis production facility for edible cannabis products or cannabis infused products;
      4. Adult-use cannabis distributor; or
      5. Adult-use cannabis store.
    - b. Medical cannabis establishments:
      1. Medical cannabis cultivation facility;
      2. Medical cannabis production facility for edible cannabis products or cannabis infused products;
      3. Medical cannabis dispensary; or
      4. Medical cannabis independent testing laboratory.
    - c. Cannabis consumption lounges:
      1. Independent cannabis consumption lounge; or
      2. Retail cannabis consumption lounge.
  7. Include a copy of the special use permit granted by the Board for the cannabis establishment;
  8. If applicable, include a copy of the medical cannabis establishment registration certificate, or provisional certificate or adult-use license issued by the State of Nevada Cannabis Compliance Board 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 cannabis 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 cannabis or medical cannabis license is required;
  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.
  12. All applications shall be in conformance with all State of Nevada Cannabis Compliance Board regulations, policies and licensing requirements.
- C. Processing Time: There shall be a maximum processing time of thirty (30) to sixty (60) 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. Financials: A financial compilation shall be submitted annually to Nye County along with a list of any persons receiving more than three percent (3%) of the disbursements from the entity.
- G. License Expiration: An approved 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. (Ord. 550, 2019: Ord. 519, 2017)

### **5.32.020: Denial Conditions**

- A. In conformity with the policies of this chapter, the following persons are declared not to be qualified to hold 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 copartnership, unless all of the members of such copartnership, 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 nonpublicly 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. 550, 2019: 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. 550, 2019: 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. 550, 2019: 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 cannabis 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 cannabis 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 cannabis 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 cannabis independent testing laboratory with one thousand two hundred fifty dollars (\$1,250.00) nonrefundable for the initial application and seven hundred fifty dollars (\$750.00) nonrefundable each year thereafter.
- B. The license fees specified in subsection A of this section shall be payable in advance for at least one year. Failure to pay the medical 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 thirty (30) days thereafter until renewal fees are brought current. Failure to pay the medical cannabis license renewal fee within ninety (90) calendar days of the due date will require a show cause hearing and possible suspension and/or revocation of the license by the Board.
- C. In addition to the fees specified in subsection A of this section, every medical cannabis establishment, as a condition of the granting of a medical 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, as established by the State of Nevada, of all medical cannabis or medical cannabis products that were produced, manufactured, sold, transferred, or distributed by the medical cannabis establishment for the previous month. Failure to pay the monthly business fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the amount due. Failure to pay the monthly business fee within (90) calendar days of the due date will result in an automatic suspension of the

license and require a show cause hearing for possible further suspension and/or revocation of the license by the Board. (Ord. 550, 2019; Ord. 519, 2017)

1. Sales and transfers between unaffiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are not affiliated, the 2% fee of the total value of the cannabis product sold or transferred is applicable and due to Nye County. The value of the product is the amount as established by the State of Nevada. The 2% fee is applicable regardless of the location of the unaffiliated business receiving the cannabis product, whether located within the jurisdiction of Nye County or outside of the jurisdiction of Nye County.
2. Sales and transfers between affiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are affiliated, the 2% fee of the total value of the cannabis product sold or transferred is not applicable, provided that both entities engaged in the sale or transfer are located within Nye County. The 2% fee is applicable if the affiliated business receiving the cannabis product is located outside of Nye County.

### **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 an adult-use cannabis 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 an adult-use cannabis 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 an adult-use cannabis 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 an adult-use cannabis 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 an adult-use cannabis 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 adult-use cannabis distributor license possesses a valid Nye County license for an adult-use cannabis or medical cannabis 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 (1) year. 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 twenty five percent (25%) every thirty (30) days thereafter until renewal fees are brought current. Failure to pay the adult-use cannabis license renewal fee within ninety (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the Board.

C. In addition to the fees specified in subsection A of this section, every adult-use cannabis establishment, as a condition of the granting of an adult-use 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, as established by the State of Nevada, of all cannabis or cannabis products that were produced, manufactured, sold, transferred, or distributed by the adult-use cannabis establishment for the previous month. Failure to pay the monthly business fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the amount due for each month that is past due. Failure to pay the monthly business fee within ninety (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the Board.

1. Sales and transfers between unaffiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are not affiliated, the 2% fee of the total value of the cannabis product sold or transferred is applicable and due to Nye County. The value of the product is the amount as established by the State of Nevada. The 2% fee is applicable regardless of the location of the unaffiliated business receiving the cannabis product, whether located within the jurisdiction of Nye County or outside of the jurisdiction of Nye County.
2. Sales and transfers between affiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are affiliated, the 2% fee of the total value of the cannabis product sold or transferred is not applicable, provided that both entities engaged in the sale or transfer are located within Nye County. The 2% fee is applicable if the affiliated business receiving the cannabis product is located outside of Nye County.

### **5.32.057: Cannabis Consumption Lounge Establishment License Fees**

- A. The license fees required to be paid to obtain or renew a cannabis consumption lounge 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 consumption lounge, 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. Fifteen thousand dollars (\$15,000.00) for initial issuance and a seven thousand five hundred dollar (\$7,500.00) annual renewal fee for an independent consumption lounge, 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.
- B. The license fees specified in subsection A of this section shall be payable in advance for at least one (1) year. Failure to pay the 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 twenty five percent (25%) every thirty (30) days thereafter until renewal fees are brought current. Failure to pay the license renewal fee within ninety (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the Board.

C. In addition to the fees specified in subsection A of this section, every cannabis consumption lounge establishment, as a condition of the granting of a 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, as determined by the State of Nevada, of all cannabis or cannabis products that were sold by the consumption lounge establishment for the previous month. Failure to pay the monthly business fee within ten (10) calendar days of the due date shall result in the mandatory assessment of a late fee of twenty five percent (25%) of the amount due for each month that is past due. Failure to pay the monthly business fee within ninety (90) calendar days of the due date will trigger a show cause hearing and possible suspension or revocation of the license by the Board.

1. Sales and transfers between unaffiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are not affiliated, the 2% fee of the total value of the cannabis product sold or transferred is applicable and due to Nye County. The value of the product is the amount as established by the State of Nevada. The 2% fee is applicable regardless of the location of the unaffiliated business receiving the cannabis product, whether located within the jurisdiction of Nye County or outside of the jurisdiction of Nye County.
2. Sales and transfers between affiliated cannabis businesses: If the cannabis establishments engaged in the sale or transfer are affiliated, the 2% fee of the total value of the cannabis product sold or transferred is not applicable, provided that both entities engaged in the sale or transfer are located within Nye County. The 2% fee is applicable if the affiliated business receiving the cannabis product is located outside of Nye County.

#### **5.32.060: Fees; Disbursement**

Any fees collected by virtue of this chapter shall be disbursed according to NRS 372A.290. (Ord. 550, 2019: Ord. 519, 2017)

#### **5.32.070: Public Display Required**

During all of the period of time for which a license has been issued authorizing the operation of an adult-use cannabis, medical cannabis, or cannabis consumption lounge 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. 550, 2019: 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 thirty (30) working 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 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, and present his recommendations for or against the renewal of each such license. No existing license required under this chapter shall lapse or be revoked when presentation to the Board of the request for renewal is delayed solely due to administrative reasons.
2. Any licensee whose license renewal has been disapproved by the Board shall be notified of such in writing, in the manner provided in this chapter. The licensee may avail himself of the procedures set forth in this chapter.
3. Renewal of licenses under this chapter must be for a minimum of one calendar year.
4. Notwithstanding any other provision of this chapter, no existing license required under this chapter shall lapse or be revoked when renewal is delayed solely due to the notice and agenda requirements of Nevada's Open Meetings Law, or due to administrative delay. (Ord. 550, 2019: 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, deliver, transfer, transport, supply, sell, or dispense any cannabis to any person, or to allow consumption of cannabis products in a consumption lounge, unless in compliance with all requirements of this chapter and State law pursuant to Nevada Revised Statutes chapters 453A, 453D and 678B.
- 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 chapter 453A, 453D, or 678B of the Nevada Revised Statutes.
- D. Fail to comply with all requirements of the conditions of an applicable special use permit. (Ord. 550, 2019: 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;
  4. Establishments that fail to produce any sales revenue for six (6) consecutive months.
- 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 affected 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;
  5. Conduct a hearing upon the charges alleged against the licensee or employee. (Ord. 550, 2019: 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. 550, 2019: Ord. 434, 2012)

#### **5.32.100: Penalty For Violation**

- A. Persons found guilty of violating any of the provisions of this chapter are guilty of a misdemeanor and subject to a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment. Nothing herein contained shall be construed as limiting any prosecution for acts related to a violation of the Uniform Controlled Substances Act as set forth in chapter 453 of the Nevada Revised Statutes.
- B. In addition to any criminal punishment as may be imposed, any violation of this chapter may result in the revocation of any license issued pursuant to this chapter and result in the forfeiture of any and all property as described in Nevada Revised Statutes 453.301. The civil penalties provided for hereunder are intended to be cumulative and in addition to any criminal fines or punishments imposed. (Ord. 550, 2019: Ord. 519, 2017)

#### **5.32.110: Transferability**

Licenses shall not be in any manner transferable or assignable, nor shall any person other than as named in the license be authorized to conduct the business, unless such transfer is approved by the State of Nevada and the Board. (Ord. 550, 2019: Ord. 519, 2017)

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

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

**EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 17<sup>th</sup> day of July, 2023.

Proposed on the 16<sup>th</sup> day of May, 2023

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

Adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2023

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: \_\_\_\_\_  
Bruce Jabbour, Chair  
Nye County Board of  
County Commissioners

ATTEST: \_\_\_\_\_  
Mark F. Kampf  
Clerk and Ex-Officio  
Clerk of the Board

DRAFT