

BILL NO. 2016-04

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

**SUMMARY:** A Bill proposing to amend Nye County Code pertaining to Medical Marijuana Establishments and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

**TITLE:** A BILL PROPOSING TO AMEND NYE COUNTY CODE PERTAINING TO MEDICAL MARIJUANA ESTABLISHMENTS; AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

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

**WHEREAS,** pursuant to the authority vested in counties by Nevada Revised Statutes the adoption of this amendment provides for the licensing and regulation of medical marijuana establishments;

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

Chapter 17.06  
MEDICAL MARIJUANA ESTABLISHMENTS; ZONING REQUIREMENTS

17.06.010: INTENT; GENERALLY:

The intent of this chapter is to establish the zoning, land use and development requirements applicable to medical marijuana uses, as authorized under chapter 453A of Nevada state law for all areas within Nye County, including those areas within the Pahrump regional planning district. (Ord. 475, 2014)

17.06.020: DEFINITIONS:

The words and phrases used in this chapter shall have the meanings as follows:

**BOARD:** The board of Nye County commissioners.

**COMMUNITY FACILITY:** Any of the following: A facility that provides daycare to children, a public park, a playground, a public swimming pool, a center or facility which provides

recreational opportunities or services to children or adolescents, a church, synagogue, or other building, structure or place used for religious worship or other religious purposes.

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

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

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

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

MARIJUANA: Has the meaning ascribed to it in Nevada Revised Statutes 453A.110.

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

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

MEDICAL MARIJUANA ESTABLISHMENT: Has the meaning ascribed to it in Nevada Revised Statutes 453A.116. (Ord. 475, 2014)

#### 17.06.030: MEDICAL MARIJUANA ESTABLISHMENT ZONING REQUIREMENTS:

Medical marijuana establishments shall be allowed within the light industrial (LI), heavy industrial (HI), general commercial (GC), commercial manufacturing (CM), and business opportunity overlay (BO) zones if located within the Pahrump regional planning district or in any other area outside of the Pahrump regional planning district that permits general commercial, manufacturing, light industrial and/or heavy industrial uses, subject to compliance with the distance separation requirements and other restrictions contained herein and upon the approval of a special use permit as required in this chapter. (Ord. 475, 2014)

#### 17.06.040: REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT:

Any medical marijuana establishment shall require the approval, and be conducted in compliance with the terms and conditions, of a special use permit.

#### A. Administration and Enforcement:

1. Designation of Planning Authority: For purposes of the administration of special use permits as provided for in this chapter the board shall be designated as the planning authority for all areas in Nye County, to include those areas located within the Pahrump regional planning district.

2. Penalties: Any person violating any provision of this chapter is guilty of a misdemeanor and is subject to a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) and/or imprisonment in the county jail for a period not to exceed six (6) months. Any act that is prohibited, or the result from the failure to perform required acts, shall constitute a violation of this chapter. Any person is guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed or continued.
3. Abatement Proceedings: In addition to any penalties that may be imposed, any use of property, or the establishment of any building, structure or use contrary to the provisions of this chapter or in violation of any condition attached to the granting of a special use permit, the county may commence proceedings for the abatement in accordance with this code or state law, or may pursue other remedies as provided by law.
4. Revocation of Special Use Permit: Failure to abide by and faithfully comply with the provisions of this chapter with respect to use, development standards, or maintenance requirements, with any other requirement of this code, with any applicable requirement of the Nevada Revised Statutes or Nevada administrative code, or with any and all conditions attached to the granting of any land use application hereunder is unlawful and a public nuisance, and shall constitute grounds for the revocation of the same, or any permit or license issued in conjunction with the application.
  - a. Upon discovery of such a violation, the county may commence proceedings for the revocation thereof in accordance with applicable provisions of this code or may pursue other remedies as provided by law. If the board determines that there is sufficient cause to revoke the application or permit, a public hearing shall be scheduled before the board, at which time the property owner or other interested party may show cause as to why the permit should or should not be revoked. If the board revokes the permit, it shall specify for the record the reasons for its action.
  - b. The revocation of a business license, or the revocation of permits, which are no longer appealable, to conduct a use or the failure to obtain or maintain a valid certificate of registration issued by the state of Nevada to medical marijuana establishments shall cause any special use permit to become invalid without the hearing specified in subsection A4a of this section.
5. Term of Special Use Permit: Any special use permit issued herein shall remain in effect provided the medical marijuana establishment is in compliance with all conditions of the special use permit and the establishment continues to maintain a valid Nye County medical marijuana license. Failure to maintain a valid medical marijuana license for the premises shall cause any special use permit issued herein to become void and invalid.
6. Nontransferability of Special Use Permit: Any special use permit approved by the board shall be specific to the medical marijuana establishment business owner as specified on the permit. Any change in ownership in the medical marijuana establishment shall require the submission of an application by the new owner(s)

prior to the transfer of ownership. The board shall consider if the change in ownership materially affects the suitability of the operations considered upon issuance of the special use permit to the previous business owner. The issuance of a special use permit to a new business owner shall be valid until the expiration of the term of the special use permit issued to the previous business owner, which shall be required to be renewed as set forth herein.

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

B. Application Process:

1. Form: Applications for a special use permit shall be submitted to the Nye County planning director ("director") on a form or format as specified by the director. In addition to any other information as may be required by the director, each applicant must submit the following:
  - a. If the application is submitted by an agent for the property owner, the application must include a signed affidavit from the owner that the owner knows that the proposed use of the property is for a medical marijuana establishment;
  - b. A site plan showing the location of any existing or proposed buildings or structures, vehicular access, parking areas, landscaping, and demonstrating how the proposed facility meets all security requirements;
  - c. A statement that the proposed site is not within one thousand feet (1,000') of a public or private school, and is not within three hundred feet (300') of any other community facility;
  - d. A business plan, including a formal statement of business goals, the reasons the goals are believed attainable, the plan for reaching those goals, and background information about the organization or team attempting to reach those goals; and
  - e. Any other documents the applicant desires to be considered by the board in consideration of the conditions of approval as set forth herein.
2. Public Hearing Notice Requirements: Upon the filing of a complete application for a special use permit, the planning director shall give notice setting forth the time, place and purpose of such hearing. Notice of such hearing must be mailed at least ten (10) calendar days prior to the hearing to:
  - a. The applicant;
  - b. Each owner of real property, as listed on the county assessor's records, located within three hundred feet (300') of the property in question;
  - c. The owner, as listed on the county assessor's records, of each of the thirty (30) separately owned parcels nearest the property in question, to the extent

this notice does not duplicate the notice given pursuant to subsection B2b of this section;

- d. Any advisory board which has been established for the affected area by the governing body; and
- e. If a military installation is located within three thousand feet (3,000') of the property in question, the commander of that military installation, [the Chief and Council of the reservation](#)

f. [Sheriff, EMS, and Fire Department.](#)

3. Competitive Consideration of Applications: All applications for issuance of special use permits for medical marijuana establishments shall be considered on a competitive basis at a single public hearing to be held by the board. All applications must be submitted by June 20, 2014, and by May 30 of each calendar year thereafter if any applicant wishes to obtain a special use permit for any available permits that may become available as determined by the state of Nevada as set forth in chapter 453A of the Nevada Revised Statutes. The public hearing shall be scheduled no sooner than the second scheduled meeting of the board in the month of June but not later than forty five (45) days after the closing of applications as is determined in the discretion of the board.
- C. Standards for Approval: The board shall determine which application submits a plan and proposal that meets the needs of the residents of Nye County. The following criteria shall be evaluated by the board:
1. Sufficiency and viability of the financial plan showing the resources of the applicant and proof the applicant has adequate funds to support the business plan as presented.
  2. Sufficiency and viability of an electronic verification system, inventory control system, adequate building security and fire protection measures.
  3. Adequacy of a [conceptual](#) transportation plan that addresses product security during the transport of medical marijuana from seed to sale.
  4. Capability to provide safe and secure packaging of medical marijuana products that would assist in reducing the exposure of children to the dangers of medical marijuana.
  5. Whether the design of the medical marijuana establishment maintains a professional appearance and is compatible with existing uses or future uses in the proposed area of development.
  6. Whether crime or other factors in the area of a proposed medical marijuana establishment pose an undue threat to the security of the proposed establishment, its product, employees or prospective patrons [and the proposed mitigating strategy incorporated into the physical or other security plan to deter or negated that threat.](#)

7. Whether dispensaries will provide convenient access to those authorized to use medical marijuana to a sufficient distribution of marijuana for medical use.
- D. Mandatory Conditions of Approval: The board may impose conditions of approval that are more restrictive than those required by this section in the sole discretion of the board. The approval of any special use permit authorizing the operation of a medical marijuana establishment must contain at a minimum the following conditions:
  1. The special use permit grantee must provide to the director a copy of the registration certificate issued by the state of Nevada prior to commencing operations.
  2. The establishment must continue to meet all requirements for a medical marijuana establishment to qualify for and maintain its certificate of registration as set forth by state law.
  3. The establishment must comply with all operating procedures required by state law.
  4. The establishment must prohibit anyone from consuming marijuana on the premises.
  5. For production and cultivation establishments: If the establishment has on-site signage, the signage shall be limited to one wall sign not to exceed two (2) square feet in size. On-site signs for dispensaries shall not exceed 25 square feet in size. All signage must obtain approval from the State.
  6. The establishment must prohibit anyone under the age of eighteen (18) years on the premises.
  7. The establishment must prohibit medical marijuana activities including, without limitation, cultivating, growing, processing, displaying, selling or storage from being conducted outdoors.
  8. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in an enclosed facility.
  9. The establishment must prevent medical marijuana or paraphernalia from being displayed or kept in a manner that is visible from outside the facility.
  10. The establishment must install security surveillance cameras that monitor all entrances, along with the interior and exterior of the premises. Recordings from these cameras must be maintained in a retrievable manner for at least ninety (~~180~~<sup>90</sup>) days from the date recorded. The establishment must install hepafilters to control air quality ensuring the smell of marijuana does not radiate from the establishment.
  11. The establishment must install and maintain in good working condition robbery and burglary alarm systems. Surveillance systems including a lighting system. The system must be available to the Nye County Sheriff's Office for real time surveillance and response.
  12. The establishment must post a legible sign inside the facility stating that:

- a. The use or distribution of marijuana is a violation of federal law.
- b. The possession, use, or distribution of marijuana for nonmedical purposes is a violation of state law.
- c. Consumption of marijuana on the premises is prohibited.
- d. No one under the age of eighteen (18) years is permitted on the premises.

13. The ~~conditional~~ special use permit grantee shall record a notarized affidavit in which the grantee acknowledges that the operation of a medical marijuana establishment is a violation of federal law.

14. The ~~conditional~~ special use permit grantee shall record a notarized statement in which the grantee agrees to hold Nye County harmless against any federal law enforcement actions that may result from the activities of the medical marijuana establishment that is the subject of the ~~conditional~~ special use permit.

15. The special use permit grantee shall submit a Water Impact Plan showing the proposed water use and wastewater disposal methods for review and comment by the Nye County Water District Governing Board, for consideration by the Board of County Commissioners, prior to issuance of the initial medical marijuana license; and grantee shall submit an annual report to the Water District Governing Board for review and comment. A written summary of the ~~Water District~~ Water District Governing Board comments shall be provided to the Board of County Commissioners for consideration prior to approval of any annual license renewal.

16. The special use permit grantee shall submit a Security and Transportation Plan detailing the proposed security for the site, buildings, and transportation vehicles, including proposed security cameras, fencing, building access and security policies and procedures for review and comment by the Nye County Sheriff, for consideration by the Board of County Commissioners, prior to issuance of the initial medical marijuana license; and grantee shall provide annually a written security report to the Board of County Commissioners for consideration prior to approval of any annual license renewal.

17. The proposed method and procedures of medical marijuana waste disposal shall be described in the Security and Transportation Plan.

18. A description and process for separation, storage and disposal of product lots which do not meet the requirements for Medical Marijuana must be developed, monitored and approved.

19. A Security Plan compliant with NRS 453A and the Nye County Security Checklist must be submitted.

E. Medical Marijuana Establishment Location Restrictions: All facilities for medical marijuana establishments must be located a distance of at least one thousand feet (1,000') from any property line of a parcel that has an established public or private school, and shall not be located within three hundred feet (300') of any property line of a parcel

that has any other established community facility, hospital, or clinic at the time of commencement of operation of the medical marijuana establishment.

F. Security and Screening Standards for the Cultivation of Medical Marijuana:

1. ~~Medical marijuana may only be cultivated in an indoor area equipped with security rated locks or other security devices that permit access only by those authorized by state law to cultivate medical marijuana.~~ The requirements in NRS 453A are hereby adopted by reference.
2. Medical marijuana is not allowed to be cultivated in a location or manner that is visible from any area normally accessible to the general public or from any point off the parcel.
3. All requirements, standards and conditions for the cultivation of medical marijuana in state statute and regulations must be met at all times. (Ord. 475, 2014)

G. Extensions of Time: Any grantee of a special use permit may request an extension of time by submitting the required application form and processing fee to the Planning Department prior to the expiration date. All applications for an extension of time shall be processed as a public hearing and all decisions shall be made by the Board of County Commissioners.

Chapter 5.32  
MEDICAL MARIJUANA ESTABLISHMENTS

5.32.000: MEDICAL MARIJUANA LICENSING:

- A. Any license required by this chapter is a separate and distinct license from all other county licenses, and is in addition to any other license required for conducting or carrying on any other business in connection with or separate from the activities licensed by this chapter.
- B. It is unlawful within the county, outside an incorporated city, for a medical marijuana establishment to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply or dispense marijuana for any purpose without first making application and securing a medical marijuana license to do so. (Ord. 480, 2014)

5.32.005: DEFINITIONS:

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

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

BOARD: The Nye County board of county commissioners.

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

EDIBLE MARIJUANA PRODUCTS: Has the meaning ascribed to it in Nevada Revised

Statutes 453A.101.

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

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

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

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

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

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

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

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

PHYSICIAN: Has the meaning ascribed to it in Nevada Revised Statutes 0.040. (Ord. 480, 2014)

5.32.010: APPLICATION:

A. Application for a license provided by this chapter shall be made to the [Licensing and Liquor Board](#) in writing, on the forms provided by the Nye County planning department.

B. Each application shall:

1. Be filed with the ~~planning department and~~ [Nye County Sheriff's Office](#);
2. Be accompanied by the present 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 five percent ~~(5%)~~ [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 ~~the~~ all individual(s) who will actively manage the business for which the license is sought. At least one such manager must ~~reside within the county~~ 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 medical marijuana establishment license is being requested. The board may issue licenses for the following types of establishments:
  - a. Cultivation facility;
  - b. Production facility for edible marijuana products or marijuana infused products;
  - c. Dispensary; or
  - d. Independent testing laboratory.
7. Include a copy of the special use permit granted by the board of county commissioners for the medical marijuana establishment;
8. Include a copy of the provisional medical marijuana establishment registration certificate issued by the state of Nevada division of public and behavioral health;
9. Be signed by all persons who shall conduct or have an interest in the business activities for which a medical marijuana license is required. In the case of corporations, clubs or organizations with members, the application shall be verified by the president or secretary or the person who shall actively manage or conduct the business or activity for which a medical marijuana license is required;
10. Include an attestation regarding excluded felony offenses, signed by each owner, officer and board member of the proposed medical marijuana establishment affirming that each person has not been convicted of any excluded felony offenses as defined in Nevada Revised Statutes 453A.104, and 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 medical marijuana establishment;
11. Be sworn to as to the truthfulness of the information contained therein.
12. The Sheriff's office shall perform a cursory background check and then transmit the application to the Planning Department for processing. The Sheriff's office will obtain a State background check.

- C. There shall be a minimum processing time of thirty (30) working days for any application for a medical marijuana license from the date of a complete application submittal.
- D. 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 five percent (~~5%~~) 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. 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 and~~ the Nye County Sheriff's Office within ~~fourteen~~ thirty (~~14~~) 30 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. An audited financial statement shall be submitted annually to Nye County along with a list of any persons receiving more than five percent (~~5%~~) 3% of the disbursements from the entity. (Ord. 480, 2014)

G. An approved medical marijuana license shall expire and become void one (1) calendar year following the date of issuance of the license by the Licensing and Liquor 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 medical marijuana establishment license under the provisions of this chapter:
  - 1. A person who does not possess, or who does not have a reputation for possessing a good moral character;
  - 2. A person under the age of twenty one (21) years;
  - 3. A person who has ever been convicted of a felony involving a crime ~~involving moral turpitude 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 medical marijuana establishment in compliance with the letter and intent of all county ordinances;
  - 4. A person who the board determines is not a suitable person to receive or hold a license, after due consideration for the protection of the public health, safety, morals, good order and general welfare of the inhabitants of the county, outside an

incorporated city; has ever been convicted of a felony involving a crime of a sexual nature involving children or a heinous crime; has made any intentional false statement or omission in the registration form;

5. A person whose license issued under this chapter has been revoked for cause;
6. A person who, at the time of application for renewal of any license issued under this chapter, would not be eligible for such license upon a first application;
7. A 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 for the operation of a medical marijuana establishment or has had a special use permit or state license revoked.  
(Ord. 480, 2014)

#### 5.32.030: BOARD DETERMINATION PROCEDURE:

- A. After submittal of the application and cursory background confirmation by the Sheriff, 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. 480, 2014)

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, gross misdemeanor or misdemeanor crime involving the use of violence against another;
  - c. A felony or gross misdemeanor crime involving the use of any deadly or dangerous weapon;
  - d. A felony or gross misdemeanor crime involving theft, embezzlement or misappropriation of funds, or possession of stolen property;
  - e. A felony crime involving perjury, bribery or fraud;
  - f. 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 2;
4. A person who, at the time of application for renewal of a medical marijuana work card would not be eligible for the license upon a first application; or
5. A person whose license has been revoked for failure to report disease or for criminal activity or other violation of regulations governing medical marijuana establishments, or revoked for any other cause, whether in this county or in another jurisdiction.

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.

~~A. In conformity with this chapter, the board may deny a medical marijuana establishment license upon its discretion when:~~

- ~~1. In the judgment of the board, the granting of such license may tend to create or constitute a public nuisance;~~
- ~~2. By the granting of such license, a disorderly house or place may be maintained;~~
- ~~3. The granting of such license may seriously and adversely affect the valuation of adjoining and contiguous property;~~
- ~~4. The board is satisfied that the applicant is not a fit and proper person to operate the business contemplated by his application;~~

~~5. In the judgment of the board there are ample and sufficient licensees and establishments in the area or place for which the license is to be used;~~

6. For any other good and sufficient reason.

~~B. The board may grant a license with probationary status.~~

C. The [Licensing and Liquor](#) 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. 480, 2014)

#### 5.32.050: FEES:

A. The license fees required to be paid to obtain or renew a medical marijuana establishment license shall be as follows:

1. Fifteen thousand dollars (\$15,000.00) for initial issuance and a seven thousand five hundred dollar (\$7,500.00) annual renewal fee for a medical marijuana dispensary establishment with five thousand dollars (\$5,000.00) nonrefundable for the initial application and two thousand five hundred dollars (\$2,500.00) nonrefundable each year thereafter. [\\$1,500.00 for a cursory review of the applicant's and partner's background the initial year and annually 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. [\\$1,000.00 for each review of the Security Plan initial and annual, and \\$500.00 for the initial and annual security plan physical survey.](#)

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. [\\$1,000.00 for each review of the Security Plan initial and annual, and \\$500.00 for the initial and annual security plan and physical survey.](#)

[5. \\$3,500.00 annually for initial and continued monitoring cultivation sites, production facilities and destruction processes, non-refundable each year thereafter.](#)

B. The license fees specified in subsection A of this section shall be payable in advance for at least one year. Failure to pay the medical marijuana license fee within ten (10) working days of the due date shall result in the mandatory assessment of a late fee of twenty five

percent (25%) of the annual fee within thirty (30) days of the due date, or shall be grounds for revocation of the license.

- C. In addition to the fees specified in subsection A of this section, every medical marijuana establishment, as a condition of the granting of a medical marijuana establishment license or renewal, shall pay no later than ten (10) working days following the first day of each month, a monthly business license fee to Nye County, equivalent to two percent (2%) of the total value of all medical marijuana or medical marijuana products that were produced, manufactured, sold or distributed by the medical marijuana establishment for the previous month. (Ord. 480, 2014)

#### 5.32.060: FEES; DISBURSEMENT:

The 2% monthly business license fees collected by virtue of this chapter shall be delivered by the ~~planning department~~ licensee or authorized agent to the county treasurer, and shall be kept by the treasurer in the general fund for the sole use and benefit of the county, and shall be paid out by order of and under the direction of the board of county commissioners in the same manner as other general fund disbursements are made. The county treasurer shall transmit a copy of the payment receipt along with a copy of each return form for each payment to the planning department and Nye County Sheriff's office on a monthly basis. (Ord. 480, 2014)

#### 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 medical marijuana establishment, the license shall be posted and at all times displayed in a conspicuous place in the facility where such business is carried on so that all persons visiting such place may readily see and read the same. (Ord. 480, 2014)

#### 5.32.080: RENEWAL PROCEDURE:

- A. Application for renewal of licenses shall be made by petition to the ~~planning department and Nye County Sheriff's Office~~ and Nye County Sheriff's Office by filing the same with the ~~planning department and Nye County Sheriff's Office~~, together with all fees. Applications for renewal shall be made at least ten (10) working days before ~~the end of the calendar year in which~~ the annual license ~~expires~~ expiration date.

B. An audited financial statement shall be provided with all renewal applications.

~~B.C.~~ Notwithstanding any other provisions of this chapter, the procedures set forth in this chapter for the initial application and issuance of medical marijuana licenses shall not apply to the renewal of licenses previously issued to the same applicant. With respect to such renewal of licenses, ~~no formal application procedure shall be required, and~~ the planning department shall cause the reissuance or cancellation of such license renewals in the manner following:

- ~~At the first meeting of the board of each fiscal year, Upon receipt of a completed request for renewal of a license along with the applicable renewal fees,~~ the Nye County Sheriff, the planning director or his designee shall ~~present a list of applicants for schedule the~~ renewal request ~~together with fees collected during~~ for the next available board

meeting, ~~the previous fiscal year~~, and present his recommendations for or against the renewal of each such license ~~over the next fiscal year~~. No existing license required under this chapter shall lapse or be revoked when presentation to the board of the ~~list of applicants for~~ 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. 480, 2014)

#### 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 marijuana to any person, other than to or from a medical marijuana dispensary or medical marijuana establishment licensed by the state of Nevada, who does not present a valid prescription and/or medical marijuana card issued for the medical use of marijuana acceptable to the State of Nevada.
- B. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense any marijuana to or from any person or source located outside the state of Nevada.
- C. Do any act that violates any licensing requirement established pursuant to chapter 453A of the Nevada Revised Statutes.
- D. Fail to comply with all requirements of the conditions of the special use permit. (Ord. 480, 2014)

#### 5.32.100: PENALTY FOR VIOLATION:

##### Penalties:

##### The following shall be considered to be Minor Violations:

1. Insecure transport box
2. In operable GIS/kill switch on transport vehicle
3. Failure to file trip report or failure to file prior to trip.

4. Failure to note all stops during transport.

5. Failure to provide IP or failure to provide updated IP information within twenty-four hours of the change or modification.

6. Failure to notify prior to transporting mother plants, including donor names.

7. Failure to notify out of range marijuana crop and provide storage information, schedule observed destruction process.

8. Failure to notify thefts or other criminal acts.

9. Failure to notify of manager/owner changes within the specified time frame.

10. Failure to have a manager on site during working hours.

11. Failure to have a security presence on duty.

12. Failure to notify the NCSO of computer/security failures immediately.

Major Violations: Facilities shall be subject to suspension of operations.

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. 480, 2014)

#### 5.32.110: TRANSFERABILITY:

Medical marijuana 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. (Ord. 480, 2014)

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

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

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the \_\_\_ day of \_\_\_\_\_, 2016.

Proposed on the \_\_\_ day of \_\_\_\_\_, 2016

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

Adopted on the \_\_\_ day of \_\_\_\_\_, 2016

Vote: Ayes:                      Commissioners:

                    Nays:                      Commissioners:

                    Absent:                      Commissioners:

BY: \_\_\_\_\_  
Frank Carbone, Chairman  
Nye County Board of  
County Commissioners

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