

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT: DELETED LANGUAGE~~

BOLD TEXT: NEW LANGUAGE

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040

Summary: An ordinance amending the Washoe County Code at Chapter 25 (Business Licenses) to create temporary marijuana establishment business licenses; to establish restrictions and application requirements for such licenses; and to provide approval and issuance standards for such licenses.

BILL NO. 1784

ORDINANCE NO. _____

TITLE:

An ordinance amending the Washoe County Code at Chapter 25 (Business License Ordinance) to create temporary marijuana establishment business licenses and set terms for such temporary licenses, to include an automatic expiration date for those licenses; to establish restrictions on businesses which can apply for such temporary licenses to include currently certified and licensed medical marijuana establishments; to set forth application requirements for such temporary licenses; to establish the denial process for license applications; to provide for waste disposal and registration card requirements for marijuana establishments; to set forth other terms and conditions for the temporary licenses; to provide approval and issuance standards for the temporary licenses; to provide for definitions related to temporary marijuana establishments; and, and to make other changes necessarily connected therewith and pertaining thereto.

WHEREAS:

- A. The NRS was amended by a voter approved initiative at the 2016 General Election to add a new section entitled Chapter 453D, Regulation and Taxation of Marijuana; and,
- B. NRS chapter 453D provides for recreational marijuana establishments that can grow, produce, distribute and offer marijuana and marijuana products for sale and consumption by individuals over the age of 21 in the State of Nevada; and,
- C. NRS 4535D.210 enables the State of Nevada Department of Taxation to accept applications for marijuana establishments from medical marijuana establishments possessing a current and valid registration certificate and from individuals for marijuana distributor licenses, and to approve licenses for said marijuana establishments; and,
- D. The Nevada Tax Commission adopted amendments to the Nevada Administrative Code (NAC) to create Chapter 453D (LCB File No. T002-17) to allow the temporary licensing of marijuana establishments, said licenses if issued will be valid for 90 days after January 1, 2018; and,
- E. This Board of County Commissioners desires to amend County Codes to allow medical marijuana establishments possessing a current and valid State of Nevada medical marijuana establishment registration certificate and a Washoe County medical marijuana establishment business license, both in good standing, to apply for a temporary marijuana establishment business license; and,
- F. This Board did initiate the amendments contained in this ordinance on June 13, 2017 following the provisions of Washoe County Code Sections 2.030 and 2.040; and,
- G. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Board of County Commissioners desires to adopt this Ordinance; and,
- H. Business Impact Statement. Business Impact Statements are regulated within NRS 237.030 through 237.100, inclusive, but under NRS 237.070, the provisions do not apply when changes are required by state statute and the local government does not have the ability to impose less

stringent standards. Additionally, the changes do not impose any new fees and therefore do not qualify as a rule as set forth in NRS 237.060 and 237.080.

THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY DOES HEREBY ORDAIN:

SECTION 1. A new Section 25.700(26) is added to read as follows:

25.700 Medical marijuana establishments. License required; location; application requirements; renewal of business license; criminal history inquiries of property owners and related fees; warning signs; public access; waste disposal; graffiti; registration cards; revocation of business license, board hearing; immediate revocation of business license, no board hearing; denial of business license application or application for renewal; on-site use prohibited; age limitations; fee required; no county liability, indemnification; actions upon suspension or revocation; paraphernalia; display of merchandise; display of licenses; permission for entry and reasonable inspection; health district permit required; restriction on county employees; temporary marijuana establishment licenses.

26. Temporary marijuana establishment licenses. Creation and terms of a temporary license; restrictions on businesses which can apply for a temporary license; application requirements; denial of temporary license application; waste disposal; registration cards; terms and conditions of temporary license; approval and issuance of temporary license. NRS Chapter 453D, Regulation and Taxation of Marijuana, was added to State Law by an initiative petition and approved by the voters at the 2016 Nevada State General Election. State of Nevada temporary marijuana establishment licenses are authorized in NRS Chapter 453D and enabled by regulations adopted by the Nevada Tax Commission amending NAC Chapter 453D (LCB File No. T002-17).

(a) Creation and terms of a temporary license.

(1) This section of Code creates a temporary marijuana establishment business license. It shall be unlawful for any person to operate a marijuana establishment without first obtaining a license to operate such pursuant to the requirements of this section. Each marijuana establishment must have a separate license to operate.

(2) Operation of a marijuana establishment is a revocable privilege and not a right in the County. There is no property right for an individual or business to operate a marijuana establishment within the County.

(3) All licenses issued pursuant to this section of Code automatically expire on April 1, 2018, or on the date as set forth for the expiration of Nevada State temporary marijuana establishment licenses in regulations adopted by the Nevada Tax Commission amending NAC Chapter 453D, whichever is later.

(b) Restrictions on businesses which can apply for a temporary license.

(1) The business must possess a valid and current Department temporary marijuana establishment license. Additionally, the business must be current and in good standing with all other required State license(s) or permit(s), and any required County license(s) or permit(s).

(2) A medical marijuana establishment which possesses both a valid and current medical marijuana establishment registration certificate from the division to regulate medical marijuana and a County medical marijuana establishment license, both in good standing, may apply for the following temporary marijuana establishment license types:

- (i) A marijuana cultivation facility;
- (ii) A marijuana product manufacturing facility;
- (iii) A marijuana testing facility; or,
- (iv) A retail marijuana store.

(v) The application for these types of temporary marijuana establishment licenses must be the same type as the certified and licensed medical marijuana establishment.

(vi) Applications for these types of temporary licenses will only be accepted for the current, physical location of the medical marijuana establishment. Temporary marijuana establishment businesses of these types are not allowed at any other location.

(3) Wholesale intoxicating liquor dealers licensed pursuant to NRS Chapter 369 applying for a temporary marijuana establishment license as a marijuana distributor must possess a valid and current County Importer/Wholesaler intoxicating liquor license pursuant to Chapter 30 of this Code.

(i) Marijuana, marijuana products and/or marijuana paraphernalia shall not be stored or kept at or in the building or business office of a marijuana distributor.

(ii) Marijuana distributors will only transport marijuana, marijuana products and/or marijuana paraphernalia between licensed marijuana establishments following the provisions of NRS Chapter 453D and regulations as adopted by the Nevada Tax Commission amending NAC Chapter 453D.

(iii) A marijuana distributor business is not allowed as a home-based business as enabled by sections 25.4421 through 25.4426 of this Chapter.

(4) Delivery of marijuana and marijuana products to and/or from a marijuana establishment to another marijuana establishment, and to customers from a marijuana establishment, are limited to the Department or County approved hours of operation for the marijuana establishment.

(c) Application requirements. The following are the application requirements for a temporary marijuana establishment license. These requirements are in addition to the requirements of sections 25.017 and 25.0251 of this Chapter.

(1) The application shall be accompanied by the application and inspection fees as established in section 25.025 of this code. Fees for inspections required as part of the license issuance process shall be paid to the appropriate agency.

(2) A copy of the Department issued temporary marijuana establishment license.

(3) A copy of the application submitted to the Department for the temporary marijuana establishment license. Any elements of the Department application meeting the criteria outlined in subsections (4) (a) (1) through (5) of this section need not be submitted.

(4) A copy of the valid and current registration certificate issued by the division to regulate medical marijuana for the medical marijuana establishment, if applicable.

(5) A description of the premises proposed to be temporarily licensed, stating the street and number and portion of the building to be occupied.

(6) The type of marijuana establishment that the applicant proposes to carry on, conduct or operate on the described premises.

(7) A statement, signed and notarized by the owner or authorized agent of the marijuana establishment, attesting that the temporary marijuana license, if issued by the County, will expire on April 1, 2018 or on the date as set forth for the expiration of Nevada State temporary marijuana establishment licenses in regulations adopted by the Nevada Tax Commission amending NAC Chapter 453D, whichever is later.

(8) The name or names of on-site managers who will be contacted in case of emergencies or required inspections.

(9) Any proposed changes to the approved and/or permitted signage at the site. Proposed changes must include written permission from the division to regulate medical marijuana and/or the Department that originally approved the name, logo(s) and advertisements for the marijuana establishment for the new name, logo(s) and/or advertisements. The written permission must include renderings of the approved signage.

(10) If the application is for a retail marijuana store, proposed public parking plans to accommodate the number of

employees and customers. At a minimum, the public parking plan shall contain the off-street parking space requirements for a Liquor Sales, Off-Premises Commercial Use Type as set forth in Table 110.410.10.3 of this Code.

(11) If the application is for a marijuana distributor, the location of the business office where business records, to include transportation records as required by the Department will be kept. The following must also be provided:

(i) Proof that the business office meets the location restrictions as established in NRS 453D.210. Proof shall be in the form as set forth in subsection (4)(f) of this section.

(ii) If the applicant is not licensed as an Importer/Wholesaler of intoxicating liquor pursuant to Chapter 30 of this Code, proof that the proposed location for the business office meets the regulatory zone requirements for an Administrative Offices Commercial Use Type as set forth in Table 110.302.05.3 of this Code.

(iii) If the applicant proposes to store delivery vehicles at the business office location, proof that the proposed location meets the regulatory zone requirements for Storage of Operable Vehicle Commercial Use Type as set forth in Table 110.302.05.3 of this Code.

(12) A security plan, including but not limited to, the following matters. The security plan as submitted to the County is deemed to be a confidential document for sole use by the licensing division and reviewing agencies as set forth in subsection (4)(k) of this section, and is not a public record.

(i) A safety plan.

(ii) Storage, loading and unloading, and disposal of marijuana and marijuana products.

(iii) Hours of operation for public access to the retail marijuana store, if applicable. Hours of operation cannot exceed the limitations established in subsection (8) of this section.

(iv) A plan for how employees and customers enter, exit and move within the building, to include entrances and/or exits which are secured for employee use only.

(v) A plan on the handling and storage of money in the physical form of currency, such as banknotes and coins.

(vi) A statement describing what activity will occur on the site. If the application is for a retail marijuana store, a description of the products and/or services to be provided to the public.

(vii) Any physical changes to the interior or the exterior of the building, either since issuance of the County medical marijuana establishment license or proposed as part of the temporary marijuana establishment license. The exterior

appearance of the building must be consistent with the traditional style of pharmacies and medical offices of the adjacent community. No proposed physical changes to the building are allowed until approved by the appropriate County departments or other public agencies.

(viii) The name and location of any off-site marijuana cultivation facilities and/or marijuana product manufacturing facilities providing the marijuana, if applicable.

(ix) Any changes to the toxic, flammable or other materials regulated by a federal, state or local government with authority over the business that will be used or kept at the site from the list submitted as part of the medical marijuana establishment license application. Proposed changes must include the location of such materials, how such materials will be stored, and how such materials will be used.

(x) Any proposed changes to the approved and issued permits from the Washoe County Health District for the medical marijuana establishment. Such permits include, but are not limited to air quality, commercial kitchen and solid waste.

(d) Denial of temporary license application. In addition to the provisions of section 25.018 of this code, a marijuana establishment license application may be denied for the reasons set forth in subsection (14) of this section.

(d) Waste Disposal. Marijuana establishments must adhere to the requirements of subsection (9) of this section.

(f) Registration Cards. All agents, employees, independent contractors and volunteers shall obtain a registration card issued by the sheriff in conformance with sections 25.0451 through 25.0459, inclusive, of this code. The requirements for the registration card as set forth in subsection (11) of this section, to include reasons for denial, revocation or suspension shall apply.

(g) Terms and conditions of temporary license. The following terms and conditions, as set forth for medical marijuana establishments, apply to marijuana establishments.

(1) Revocation of license requires a board hearing as set forth in subsection (12) of this section.

(2) Immediate revocation of license requires no board hearing as set forth in subsection (13) of this section.

(3) Onsite use is prohibited as set forth in subsection (15) of this section.

(h) Approval and issuance of temporary license.

(1) The license division shall coordinate a review of the application and required physical inspections by the appropriate County departments and other public agencies to determine whether the proposed marijuana establishment will comply with all public health and safety and other applicable requirements

including, without limitation, law enforcement, fire, health, water, sewer, building and safety, and zoning requirements.

(i) The reviewing County departments or public agencies shall provide a recommendation on the application to the license division after its their respective reviews and after applicable physical inspections are completed.

(ii) The reviewing County departments or other public agencies may include conditions for the operation of the marijuana establishment with its recommendation. Any such conditions shall automatically become a condition on the license pursuant to section 25.0263 of this code.

(2) The license division shall verify that the licensee has valid State license(s) and/or other approval(s) and/or valid County license(s) or permit(s), as required, prior to issuing any license.

[\$1, Ord. No. XXXX]

SECTION 2. Section 25.013 is hereby amended to read as follows:

25.013 Definitions. As used in this chapter, unless the context otherwise requires:

"Board" means the board of county commissioners.

"Breeder" means a dealer, operator or other person who is responsible for the operation of a commercial animal establishment engaged in the business of breeding.

"Breeding" means producing the offspring of dogs or cats, called a litter.

"Charitable organization" means a nonprofit 501(c)(3) corporation, association, or organization, or a licensed medical facility or facility for the dependent.

"Commercial breeder" means a dealer, operator or other person who is responsible for the operation of a commercial animal establishment which engages in the breeding of five or more litters of cats or dogs in a calendar year to sell, trade or give away to others.

"Community facility" **has the meaning as defined in NRS 453A and 453D and includes**, ~~as used in the section means:~~

1. A facility licensed by Washoe County or another jurisdiction to provide day care to children;
2. A public park;
3. A public playground associated with a public park, a school, or a licensed day care facility;
4. A public swimming pool as defined in NRS 444.065;
5. A center or facility licensed by Washoe County or another jurisdiction which provides recreational opportunities or

services to children or adolescents either inside or on the property of the center or facility; or

6. A church, synagogue or other building, structure or place used for religious worship or other religious purpose.

"Contractor" means a person, except a licensed architect or a registered civil engineer acting solely in his professional capacity, who in any capacity (other than as the employee of another with wages as the sole compensation) undertakes to, or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. "Contractor" includes a subcontractor or specialty contractor, but does not include anyone who merely furnishes materials or supplies without fabricating them into, or consuming them in the performance of, the work of a contractor.

"Department" means the State Department of Taxation.

"Division to regulate medical marijuana" means the State Division of Public and Behavioral Health of the Department of Health and Human Services.

"Edible marijuana products" ~~is~~ **has the meaning as** defined in NRS 453A and includes, but is not limited to, products that:

1. Contain marijuana or an extract thereof;
2. Are intended for human consumption by oral ingestion; and
3. Are presented in the form of foodstuffs, extracts, oils, tinctures and other similar products.

"Employee" means a person or persons employed by or providing service to another person. The person or persons thus employed are usually paid in wages or salary, regardless of whether the compensation is paid directly to the employee or indirectly through another for the services performed.

"Excluded felony offense" ~~is~~ **has the meaning as** defined in NRS 453A ~~and NRS 453D.~~, and includes, but is not limited to:

- ~~1. A crime of violence; or~~
- ~~2. A violation of a state or federal law pertaining to controlled substances, if the law was punishable as a felony in the jurisdiction where the person was convicted.~~

~~The term does not include:~~

- ~~1. A criminal offense for which the sentence, including any term of probation, incarceration or supervised release, was completed more than 10 years before; or~~
- ~~2. An offense involving conduct that would be immune from arrest, prosecution or penalty pursuant to NRS 453A.320 to 453A.370, inclusive, except that the conduct occurred before~~

~~April 1, 2014, or was prosecuted by an authority other than the State of Nevada.~~

"Facility for the production of edible marijuana products or marijuana-infused products" ~~is~~ **has the meaning as** defined in NRS 453A and includes ~~but is not limited to,~~ a business that:

~~—1. Possesses a current and valid division to regulate medical marijuana registration certificate and a County medical marijuana establishment license; and~~

~~—2. Acquires, possesses, manufactures, delivers, transfers, transports, supplies or sells edible marijuana products or marijuana-infused products to medical marijuana dispensaries.~~

"Garage and/or Yard Sale" means the sale of personal property from a property upon which is located a residential dwelling unit. Garage and/or yard sales that do not exceed 72 hours in duration or do not occur on the same property more than twice in any six-month period do not require a business license.

"Home-based business" means any business, occupation, or activity undertaken for gain within a residential structure that is incidental and secondary to the use of that structure as a dwelling unit.

"Internal review board" means a board of at least three persons that is convened by the sheriff to hear and decide appeals of an action of the sheriff pursuant to section 25.0454.

"Intoxicating liquor" is synonymous with "alcoholic liquor" and "alcoholic beverage," and includes the four varieties of liquor: Alcohol, spirits, wine and beer, and every liquor or solid, patented or not, containing alcohol and intended for consumption by human beings as a beverage.

"License" means a revocable, limited-term grant of permission to operate a business within the County.

"License division" means the business license staff and code enforcement personnel of the department of community development.

"Litter" means live offspring from one birth of a cat or dog.

"Marijuana" has the meaning as defined in NRS 453D

"Marijuana cultivation facility" has the meaning as defined in NRS 453D and includes a business licensed by both the Department and the County.

"Marijuana distributor" is defined in NRS 453D and means a business licensed by both the Department and Washoe County to transport marijuana from a marijuana establishment to another marijuana establishment.

"Marijuana establishment" has the meaning as defined in NRS 4534D.

"Marijuana-infused products" ~~is~~ **has the meaning as** defined in NRS 453A and includes, ~~but is not limited to,~~ products that:

~~—1. Are infused with marijuana or an extract thereof; and~~

~~2. Are intended for use or consumption by humans through means other than inhalation or oral ingestion.~~

~~3. The term includes, without limitation, topical products, ointments, oils and tinctures.~~

"Marijuana product manufacturing facility" has the meaning as defined in NRS 453D and includes a business licensed by both the Department and the County.

"Marijuana products" has the meaning as defined in NRS 453D.

"Marijuana paraphernalia" has the meaning as defined in NRS 453D.

"Marijuana testing facility" has the meaning as defined in NRS 453D and includes a business licensed by both the Department and the County.

~~"Medical Marijuana" is has the meaning as defined in NRS 453A and means the dried leaves, flowers and seeds of a plant of the genus Cannabis, and any mixture or preparation thereof, that are appropriate for the medical use of marijuana. The term does not include the stalks and roots of the plant.~~

~~"Medical marijuana cultivation facility" is has the meaning as defined in NRS 453A and includes, but is not limited to, a business that:~~

~~1. Possesses a current and valid division to regulate medical marijuana registration certificate **and a County medical marijuana establishment license;** and~~

~~2. Acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells marijuana and related supplies to:~~

~~(a) Medical marijuana dispensaries;~~

~~(b) Facilities for the production of edible marijuana products or marijuana-infused products; or~~

~~(c) Other cultivation facilities.~~

~~"Medical marijuana dispensary" is has the meaning as defined in NRS 453A and includes, but is not limited to, a business that:~~

~~1. Possesses a current and valid division to regulate medical marijuana registration certificate **and a County medical marijuana establishment license;** and~~

~~2. Acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid division to regulate medical marijuana registry identification card.~~

~~"Medical marijuana establishment" is has the meaning as defined in NRS 453A and includes, but is not limited to, one or more of the following businesses:~~

~~1. A medical marijuana independent testing laboratory;~~

~~2. A medical marijuana cultivation facility;~~

~~3. A facility for the production of edible marijuana products or marijuana-infused products;~~

~~4. A medical marijuana dispensary; or~~

~~5. A business that has registered with the division to regulate medical marijuana to act as more than one of the types of businesses listed in subsections 2, 3 and 4 above.~~

"Medical marijuana independent testing laboratory" is has the meaning as defined in NRS 453A and includes, but is not limited to, a division to regulate medical marijuana certified, private, and independent testing laboratory to test marijuana, edible marijuana products and marijuana-infused products that are to be sold in Nevada a business that possesses a current and valid division to regulate medical marijuana registration certificate and a County medical marijuana establishment license.

"Mobile business" means a business that is not operated from a permanent structure and remains in any one location to operate for a maximum of 4 hours, in any 24 hour period, before moving to another location. Examples of mobile businesses include, but are not limited to, caterers and food/drink vendors.

"Outdoor community event" means an assembly of more than 100 and less than 1000 persons on any 1 day of the event gathered together for any purpose, at any location, other than a permanent building or permanent installation that has been constructed for and will accommodate the number of persons gathered therein.

"Outdoor festival" means an assembly of 1,000 or more persons on any 1 day of the event gathered together for any purpose, at any location, other than a permanent building or permanent installation that has been constructed for and will accommodate the number of persons gathered therein.

"Paraphernalia" is has the meaning as defined in NRS 453A and includes, but is not limited to, accessories, devices and other equipment that is necessary or useful for a person to engage in the medical use of marijuana.

"Registration card" means a revocable, limited-term clearance to work in certain occupations or capacities within the County, issued by the sheriff to a natural person.

"Residential dwelling unit" means any building or portion thereof used for residential purposes with living facilities which include provisions for sleeping eating, cooking and sanitation as required by NRS and/or County Code.

"Retail marijuana store" has the meaning as defined in NRS 453D and includes a business licensed by both the Department and the County.

"Work permit" means a revocable, limited-term grant of permission to work in certain occupations within the County, issued by the sheriff to a natural person, and is synonymous with "work card."

"Working day" or "work day" means a day when the offices of the license division are open to the public, and does not include legal holidays as defined in NRS 236.015.

[Part §1, Ord. No. 306; A Ord. Nos. 353, 423, 497, 632, 817, 827, 1014, 1015, 1099, 1138, 1228, 1260, 1336, 1422, 1527, **XXXX**]

SECTION 3. General Terms.

1. All actions, proceedings, matters and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.
2. The Chairman of the Board and the officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance. The District Attorney is authorized to make non-substantive edits and corrections to this Ordinance.
3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.
4. Each term and provision of this ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or provision of this ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then it shall be excised from this ordinance. In any event, the remainder of this ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

DRAFT: July 11, 2017

Passage and Effective Date

Proposed on July 11, 2017.

Proposed by Commissioner Jung.

Passed _____ (month) _____ (day), _____ (year).

Vote:

Ayes: Commissioners _____

Nays: Commissioners _____

Absent: Commissioners _____.

Attest:

County Clerk

Chair of the Board

This ordinance shall be in force and effect from and after the 4th day of the month of August of the year 2017.