



# STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** August 3, 2017

**Staff Contact:** Susan Pansky, Special Projects Planner

**Agenda Title:** For Possible Action: To consider a Business Impact Statement and determine whether or not Business License fees proposed for Marijuana Retail Stores and Marijuana Testing Facilities impose a direct and significant economic burden on such establishments, or directly restricts the formation, operation or expansion of such establishments, and to find that a Business Impact Statement has been prepared in compliance with NRS 237, accepted, and is on file with the Board of Supervisors. (Susan Pansky, [spansky@carson.org](mailto:spansky@carson.org))

**Staff Summary:** Per NRS 237, when considering the adoption of fees that may have an impact on business, government entities must prepare a Business Impact Statement that considers whether the proposed fees will impose a direct and significant economic burden or will directly restrict formation, operations or expansion of a business. In accordance with these requirements, staff has prepared a Business Impact Statement that has determined the proposed Business License fees of three percent of gross sales for Marijuana Retail Stores and Marijuana Testing Facilities will impose a direct and significant economic burden on such establishments but will not directly restrict the formation, operation or expansion of such establishments. This action does not adopt the proposed fees.

**Agenda Action:** Formal Action/Motion

**Time Requested:** 10 minutes

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## **Proposed Motion**

I move to find that the proposed Business License fees for Marijuana Retail Stores and Marijuana Testing Facilities do impose a direct and significant economic burden on such establishments, but do not directly restrict the formation, operation or expansion of such establishments, that a Business Impact Statement has been prepared in compliance with NRS 237, accepted, and is on file with the Board of Supervisors.

## **Board's Strategic Goal**

N/A

## **Previous Action**

At their July 6, 2017 meeting, the Board of Supervisors directed staff to prepare zoning and business license ordinance amendments to allow Marijuana Retail Stores in Carson City and to impose a fee of three percent of gross revenue on Retail Marijuana Stores and Marijuana Testing Facilities.

## **Background/Issues & Analysis**

The proposed Business License fees for Marijuana Retail Stores and Marijuana Testing Facilities have been presented to the Carson City Area Chamber of Commerce and all known parties that have an interest in these types of Marijuana Establishments. The recommended Board action will accept that the Business Impact Statement has demonstrated that the proposed fees will impose a direct and significant economic burden on Marijuana Retail Stores and Marijuana Testing Facilities, but that the fees will not directly restrict the formation, operation, or expansion of such establishments. The recommended action does not adopt the proposed fees, nor does it prohibit the Board from implementing the proposed fees. The proposed fees will be adopted with the

ordinance that will be presented to the Board for first reading immediately following this item, and for second reading on August 17, 2017.

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS Chapter 237, Business Impact Statements

**Financial Information**

Is there a fiscal impact?  Yes  No

If yes, account name/number: N/A

Is it currently budgeted?  Yes  No

Explanation of Fiscal Impact: The proposed fees will not be adopted with an action to accept that the Business Impact Statement will impose a direct and significant economic burden. The fiscal impact will occur with the adoption of the amended ordinance that actually implements the proposed fees.

**Alternatives**

- 1) Make the finding that the proposed fees do impose a direct and significant economic burden upon a business and do directly restrict the formation, operation or expansion of a business.
- 2) Make the finding that the proposed fees do not impose a direct and significant economic burden upon a business and do not directly restrict the formation, operation or expansion of a business.

**Attachments**

- 1) Letter to Potentially Impacted Businesses requesting comment on Business Impact Statement
- 2) Business Impact Statement
- 3) Public Comments Received

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

Aye/Nay

2) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)



## Carson City Business License Division

108 E. Proctor Street  
Carson City, Nevada 89701  
(775) 887-2105 – Hearing Impaired: 711  
buslic@carson.org  
www.carson.org/businesslicense

July 7, 2017

**Subject: Ordinance amending Carson City Municipal Code, Title 4, Licenses and Business Regulations for Certain Marijuana Establishment Business License Fees**

To Whom It May Concern:

Please be advised that the Carson City Business License Division intends to propose amending Carson City Municipal Code, Title 4 (Licenses and Business Regulations) to include business license fees for certain Marijuana Establishments. In accordance with NRS 237.080 and 237.090, Carson City has prepared a draft Business Impact Statement that outlines the proposed fees, and invites you to review and comment as it may have future impact on you, your members or associates. A copy of the draft Business Impact Statement is attached for your review.

The fees proposed are for business licenses for a Marijuana Establishment including the following:

- Retail Marijuana Store
- Marijuana Testing Facility

Please note that the proposed fees will replace current business license fees for medical marijuana business licenses as it relates only to the categories listed above.

In accordance with NRS 237,080, interested parties may provide feedback as to whether any of the proposed fee structures will:

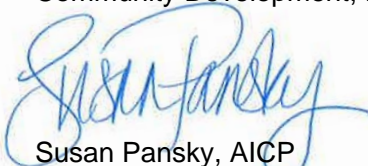
1. Impose a direct and significant economic burden upon a business; or
2. Directly restrict the formation, operation or expansion of a business.

Please submit any comments, data or arguments in writing **no later than 5:00pm on Monday, July 31, 2017** to the following:

Carson City Community Development, Business License Division  
Attn. Susan Pansky  
108 E. Proctor Street  
Carson City, NV 89701  
[spansky@carson.org](mailto:spansky@carson.org)

**The Business Impact Statement will be presented to the Board of Supervisors at their regular meeting on Thursday, August 3, 2017.** If you have any questions, please contact me at (775) 283-7076 or via email at [spansky@carson.org](mailto:spansky@carson.org).

Sincerely,  
Community Development, Business License Division



Susan Pansky, AICP  
Special Projects Planner

attachment

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## Carson City Business Impact Statement

The following business impact statement was prepared pursuant to NRS 237.080 and .090, to address the proposed impact of:

- a) AN ORDINANCE RELATING TO BUSINESS LICENSING; AMENDING TITLE 4, LICENSES AND BUSINESS REGULATIONS, CHAPTER 4.04, BUSINESS LICENSE, BY AMENDING SECTION 4.04.125, TEMPORARY BUSINESS LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, ADDING PROVISIONS FOR THE ISSUANCE OF A TEMPORARY BUSINESS LICENSE TO OPERATE AS A RETAIL MARIJUANA STORE OR A MARIJUANA TESTING FACILITY; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

- 1) NOTICE AND COMMENTS: The following describes the manner in which comment was solicited from affected trade associations and businesses, and a summary of their comments:

- a) Notice

*On July 7, 2017, letters were sent via email to representatives of the Carson City Chamber of Commerce, existing Medical Marijuana Dispensary operators in Carson City and their representatives, and persons known to Carson City staff as interested parties in the regulation of Marijuana Establishments. This communication notified the parties that they could submit written arguments and data concerning impacts of the proposed Ordinance on or before July 31, 2017 to Susan Pansky, Special Projects Planner, Carson City Community Development, Business License Division, 108 E. Proctor Street, Carson City, Nevada 89701, (775) 283-7076 or via email at [spansky@carson.org](mailto:spansky@carson.org).*

*The proposed Business Impact Statement was available for viewing at the Carson City Community Development Department, Planning Division at 108 E. Proctor Street, Carson City, Nevada 89701.*

- b) Summary of Comments

*Comments will be included after the required comment period has ended.*

- 2) ECONOMIC IMPACT

The estimated economic effect of the proposed rules on the businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

*The proposed Ordinance will set fees for Marijuana Establishments as follows:*

<i>Retail Marijuana Store</i>	<i>Three percent (3%) of gross revenue</i>
<i>Marijuana Testing Facility</i>	<i>Three percent (3%) of gross revenue</i>

*The fees outlined above will replace annual business license fees currently in effect for Medical Marijuana Dispensaries and Medical Marijuana Testing Facilities.*

# DRAFT

## a) Adverse Effects

*Direct and indirect adverse effects of the expansion of Marijuana Establishments beyond Medical Marijuana to Carson City are difficult to quantify, as are potential direct and indirect impacts on Marijuana Establishments proposing to do business in Carson City.*

*Potential impacts on future Marijuana Establishments will include the imposition of an annual business license fee to operate in Carson City. The proposed Ordinance will have an impact on existing Medical Marijuana Establishments as they expand their operations to include the retail sale of marijuana. Other business categories are not impacted by the proposed fees.*

*Potential impacts to the community of Carson City as a result of the allowance of Marijuana Establishments are outlined below:*

- *Despite Nevada's decriminalization pertinent to marijuana pursuant to Ballot Question Two, passed in the November 8, 2016 General Election, marijuana remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA) (Pub.L. 91-513, 84 Stat. 1236, enacted October 27, 1970, codified at 21 U.S.C. § 801 et. seq.).*
- *A Schedule I controlled substance under the CSA is defined as a drug that has a high potential for abuse (21 U.S.C. § 812).*
- *Regardless of such recognized danger, proponents of marijuana argue the legalization of marijuana for recreational use will allow the state to better focus its law enforcement resources on crimes involving violence, personal property and other similar crimes, while also providing tax revenue to the state for public education and enforcement of any marijuana regulations.*
- *Opponents of marijuana argue it is addictive, may lead to harder drug use, interferes with fertility, impairs driving ability, may injure the lungs, immune system, and/or brain, and increases heart rate and anxiety, among other negative impacts.*
- *Of paramount importance to Carson City is the protection of its citizens' health and, thus, to keep its citizens from being exposed to the risks associated with easier access to marijuana.*
- *Despite purported benefits, marijuana may rob its users of free will and interfere with users' abilities to make informed and rational decisions.*
- *Despite purported benefits, marijuana has adverse effects in the form of increased health care costs, increased violence associated with drug usage, neglect of children, and other third party effects.*
- *Decriminalizing marijuana may send the message to children that usage of marijuana is no different than the usage of any other legal substance intended for recreational use, such as alcohol or tobacco they may find in the home.*

# DRAFT

- *The ease of access to marijuana will also mean children will have easier access to this drug.*
- *Despite the restrictions and regulations of Marijuana Establishments in Nevada, there will be abuse causing interference with other aspects of life, just like with any alcohol, tobacco or drug, necessitating addiction treatment in some cases.*
- *Despite arguments that decriminalizing marijuana will raise tax revenue, the adverse effects to health, safety and welfare of citizens cannot be ignored and any revenue gained must be offset by resultant social costs.*
- *For example, for every \$1 in alcohol and tobacco taxes raised there are \$10 paid out on the resulting social costs (see Sabet, Baker Institute Blog, Rice University, [Marijuana: A case against legalization](#) (September 25, 2012)).*
- *Upon utilizing an equitable standard, section 2.260 of the Carson City Charter gives Carson City the power to fix, impose and collect a license tax for revenue or for regulation, or both, upon Marijuana Establishments doing business in Carson City.*
- *Sections 10 at subsections 3(a)(5) and section 11.5 of SB 374 acknowledges Carson City's right to issue business licenses to such Marijuana Establishments.*
- *When a power to license is given the intentment must be that regulation is the object and, indisputably, Carson City may regulate its licensees.*
- *The fees for the issuance of a business license to be exacted from Marijuana Establishments doing business in Carson City has been arrived at using an equitable standard in light of the potential costs associated with such businesses, including an increase in criminal justice and social costs.*

## b) Beneficial Effects

*It is anticipated that the amendments to Carson City Municipal Code, Title 4 will provide rules and regulations for the licensing and operation of Marijuana Establishments to provide for, among other things, the authorization of appropriate methods to supply marijuana to those citizens who are legally able to obtain it. The use, cultivation, distribution, production, possession and transportation of marijuana remains illegal under federal law, and the Department of Justice has given guidance to enact strict regulatory structures to ensure federal priorities are upheld. By enacting these amendments to Carson City Municipal Code, Title 4, Carson City is providing a framework under which Marijuana Establishments may operate with Carson City as well as appropriate fees to offset potential costs, including an increase in criminal justice and social costs.*

# DRAFT

## b) Direct Effects

*The proposed business license regulations for Marijuana Establishments do impose a direct economic impact upon a potential Marijuana Establishment proposing to do business in Carson City, but do not restrict the formation or expansion of a business to comply with the proposed regulations. The proposed business license categories may encourage businesses to apply for a Marijuana Establishment license in Carson City; the proposed fee amounts are anticipated to limit the ability of some businesses to apply for the proposed licenses.*

## c) Indirect Effects

*The passing of this measure may have indirect effects; however, because this is a new industry in the State of Nevada, those effects cannot be quantified at this time.*

## 3) METHOD TO REDUCE IMPACTS

The following constitutes a description of the methods that the governing body of the local government considered to reduce the impact of the proposed rules on businesses and a statement regarding whether and, and if so which, of these methods were used:

*Carson City considered lower fees for Marijuana Establishments but determined that lower fees would not offset the cost of potential negative impacts.*

## 4) ENFORCEMENT COST

The governing body estimates the annual cost to the local government for enforcement of the proposed rules is:

*Carson City is unable to determine the estimated cost of enforcement for Marijuana Establishments at this time, but anticipates that the costs associated with processing of business license applications, oversight of the industry, law enforcement and social programs will be offset by the proposed business license fees.*

## 5) FEE INCREASE

The total amount the local government expects to collect and the manner in which the money will be used, if the proposed ordinance creates a new fee or increases an existing fee.

*Based on annual revenue projections from the two operating dispensaries in Carson City, the projected annual licensing fee revenues would be approximately \$450,000. There are currently no operating testing facilities in Carson City to provide estimated revenue.*

## 6) DUPLICATE PROVISIONS

*The Nevada Tax Commission recently proposed temporary regulations for the operation of Marijuana Establishments that will apply to only those currently operating a Medical Marijuana Establishment. These temporary regulations were finalized on May 8, 2017. Because Carson City has an interest in providing for the licensing and regulation of Marijuana Establishments to protect the public health, safety and general welfare of the*

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*citizens of the City, and to regulate the use of buildings, structures, land use, business and other purposes, any duplicate provisions proposed that are already found in the temporary regulations are necessary to ensure that Carson City can exercise its regulatory powers.*

## 7) REASON FOR CONCLUSION

*The new license categories present opportunities created by changes in State law. Carson City's decision to allow Marijuana Establishment licenses, and impose the fees associated with them, is seen as a responsible effort to balance the various interests involved with or affected by resulting business activities.*

## **CERTIFICATION REQUIRED PER NRS 237.090(2)**

*I, Nick Marano, as City Manager for Carson City, hereby certify that, to the best of my knowledge or belief, the information contained in this Business Impact Statement was prepared properly and is accurate.*

*Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.*

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*Nick Marano, City Manager  
Carson City*



# Southgate Shopping Center

South Carson Street  
Carson City, NV 89701

July 18, 2017

MS SUSAN PANSKY  
CARSON CITY COMMUNITY DEVELOPMENT  
BUSINESS LICENSE DIVISION  
108 E PROCTOR STREET  
CARSON CITY NV 89701

RE: Ordinance amending Carson City Municipal Code, Title 4

Dear Susan:

In response to the Division's request for input in connection with the draft Business Impact Statement dealing with amendments to Title 4 as they relate to marijuana establishments, please accept the following comments.

The draft Business Impact Statement does a thorough job of identifying the numerous direct and indirect adverse effects of expanding the availability of marijuana beyond its current medicinal uses. Given these adverse impacts, it is difficult to understand why the City would ever consider expanding the availability of this drug for non-medical consumption. The decision appears to be based almost exclusively on the unsubstantiated presumption that the detrimental effects on Carson City of the sale of recreational pot in Washoe County can only be mitigated by making recreational marijuana available locally and taxing it.

As owners of property at the Southgate Shopping Center located immediately north of the Rise dispensary on Clearview Drive, we are deeply concerned about the additional costs we may incur (and by extension, our tenants) in an effort to protect our property, our customers and our retailers against the detrimental impacts of a likely increase in crime and homelessness in and around our area.

Today, even in the absence of a local source of recreational marijuana, we are routinely dealing with an often belligerent transient population that panhandles, urinates and defecates on our sidewalks and in our parking lot, and builds makeshift shelters and campfires in our detention

basin. Pueblo, Colorado has seen a 10-fold increase in its homeless population (from an average of 1,500 to an average of 15,000) since the legalization of recreational pot. They are lured by the ready availability of this narcotic often selling their food vouchers for cash or panhandling to raise money to feed their habits. Instead of spending \$45,600 annually on private security, we are now looking at potentially doubling that investment by extending existing hours of coverage in order to safeguard our property and ensure that our customers have a pleasant shopping experience while contributing tax dollars to the City's General Fund.

In addition, if the response to the availability of recreational pot is as overwhelming as some people predict, we question the adequacy of parking at the Clearview Center to handle the increased demand for product. Insufficient onsite parking will most likely result in the unauthorized use of parking at the Southgate Shopping Center which, by deed restriction, is reserved for customers and employees of our center. Countering this impact will require that we institute a more aggressive parking enforcement program, again, **at our expense**.

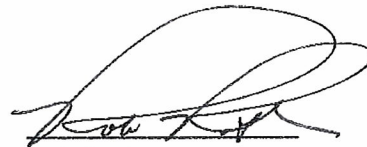
Given our good corporate citizenship and our substantial investment in this community, we would hope that the deference shown to our concerns would be equal, if not greater, than the deference being shown to the recreational pot industry which is imposing itself on a city that rejected its overtures at the ballot box in 2016.

Thank you for the opportunity to comment.

Sincerely,



Shelly Aldean  
President  
The Glenbrook Company



Rob Rothe  
President  
Carson Southgate LLC

## Susan Dorr Pansky

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**From:** Anthony Georgiadis <ageorgiadis@gtigrows.com>  
**Sent:** Saturday, July 08, 2017 6:54 AM  
**To:** Susan Dorr Pansky  
**Subject:** RE: Retail Marijuana Stores and Marijuana Testing Facilities - Proposed Business License Fees/Business Impact Statement

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

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Susan –

Thanks for this. While I don't agree w/ some of the adverse effects you have listed, I do agree with the 3% business license fee. We are in full support of it.

In addition, I have other thoughts with regard to allocation of funds that I could share but in the interest of not stepping out of my lane I will keep those to myself. If at any point anyone from Carson would like to please let me know. We have operations in 5 states and I can share where others have unsuccessfully and successfully allocated funds (i.e. education).

Many thanks,  
Anthony

Anthony Georgiadis | **GTI**  
[\(704\) 287-3447](tel:(704)287-3447)

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**From:** Susan Dorr Pansky [<mailto:SPansky@carson.org>]  
**Sent:** Friday, July 7, 2017 2:52 PM  
**To:** Susan Dorr Pansky <[SPansky@carson.org](mailto:SPansky@carson.org)>  
**Subject:** Retail Marijuana Stores and Marijuana Testing Facilities - Proposed Business License Fees/Business Impact Statement  
**Importance:** High

To Whom It May Concern –

Please find attached a letter and draft Business Impact Statement regarding Carson City's proposal to implement business license fees for Marijuana Establishments, specifically Retail Marijuana Stores and Marijuana Testing Facilities. You are receiving this information because you have either expressed interest in Marijuana Establishments or may represent businesses that could be impacted by the proposed fees. Carson City invites you to review the attached letter and draft Business Impact Statement and provide written comment on the proposed fees.

**Comments are due no later than 5:00pm on Monday, July 31, 2017.** Please feel free to contact me if you have questions. Thank you.

Susan Pansky, AICP  
Special Projects Planner  
Carson City Community Development, Planning Division  
108 E. Proctor Street  
Carson City, NV 89701