

ORDINANCE NO. 17-004

SUMMARY: AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF EUREKA COUNTY, STATE OF NEVADA, TO AMEND THE JULY 2014 EDITION OF THE EUREKA COUNTY CODE, TITLE 6, HEALTH AND WELFARE, BY REVISION, MODIFICATION AND EXTENSION, BY AMENDING TITLE 6, TO EXPAND THE PROHIBITION ON MARIJUANA ESTABLISHMENTS WITHIN EUREKA COUNTY TO INCLUDE BOTH MEDICAL AND RECREATIONAL MARIJUANA ESTABLISHMENTS, AND OTHER MATTERS PROPERLY RELATING THERETO.

TITLE: THIS ORDINANCE SHALL BE KNOWN AS THE RESPONSE TO THE 2016 PASSAGE OF STATEWIDE BALLOT QUESTION TWO, INITIATIVE TO REGULATE AND TAX MARIJUANA ORDINANCE.

The Board of Commissioners of Eureka County, a political subdivision of the State of Nevada, does hereby ordain:

The 2014 Eureka County Code is hereby amended pursuant to the procedural requirements of N.R.S. 244.095 and N.R.S. 244.100. Title 6, Health and Welfare, Chapter 60, Prostitution and Marijuana, shall hereafter read as follows:

Title 6: Health and Welfare
Chapter 60:Prostitution and Marijuana
Sections: .010 through .060

<u>Title</u>	<u>Chapter</u>	<u>Section</u>	<u>Heading</u>
6	60	.010	Prostitution prohibited - Generally
6	60	.020	Sexual intercourse for hire and other lewd acts Prohibited
6	60	.030	Operation of house of prostitution prohibited
6	60	.040	Medical tests for violators
6	60	.050	Medical <i>and recreational</i> marijuana establishments prohibited
6	60	.060	Violation - Penalty

Chapter 60 - PROSTITUTION AND MARIJUANA

.010 Prostitution prohibited - Generally

It is unlawful, as an act of prostitution, for any person within the County to engage in sexual intercourse, for any money or thing of value, with a person to whom he or she is not married, or to solicit a person, to whom he or she is not married, to have sexual intercourse, for any money or thing of value, with the person so soliciting.

.020 Sexual intercourse for hire and other lewd acts prohibited

In the County it is unlawful for any person to:

- A. Receive money or other thing of value in exchange for another person committing an act of sexual intercourse or an act of moral perversion;
- B. Pay or offer or agree to pay another person to commit a lewd act or an act of sexual intercourse;
- C. Commit or offer or agree to commit any act of moral perversion;
- D. Secure or offer another person, for the purpose of committing a lewd act or an act of sexual intercourse, for hire or of moral perversion;
- E. Induce, entice or procure, or attempt to induce, entice or procure, another person, in or near any place frequented by the public or any public place, to commit a lewd act or an act of sexual intercourse for hire or of moral perversion;
- F. Knowingly transport any person to any place in the County for the purpose of committing a lewd act or an act of sexual intercourse for hire or moral perversion;
- G. Knowingly transport any person to any place in the County for the purpose of offering or agreeing to pay another person to commit a lewd act or an act of sexual intercourse;
- H. Knowingly receive, or offer to agree to receive, any person into any place or building in the County for the purpose of performing a lewd

act, or an act of sexual intercourse for hire or of moral perversion, or to knowingly permit any person to remain in any place or building in the unincorporated areas of the County for any such purpose;

- I. Aid, abet, allow, permit, or participate in the commission of any of the acts prohibited.

.030 Operation of house of prostitution prohibited

It is unlawful for any person in the County to keep, set up, maintain, operate, lease or rent any person or place, structure, building, or conveyance for the purpose of having therein sexual intercourse for any money or thing of value between persons not married to each other, knowing that said persons are not married to each other.

.040 Medical tests for violators

- A. Any person who is arrested for a violation of .010, .020, and .030 must submit to a test, approved by regulation of the State Board of Health, to detect exposure to the human immunodeficiency virus. If the person is convicted of a violation of this chapter, he shall pay the sum of one hundred (\$100.00) dollars for the cost of the test.
- B. If the results of the test are positive, the person performing the test shall immediately transmit the results of the test to the arresting law enforcement agency. That agency shall:
 1. Mail the results by certified mail to the person arrested, at his or her last known address; or
 2. If the person arrested is in the custody of the agency, personally deliver the results to him or her.

.050 Medical marijuana and recreational establishments prohibited

~~“Medical marijuana establishments,” as that term is defined in accordance with Senate Bill 374 of the 2013 State Legislature, are hereby prohibited in Eureka County.~~

- A. *Medical marijuana establishments, as defined by NRS Chapter 453A (Medical Use of Marijuana), as amended, and all applicable regulations, are a prohibited use on all lands within Eureka County.*

- B. Recreational marijuana establishments, as defined by the 2016 Regulation and Taxation of Marijuana Act, as amended, and all applicable regulations, is a prohibited use on all lands within Eureka County.*
- C. These prohibitions on medical and recreational marijuana establishments do not interfere with an individual's opportunity in accordance with State regulation to possess and grow marijuana for personal use, but any commercial purpose in Eureka County remains prohibited, including but not limited to commercial cultivation, testing, product manufacturing, wholesale distribution, and retail distribution within Eureka County.*
- D. Medical and recreational marijuana establishments are prohibited based upon the following findings of the Board:*
- 1. Transport, possession, use and distribution of controlled substances, including marijuana, remains prohibited by federal law and 21 U.S.C. § 841; and*
 - 2. Use or being under the influence of controlled substances, including marijuana, remains prohibited by state law and N.R.S. 453.411; and*
 - 3. The Board of Eureka County Commissioners are empowered by state law to safeguard the public health, safety, and general welfare through N.R.S. Chapters 278 and 244; and*
 - 4. The limited extent of local government resources, the limited nature of the demand for marijuana establishments based in Eureka County to serve a total population of approximately 2,000 persons, all of whom are not even eligible to possess or use marijuana, and the potential for negative impacts to the County's citizens from an industry authorized by state law but still prohibited by federal and some state criminal laws, are all factors which mitigate against allowing marijuana establishments in Eureka County; and*
 - 5. Eureka County is a large but sparsely populated rural county predominated by agriculture, ranching, and mining activity, and as such marijuana establishments do not fit within Eureka County's character and culture, and are incompatible with the existing land uses and land use categories described by the Eureka County Master Plan; and*

6. *Those persons wishing to avail themselves of marijuana for medical or recreational use are not prohibited by this ordinance from the opportunity to grow their own, or from travelling to establishments outside of Eureka County for purchase of marijuana.*

.060 Violation - Penalty

Any person who violates any provision of this chapter shall be guilty of a misdemeanor; and each and every day shall constitute a separate violation.

Effective Date:

This Ordinance shall be effective upon adoption and publication as provided by the Nevada Revised Statutes.

PROPOSED on the 20TH day of APRIL, 2017.

PROPOSED by: COMMISSIONER SHARKOZY.

PUBLIC HEARING SET for the 9TH day of JUNE, 2017 at 12:00 NOON p.m. or as soon thereafter as the matter may be heard.

AYES: Commissioners GOICGECHA, SHARKOZY, ETCHEGARAY.

NAYS: Commissioner NONE.

ABSENT: Commissioner NONE.

ABSTENTIONS: Commissioner NONE.

Business Impact Statement.

Pursuant to N.R.S. Chapter 237 the following business impact statement is prepared:

1. The proposed ordinance is not likely to impose a direct and significant economic burden upon a business or businesses.
2. The proposed ordinance is not likely to directly restrict the formation, operation or expansion of a business or businesses, *as transport, possession, use and distribution of marijuana remains a federal crime.*

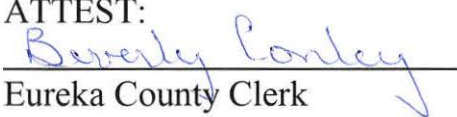
These determinations are made because there is no additional provision which places a burden on business that does not already exist by law.

THE BOARD OF COMMISSIONERS OF
EUREKA COUNTY, a political subdivision of the
State of Nevada



JJ Goicoechea, Chairman

ATTEST:



Eureka County Clerk

This Ordinance shall be in force and effect from and after the 1st day of JULY,
2017.