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BILL NO. 12-6-22-2

SUMMARY – An ordinance to amend Clark County Code Title 8, Chapter 8.65 – Adult-Use Cannabis Establishments; providing for the licensure of cannabis consumption lounges; adding definitions related to cannabis consumption lounges; establishing license application requirements; providing for business license fees; and providing for other matters properly related thereto

ORDINANCE NO. _____

(of Clark County, Nevada)

AN ORDINANCE TO AMEND CLARK COUNTY CODE TITLE 8, CHAPTER 8.65 – ADULT-USE CANNABIS ESTABLISHMENTS; PROVIDING FOR THE LICENSURE OF CANNABIS CONSUMPTION LOUNGES; ADDING DEFINITIONS RELATED TO CANNABIS CONSUMPTION LOUNGES; ESTABLISHING LICENSE APPLICATION REQUIREMENTS; PROVIDING FOR BUSINESS LICENSE FEES; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. Title 8 of the Clark County Code is hereby amended by amending Section 8.65.005 of the Code to read as follows:

8.65.005 Findings.

On November 8, 2016, in the interest of public health and public safety, and in order to better focus state and local law enforcement resources on crimes involving violence and personal property, the people of the State of Nevada approved ballot question #2 legalizing the use of cannabis for

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persons twenty one years of age or older, and providing that its cultivation and sale should be regulated similar to other legal businesses. Ballot question #2 was originally codified in Nevada Revised Statute 453D ("NRS 453D") and directed that the Nevada State Department of Taxation ("DOT") will promulgate regulations within Nevada Administration Code 453D ("NAC 453D") for the operation of cannabis establishments.

During the 2019 Nevada State Legislative Session the statutes relating to marijuana (now referred to as cannabis) were revised and moved from Chapters 453A and 453D of the NRS to Chapters 678A, 678B, 678C and 678D of the NRS. This legislation also created the Cannabis Compliance Board [~~a-cannabis-compliance-board~~] and many of the duties are, as of July 1, 2020, transferred from the Nevada Department of Taxation to the Cannabis Compliance Board [~~cannabis-compliance-board~~]. On July 21, 2020, the Cannabis Compliance Board [~~cannabis-compliance-board~~] adopted new regulations, Nevada Cannabis Compliance Regulations (NCCR 1-14), that replaced Chapters 453A and 453D of the Nevada Administrative Code (NAC).

During the 2021 Nevada State Legislative Sessions the statutes relating to cannabis (formerly referred to as marijuana) were revised (Assembly Bill 341) to allow for the licensure of cannabis consumption lounges where certain cannabis and cannabis products may legally be consumed by the public. On June 28, 2022, the Nevada Cannabis Compliance Board approved Regulation 15 regarding the licensing and regulation of cannabis consumption lounges.

Regulated cannabis establishments include cannabis cultivation facilities, cannabis testing facilities, cannabis product manufacturing facilities, cannabis distributors, [~~and~~] retail cannabis stores, and cannabis consumption lounges.

In a memo, dated August 29, 2013, from Deputy Attorney General James M. Cole to all United States attorneys ("the Cole memo"), guidance is provided regarding marijuana

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enforcement. The Cole memo outlines the following eight enforcement priorities that are of particular importance to the federal government:

- (a) Preventing the distribution of marijuana to minors;
- (b) Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- (c) Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- (d) Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- (e) Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- (f) Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- (g) Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- (h) Preventing marijuana possession or use on federal property.

In the Cole memo, there is an expectation that states and local governments will implement strong and effective regulatory and enforcement systems that will address any threat to public safety, public health, and other law enforcement interests. Such systems must contain robust written controls and procedures that are effective in practice. Jurisdictions that have implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana and conduct in compliance with those laws and regulations are less likely to threaten the federal priorities. A robust system may affirmatively address those

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priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market which tracks and accounts for revenues. It is the board of county commissioners' intent to provide such a strong and effective regulatory and enforcement system to control the cultivation, distribution, sale and possession of marijuana and to be cognizant of the eight enforcement priorities in the Cole memo.

It is found and declared that the public health, safety and welfare of the inhabitants of the unincorporated areas of the county, require the regulation and control of all persons engaged in, associated with, or in control of, the business of retail cannabis establishments. All such persons, as defined in this chapter, shall be licensed and regulated so as to protect the public health, safety and general welfare of the inhabitants of the unincorporated areas of the county and to safeguard the public. It is further found and declared that the right to obtain such a license is a privilege and that the operation of such a retail cannabis establishment, when authorized by such license, is a privileged business subject to regulations, and that the license may be revoked for violation of the conditions of this chapter. In the event of a conflict with any of the provisions contained in any applicable chapter of Title 6 or 7 of the Clark County Code, the provisions of this chapter shall be controlling.

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SECTION TWO. Title 8 of the Clark County Code is hereby amended by amending Subsection 8.65.010.015 to read as follows:

8.65.010.015 Adult-use cannabis establishment.

"Adult-use cannabis establishment" shall have the same meaning ascribed to it in NRS 678A.035, and means:

- (a) An adult-use cannabis independent testing laboratory;
- (b) An adult-use cannabis cultivation facility;
- (c) An adult-use cannabis production facility;
- (d) An adult-use cannabis retail store; ~~[or]~~
- (e) An adult-use cannabis distributor ~~[;]~~ ;
- (f) A retail cannabis consumption lounge; or
- (g) An independent cannabis consumption lounge.

SECTION THREE. Title 8 of the Clark County Code is hereby amended by adding a new Section 8.65.010.067 to read as follows:

8.65.010.067 Cannabis consumption lounge.

"Cannabis consumption lounge" shall have the same meaning ascribed to it in NRS 678A.087, and means:

- (a) A retail cannabis consumption lounge; or
- (b) An independent cannabis consumption lounge.

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SECTION FOUR. Title 8 of the Clark County Code is hereby amended by adding a new Section 8.65.010.142 to read as follows:

8.65.010.142 Independent cannabis consumption lounge.

“Independent cannabis consumption lounge” shall have the same meaning ascribed to it in NRS 678A.157, and means a business that:

(a) Is licensed by the Cannabis Compliance Board pursuant to NRS 678B.250;

(b) Is not attached or immediately adjacent to an adult-use cannabis retail store; and

Allows single-use cannabis products or ready-to-consume cannabis products to be consumed on the premises of the business by persons 21 years of age or older.

SECTION FIVE. Title 8 of the Clark County Code is hereby amended by adding a new Section 8.65.010.156 to read as follows:

8.65.010.156 Ready-to-consume cannabis product.

“Ready-to-consume cannabis product” shall have the same meaning ascribed to it in NRS 678A.227, and means an adult-use edible cannabis product that is:

(a) Prepared on the premises of a cannabis consumption lounge;

(b) Presented in the form of a foodstuff or beverage;

(c) Sold in a heated or unheated state; and

(d) Intended for immediate consumption.

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SECTION SIX. Title 8 of the Clark County Code is hereby amended by adding a new Section 8.65.010.157 to read as follows:

8.65.010.157 Retail cannabis consumption lounge.

“Retail cannabis consumption lounge” shall have the same meaning ascribed to it in NRS 678A.237, and means a business that:

- (a) Is licensed by the Cannabis Compliance Board pursuant to NRS 678B.250;
- (b) Is attached or immediately adjacent to an adult-use cannabis retail store; and
- (c) Allows single-use cannabis products or ready-to-consume cannabis products to be consumed on the premises of the business by persons 21 years of age or older.

SECTION SEVEN. Title 8 of the Clark County Code is hereby amended by adding a new Section 8.65.010.158 to read as follows:

8.65.010.158 Single-use cannabis product.

“Single-use cannabis product” shall have the same meaning ascribed to it in NRS 678A.238, and means a type of cannabis or adult-use cannabis product, other than a ready-to-consume cannabis product, that the Cannabis Compliance Board has determined to be appropriate for consumption in a cannabis consumption lounge pursuant to NRS 678D.480.

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SECTION EIGHT. Title 8 of the Clark County Code is hereby amended by amending Section 8.65.030 to read as follows:

8.65.030 Compliance with state and county laws and regulations.

Cannabis establishment licensees must comply with all applicable state and County laws, rules and regulations, including, but not limited to, NRS 678A, 678B, 678D, NCCR 1-15 [~~NCCR 1-14~~], and Chapters 6.04, 6.08 and Title 8 and Title 30 of the County Code.

SECTION NINE. Title 8 of the Clark County Code is hereby amended by amending Section 8.65.050 to read as follows:

8.65.050 Application for a business license.

Upon the receipt of a cannabis establishment license from the compliance board, each proposed cannabis establishment to be located within the unincorporated areas of the county must apply for a county business license on forms approved by the director and provide such other information as the director may require including, but not limited to, information to determine the suitability of the applicant and the operational plan to operate an adult-use cannabis retail establishment. The grounds for denial of an application for a business license are found in Section 8.65.250 of this Code.

An application for a cannabis consumption lounge must be accompanied by the following plans that have been submitted to the Nevada Cannabis Compliance Board pursuant to NRS 678D.455:

- (a) the security plan which, without limitation, provides for adequate security and lighting at the cannabis consumption lounge and for each entrance and exit of the cannabis

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- consumption lounge to be adequately secured, and submit to the Department such updates to the plan as the Department may require;
- (b) the plan setting forth protocols and procedures to deter customers from driving under the influence of cannabis and submit to the Department such updates to the plan as the Department may require;
- (c) the plan setting forth protocols and procedures to ensure that cannabis and cannabis products are not sold or otherwise distributed in the cannabis consumption lounge other than as authorized in this chapter or NRS 678D, and submit to the Department such updates to the plan as the Department may require;
- (d) the ventilation plan and odor mitigation plan as required by NCCR Section 15.055; and
- (e) an employee training plan that satisfies the requirements contained in NCCR Section 15.045.

SECTION TEN. Title 8 of the Clark County Code is hereby amended by amending Section 8.65.110 to read as follows:

8.65.110 Support businesses to adult-use cannabis establishments.

(a) Businesses that support adult-use cannabis establishments located within unincorporated Clark County or that provide services within unincorporated Clark County and are not involved with the cultivation, production, retail sale or testing of cannabis or cannabis products that would require a cannabis establishment license from the compliance board or an adult-use cannabis establishment business license pursuant to this chapter, are required to apply for and obtain a county business license for an adult-use cannabis support business. The term "adult-use cannabis support business," as used in this chapter, means a business that:

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- (1) Is required to obtain a county business license pursuant to Titles 6, 7 or 8 of the Code;
 - (2) Is engaged in cannabis support business activities in unincorporated Clark County;
and
 - (3) More than fifty percent of the business' total annual revenue from all sales and services within Clark County is derived from providing cannabis products or services as described in this section.
- (b) Adult-use cannabis support businesses provide products or services to adult-use cannabis establishments including, but not limited to:
- (1) Security services;
 - (2) Consulting services;
 - (3) Insurance coverage for a cannabis establishment;
 - (4) Accounting services;
 - (5) Financial services;
 - (6) Real estate services;
 - (7) Delivery services;
 - (8) Vaporizer products;
 - (9) ~~(8)~~ Packaging and labeling supplies; and
 - (10) ~~(9)~~ Devices and other equipment that are necessary or useful for a person to engage in the use of cannabis.
- (c) The department may, in order to determine suitability, conduct a background investigation on anyone having a financial interest in an adult-use cannabis support business including, but not limited to, a lender of funds or other assets. Adult-use cannabis support businesses that are required to obtain a county business license shall pay a semiannual license fee which is

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determined by the schedule in Section 6.12.995 of the Code based on the amount of semiannual gross revenue of the licensee. All such license fees shall be due and subject to any applicable late fees pursuant to Section 6.04.060 of this Code.

SECTION ELEVEN. Title 8 of the Clark County Code is hereby amended by amending Section 8.65.130 to read as follows:

8.65.130 Sale or production of products.

It is unlawful for:

- (a) An adult-use cannabis independent testing laboratory to sell, at retail or wholesale, any cannabis or cannabis products to anyone;
- (b) An adult-use cannabis cultivation facility to sell any cannabis to anyone other than a licensed adult-use cannabis production facility, a licensed adult-use cannabis retail store or another licensed adult-use cannabis cultivation facility;
- (c) An adult-use cannabis production facility to sell any cannabis or cannabis products to anyone other than a licensed adult-use cannabis retail store or another adult-use cannabis production facility.
- (d) An adult-use cannabis production facility to:
 - (1) Produce cannabis-infused beer, wine or spirits; or
 - (2) Compound cannabis with over the counter or prescription drugs;
- (e) An adult-use cannabis retail store or a cannabis consumption lounge to sell or provide to an individual under twenty-one years of age:
 - (1) Cannabis;
 - (2) Cannabis products; or

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- (3) Accessories, devices and other equipment that are necessary or useful for a person to engage in the use of cannabis.

SECTION TWELVE. Title 6 of the Clark County Code is hereby amended by amending Section 6.36.020 to read as follows:

8.65.160 Duties of licensee.

It is the affirmative duty of each holder of an adult-use cannabis establishment license or an adult-use cannabis support business license to strictly comply with all of the applicable provisions of this Code and state statutes and regulations regulating adult-use cannabis establishments and cannabis support businesses and, without limiting the generality of the foregoing, each holder of an adult-use cannabis establishment license or an adult-use cannabis support business license must:

- (a) Maintain and conduct all activities upon the premises in a decent and respectful manner and shall not knowingly permit, within or upon the licensed premises, any use or consumption of any cannabis or cannabis products, or permit any conditions that could cause disorder, disturbances, excessive loitering, nuisances or other activities which endanger the health or safety of the patrons or disrupt the peace or order of the neighborhood;
- (b) Be responsible for the acts of his or her employees, agents and volunteers when they are performing their duties for the adult-use cannabis establishment;
- (c) Maintain adequate security to ensure compliance with the requirements of this chapter, NRS 678D and NCCR 1-15 [~~NCCR 1-14~~];

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- (d) Operate and maintain the adult-use cannabis establishment in a professional, orderly and dignified manner that is consistent with the positive image, quality, perception and appearance of the community;
- (e) Not promote or advertise the adult-use cannabis establishment in a manner that is inconsistent with the traditional style of advertising for alcohol and tobacco products;
- (f) ~~[Provide a county business license customer service card as part of the establishment's educational materials;~~
- ~~(g)~~ Comply with and adhere to all public safety requirements and conditions from any inspection agency, including, but not limited to, occupancy and signage requirements set forth by the fire department, department of environment and sustainability, building department and health district; ~~[and]~~
- ~~(g h)~~ Remain qualified to hold a license pursuant to this chapter of the code and state law; and
- (h) If a cannabis consumption lounge, provide to the department all menu items approved by the CCB or keep on site for review during inspections.

For the purposes of this section, "premises" means all portions of the building in which the licensee is located and over which it has control and that area or parking lot over which the licensee has ownership or contractual parking privileges. Licensees shall ensure that their premises remain free of graffiti.

SECTION THIRTEEN. Title 8 of the Clark County Code is hereby amended by adding a new Section 8.65.162 to read as follows:

8.65.162 Additional duties of a cannabis consumption lounge licensee.

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In addition to the duties prescribed in Section 8.65.160 of the Code, each holder of a cannabis consumption lounge license must not allow:

- (a) The consumption of cannabis or cannabis products at any place which is within view of a public place;
- (b) The entry of any person who is less than 21 years of age to the cannabis consumption lounge;
- (c) The consumption of any cannabis or cannabis product in the cannabis consumption lounge that is not a single-use cannabis product or ready-to-consume cannabis product;
- (d) A single-use cannabis product or ready-to-consume cannabis product that was purchased at the cannabis consumption lounge to be removed from the premises of the cannabis consumption lounge; or
- (e) Any vehicle to be towed from the premises of the cannabis consumption lounge for at least twenty-four (24) hours after it is parked on the premises, except in cases where: (1) the vehicle is stopped in a marked fire zone; (2) the vehicle is blocking an exit or entrance to the premises; (3) the vehicle is parked in a handicap space without a valid handicap license plate or tag; or (4) a court order or peace officer orders the vehicle to be towed. Notice of the No-Tow policy must be displayed on the property of the cannabis consumption lounge and written verification from the owner of the property that the property owner agrees to the 24-hour no tow policy must be made immediately available for inspection upon request.
- (f) The sale of any cannabis or cannabis products within two (2) hours of the close of each day's business, if applicable.

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SECTION FOURTEEN. Title 8 of the Clark County Code is hereby amended by adding a new Section 8.65.164 to read as follows:

8.65.164 Provision of food, beverage and live entertainment at a cannabis consumption lounge.

A cannabis consumption lounge may:

- (a) Sell food and non-alcoholic beverages to customers of the cannabis consumption lounge;
- (b) Sell any other item that is not prohibited by this Chapter or NCCR Section 15.030, which does not contain cannabis or cannabis products and is not intended for use with cannabis or cannabis products to customers of the cannabis consumption lounge; and
- (c) Provide live entertainment at the cannabis consumption lounge upon obtaining a permit from the director.

SECTION FIFTEEN. Title 8 of the Clark County Code is hereby amended by adding a new Section 8.65.166 to read as follows:

8.65.166 Retail cannabis consumption lounge.

(a) A retail cannabis consumption lounge may:

- (1) Obtain from the adult-use cannabis retail store to which the retail cannabis consumption lounge is attached or immediately adjacent:
 - (A) Single-use cannabis products for the purpose of resale; and
 - (B) Cannabis and cannabis products for the purposes of producing ready-to-consume cannabis products;

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(2) Sell single-use cannabis products obtained pursuant to paragraph (a) of this section to customers of the retail cannabis consumption lounge; and

(3) Prepare ready-to-consume cannabis products using cannabis obtained pursuant to paragraph (a) of this section and sell such products to customers of the retail cannabis consumption lounge.

(b) A retail cannabis consumption lounge shall ensure that only single-use cannabis products or ready-to-consume cannabis products that were purchased from the retail cannabis consumption lounge are consumed in the lounge.

SECTION SIXTEEN. Title 8 of the Clark County Code is hereby amended by adding a new Section 8.65.168 to read as follows:

8.65.168 Independent cannabis consumption lounge.

(a) An independent cannabis consumption lounge shall enter into a contract with one or more adult-use retail cannabis retail stores to sell to the independent cannabis consumption lounge:

(1) Single-use cannabis products for the purpose of resale; and

(2) Cannabis and cannabis products for the purposes of producing ready-to-consume cannabis products.

(b) An independent cannabis consumption lounge which has entered into a contract pursuant to Subsection 1 of this section may:

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- (1) Sell single-use cannabis products obtained pursuant to Subsection 1 of this section to customers of the independent cannabis consumption lounge; and
- (2) Prepare ready-to-consume cannabis products using cannabis obtained pursuant to Subsection 1 of this section and sell such products to customers of the independent cannabis consumption lounge.
- (c) An independent cannabis consumption lounge shall ensure that only single-use cannabis products or ready-to-consume cannabis products that were purchased from the independent cannabis consumption lounge are consumed in the lounge.

SECTION SEVENTEEN. Title 8 of the Clark County Code is hereby amended by amending Section 8.65.170 to read as follows:

8.65.170 Disposal of waste.

- (a) Cannabis and cannabis products must be stored, secured and managed in accordance with all applicable state and county statutes, regulations, ordinances or other requirements.
- (b) Conservation of water is strongly encouraged and liquid waste from cannabis establishments shall be disposed of in accordance with all applicable federal, state and county laws, regulations, rules or other requirements.
- (c) Disposal of chemical, dangerous or hazardous waste must be conducted in a manner consistent with federal, state and county laws, regulations, rules and other requirements. This disposal may include, but is not limited to, the disposal of all pesticide or other chemicals used in the cultivation process, certain solvents or other chemicals used in the production of

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cannabis concentrates or any cannabis soaked in flammable solvent for purposes of producing a cannabis concentrate.

(d) Solid waste generated from the cultivation of cannabis or cannabis products, including products that have exceeded the expiration date for sale, or from the testing of cannabis or cannabis products must be disposed of in such a manner as to make the waste unusable and unrecognizable and the disposal of cannabis waste must be documented in the inventory control system pursuant to the provisions in NCCR 1-15 [~~NCCR 1-14~~].

(e) Solid waste generated at a cannabis consumption lounge from ready-to-consume cannabis products or single-use cannabis products, including, but not limited to, such products purchased by a consumer, but not fully consumed, must be disposed of in such a manner as to make the waste unusable and unrecognizable and the disposal of cannabis waste must be documented in the inventory control system pursuant to the provisions in NCCR 1-15.

SECTION EIGHTEEN. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the remaining parts of this ordinance. It is the intent of the County Commission in adopting this ordinance that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this ordinance are declared to be severable.

SECTION NINETEEN. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

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SECTION TWENTY. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the _____ day of _____, 2022.

PROPOSED BY: Commissioner _____

PASSED on the _____ day of _____, 2022.

AYES: _____

NAYS: _____

ABSTAINING: _____

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ABSENT: _____

BOARD OF COUNTY COMMISSIONERS

BY: _____
JAMES B. GIBSON, Chair

ATTEST:

LYNN MARIE GOYA, County Clerk

This ordinance shall be in force and effect from and after
the _____ day of _____ 2022.