

# NYE COUNTY AGENDA INFORMATION FORM

Action     
  Presentation     
  Presentation & Action

<b>Department:</b> District Attorney		<b>Agenda Date:</b>	
<b>Category:</b> Timed Agenda Item – 10:00 a.m.		<b>June 18, 2019</b>	
<b>Contact:</b> Chris Arabia, District Attorney		Phone: 775-751-7080	Continued from meeting of:
<b>Return to:</b> Chris Arabia	<b>Location:</b> Pahrump		Phone:
<b>Action requested:</b> (Include what, with whom, when, where, why, how much (\$) and terms)			
Public Hearing, discussion and deliberation regarding a request to: 1) Adopt, amend and adopt, or reject Nye County Bill No. 2019-08: a Bill proposing to amend Title 9 of the Nye County Code, titled Public Peace Morals and Welfare by adding a new Chapter 9.05 titled Panhandling, Vagrancy and Disorderly Conduct; providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto; and 2) Set an effective date.			
<b>Complete description of requested action:</b> (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)			
Staff recommends adoption of the Bill with an effective date of July 8, 2019.			
Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 10 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.			
<b>Expenditure Impact by FY(s):</b> (Provide detail on Financial Form)			
<input checked="" type="checkbox"/> No financial impact			

**Routing & Approval (Sign & Date)**

1. Dept	Date	6.	Date
2.	Date	7.	Date
3.	Date	8. Legal	Date
4.	Date	9. Finance	Date <i>Na</i>
5.	Date	10. County Manager	Date

Place on Agenda  
  
**ITEM #** 8

**BILL NO. 2019-08**

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

**SUMMARY:** A BILL PROPOSING TO AMEND TITLE 9 OF THE NYE COUNTY CODE TITLED PUBLIC PEACE MORALS AND WELFARE, BY ADDING A NEW CHAPTER 9.05 TITLED PANDHANDLING, VAGRANCY AND DISORDERLY CONDUCT; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF, AND OTHER MATTERS PROPERLY RELATING THERETO.

**TITLE:** A BILL PROPOSING TO AMEND TITLE 9 OF THE NYE COUNTY CODE TITLED PUBLIC PEACE MORALS AND WELFARE, BY ADDING A NEW CHAPTER 9.05 TITLED PANDHANDLING, VAGRANCY AND DISORDERLY CONDUCT; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF, AND OTHER MATTERS PROPERLY RELATING THERETO.

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

**WHEREAS,** pursuant to NRS 244.357 the Board is authorized to regulate all police, sanitary, loitering, prowling and traffic ordinances to apply throughout the entire county or, only a limited area within the county; and

**WHEREAS:**

A. The maintenance and improvement of the quality of life and economic vitality of Nye County are significant government interests.

B. The preservation of the health, safety and welfare of all members of the public, including prevention of assault, battery, theft, and disturbances of the peace, as well as other crimes and disorder, are significant government interests.

C. The public has a right to access, use and enjoy public property and public places, free from intimidation, fear and unwarranted confrontation. Protection of this right of the public is a significant government interest. The government has a legitimate interest in minimizing fear, intimidation and unwarranted confrontations of the public during daytime hours, or during nighttime hours, which is a time when criminal activity is more likely to occur.

D. Aggressive solicitations threaten these significant government interests by diminishing access to, and use and enjoyment of public places, and also threaten the commercial well-being of local businesses, and create an environment of fear, intimidation, and confrontation.

E. Solicitations in certain locations, at certain times affecting a solicitation environment, or in locations where members of the public are less able to avoid solicitations, also threaten these significant government interests. Such solicitations also diminish access to and enjoyment of public places, threaten the commercial well-being of local businesses, and create an environment of fear, intimidation, and confrontation.

F. It is the intent of the Board to protect the public from persons who engage in aggressive solicitations, or who engage in other methods of solicitation that diminish or prevent the public's right of access to, and use and enjoyment of public places, but without prohibiting any person's such right and without impinging on the use of the public forum by all.

G. Regulation of solicitation is necessary to meet the Board's intent; to protect quality of life, economic vitality, health, safety and welfare, and the rights of the public.

H. It is the intent of the Board in enacting this Ordinance to recognize free speech rights for all citizens while at the same time protecting the coexistent rights for all citizens to enjoy safe and convenient travel in public spaces free from intimidating conduct, threats, and harassment that stem from certain types of abusive solicitation, or that may give rise to interference with other's activities if they occur in particular settings and contexts; and

I. The Board finds that there are numerous forms of solicitation that are not in and of themselves inherently threatening or aggressive, including vocal requests for a donation; carrying or displaying a sign requesting donations; shaking or jingling a cup of change; and ringing a bell in compliance with any applicable noise ordinance.

J. The Board also finds that the presence of solicitors in certain specific areas (such as near to or adjacent to automatic teller machines, adjacent to sidewalk cafes, at public bus stops, and in public parking areas) create reasonable concerns by citizens objectively worried about their privacy, freedom of movement, and personal security; and

K. The Board further finds that certain forms of solicitation impede the orderly flow of pedestrian and vehicular traffic and leads to concerns regarding traffic and public safety, particularly in congested roadways and sidewalks (as defined below to include highly traveled areas, lines to enter buildings or on small traffic medians of high-speed or high-volume streets and highways); and

L. This Ordinance is not intended impermissibly to limit an individual's right to exercise free speech associated with solicitation; rather it aims to impose specific time, place, and manner restrictions on solicitation and associated conduct in certain limited circumstances; namely, limiting aggressive panhandling, panhandling at locations or times deemed particularly threatening and dangerous, and there is a wish to avoid or reduce a threat of inescapable confrontations; and

M. In promulgating this Ordinance, The Board seeks to regulate certain behavior to preserve the public order, to protect the citizens of Nye County and to ensure the safe and uninterrupted passage of both pedestrian and vehicular traffic, without unconstitutionally impinging upon protected speech, expression or conduct.

N. The Board finds that "passive panhandling, begging, charitable or political solicitation," as defined in section 9.05.010 of this ordinance should be treated as speech protected under the First Amendment unless other well-grounded governmental concerns are implicated. Accordingly, passive panhandling, begging, charitable or political solicitation is permitted throughout the County except as prohibited in parts 9.05.050 and 9.05.060 of this ordinance.

O. Both aggressive and passive begging, panhandling, charitable or political solicitation within streets and highway rights of way, or on small traffic medians (under 30 square feet in size), or on traffic medians located on high speed and high-volume traffic corridors as identified

in this ordinance, give rise to an increased risk of injury to solicitors on medians, traffic congestion, and traffic accidents that may affect drivers or solicitors.

P. This ordinance provides ample alternative sites for passive begging, panhandling, charitable and political solicitation in areas that do not give rise to enhanced public safety concerns or personal privacy and security concerns.

**NOW THEREFORE**, the Board of County Commissioners of County of Nye, State of Nevada, does hereby adopt, promulgate and order compliance therewith the following regulations:

**TITLE 9 OF THE NYE COUNTY CODE IS HEREBY AMENDED BY ADDING A NEW CHAPTER 9.05 TITLED "PANDHANDLING, VAGRANCY AND DISORDERLY CONDUCT" TO READ AS FOLLOWS:**

**CHAPTER 9.05 - PANDHANDLING, VAGRANCY AND DISORDERLY CONDUCT:**

**9.05.010: DEFINITIONS:**

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them, whether or not capitalized:

**"Aggressive begging or panhandling, and aggressive charitable or political solicitation"** includes the following forms of conduct:

- a. Confronting someone in a way that would cause a reasonable person to fear bodily harm;
- b. Accosting an individual by approaching or speaking to the individual or individuals in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or upon property in his or her immediate possession;
- c. Touching someone without his or her consent;
- d. Using obscene or abusive language toward someone while attempting to panhandle or solicit him or her;
- e. Forcing oneself upon the company of another by engaging in any of the following conduct:
  - (1) Continuing to solicit in close proximity to the individual addressed after the person to whom the solicitation is directed has made a negative response, either verbally, by physical sign, by attempting to leave the presence of the person soliciting, or by other negative indication;
  - (2) Blocking the passage of the individual solicited; or
  - (3) Otherwise engaging in conduct that could reasonably be construed as intending to compel or force a person to accede to a solicitation.
- f. Acting with the intent to intimidate someone into giving money, food, goods or other property; or
- g. Other conduct that a reasonable person being solicited would regard as threatening or intimidating in order to solicit a contribution or donation.

**“Areas with heightened personal security concerns”** include the following locations:

a. Areas within 20 feet of a public bus stop or public transit entrance where a reasonable individual would have a reasonable, justified concern for his or her personal security due to congestion and close proximity to others;

b. Areas within 20 feet of access to building entrances, public events venues, public accommodations or commercial businesses where a reasonable individual would have a reasonable, justified concern for his or her personal security due to congestion and close proximity to others;

c. Areas within a designated commercial or historic district or parking spaces for vehicles at business premises in which a high volume of pedestrian traffic or narrow sidewalks or narrow travel ways or marked parking spaces or narrow streets give a reasonable person a justified, reasonable concern about his or her personal security due to congestion and close proximity to others; or

d. Other areas in which congestion could give a reasonable person a reasonable, justified concern for his or her personal security due to congestion and close proximity to others.

**“Areas with heightened personal privacy concerns”** include the following:

a. Locations within 20 feet of an automated teller machine, or financial institution in which an automated teller machine is located, where “financial institution” means any bank, industrial bank, credit union, or savings and loan institutions.

b. Locations within 20 feet of a sidewalk café, outdoor seating area of a restaurant, bar or eating establishment during operating hours unless the solicitor’s presence is authorized by the proprietor;

**“Areas with heightened public safety concerns”** include the following:

a. Streets or highways;

b. Traffic medians where such medians provide less than 30 feet in width of flat space for standing;

c. Traffic medians of whatever size within designated high traffic or high-speed roadways,

**“Begging, panhandling and charitable or political solicitation”** includes the following activities: actions that are conducted in the furtherance of the purpose of immediately collecting contributions for the use of one’s self or others. As used in this ordinance, the word, “solicit,” and its forms, includes requests for funding arising from begging, panhandling, charitable, or political fundraising initiatives. “Begging, panhandling and charitable or political solicitation” includes both “aggressive” and “passive” forms of begging, panhandling and charitable or political solicitation, but these forms are regulated separately under this ordinance.

**“Funds”** mean money, credit, property, financial assistance, or other thing of value.

**“Goods”** means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided or sold.

**“High traffic roadways”** include the following state routes or federal highways in the County: Nevada State Routes 160, 372 and 376 and U.S. Highways 6 and 95.

**“High speed roadways”** include the following state routes or federal highways in the County: Nevada State Routes 160, 372 and 376 and U.S. Highways 6 and 95.

**“Invite”** means to request someone’s presence or participation.

**“No solicitation sign”** means a reasonably visible and legible sign that states “No Soliciting,” “No Solicitors,” “No Salespersons,” “No Trespassing,” “Day Sleeper” or words of similar import prohibiting solicitation.

**“Obstruct pedestrian or vehicular traffic”** means to walk, stand, sit, lie or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one’s constitutional right to picket or to legally protest, participation in a legal event such as watching a parade, or a special event and acts authorized by a permit or license issued pursuant to the Nye County Code, shall not constitute obstruction of pedestrian or vehicular traffic.

**“Panhandling”** is synonymous with the terms “solicit” or “solicitation” for purpose of this chapter.

**“Passive panhandling, begging, charitable or political solicitation”** includes conduct that falls within the definition of “Begging, panhandling and charitable or political solicitation” in this section, but only such conduct that involves requests for contributions presented in writing without speaking, oral requests for contributions that do not constitute “aggressive panhandling, begging, charitable or political solicitation,” or other activities that do not fall within the definition of “aggressive begging, panhandling or aggressive charitable or political solicitation” defined above in these definitions.

**“Public place”** means an area open to the general public, whether publicly or privately owned, and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks, streets, any public transportation vehicle and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

**“Regulated traffic medians”** include areas that meet the following definitions:

a. Areas with “medians” situated between traffic lanes running in opposite directions where such medians have less than 30 feet in width feet of flat area between traffic lanes; or

b. Areas with “medians” that are otherwise designated as unsafe for activities by pedestrians, due to associated high-volume or high- speed traffic.

**“Residence”** means any living unit contained within any building or structure that is occupied by a person as a dwelling consistent with the zoning laws of the town, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public places, public street, or public rights-of-way.

**“Services”** means those intangible goods, personal benefits, or offers of employment offered, provided, or sold to a person.

**“Solicit”** or **“solicitation”** is synonymous with the term panhandling for purpose of this chapter and means and includes any request for, or enticement or action which communicates a request for, any donation or provision of funds, goods, food or other property. The term includes a verbal offer or provision of an item or service of little or no value to another in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in

substance a donation. However, "solicit" or "solicitation" shall not include the act of passively standing, sitting, or engaging in a performance of art with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.

"Solicitor" or "solicitors" means a person(s) engaged in solicitation or seeking to solicit as defined in this section.

**9.05.020: EXEMPTIONS FROM CHAPTER:**

The following are exempt from the provisions of this chapter:

A. Any solicitation made upon premises owned, leased or otherwise legally occupied by the group, association or other organized body of persons upon whose behalf such solicitation is made;

B. Any group, association or other organized body of persons soliciting contributions solely from persons who are members thereof at the time of solicitation.

C. Any solicitation made with the permission of the owner, lessee or proprietor of the premises where the solicitation is being made.

D. Passive panhandling, begging, charitable or political solicitation are permitted except where expressly prohibited.

**9.05.030: TIME, PLACE AND MANNER:**

It shall be unlawful for any person, in a public place, to solicit in violation of the following:

A. Solicitations shall not be made within 20 feet of any door or driveway within a commercial zone, industrial zone or any other zones designated by the Nye County Planning Department unless the person or persons soliciting have been given permission to solicit by the owner, lessee or proprietor of the premises at that location within the commercial zone, industrial zone or any other zones designated by the Nye County Planning Department.

B. Solicitations shall not be made within 20 feet of any automatic teller machine (ATM), entrance to a bank, check cashing business, or other financial institution.

C. Solicitations shall not be made in any public transportation vehicle or within 20 feet of any designated or posted transportation vehicle stop or crosswalk.

D. Solicitations shall not be made in any indoor or outdoor dining area open to the public without being invited by the owner, lessee or proprietor of the premises at that location.

E. Solicitations shall not be made in any public restroom.

F. A solicitor shall not obstruct pedestrian or vehicular traffic for the purpose of soliciting from pedestrians or occupants of vehicles.

G. A solicitor shall not conduct solicitation while in violation of, or in a manner that violates, any ordinance, rule, statute or regulation whether state or federal.

**9.05.040: AGGRESSIVE PANHANDLING, BEGGING, CHARITABLE AND POLITICAL SOLICITATION PROHIBITED:**

No person shall engage in aggressive panhandling or begging or aggressive charitable or political solicitation as defined in section 9.050.010 of this ordinance at anytime, anywhere in Nye County.

**9.05.050: REGULATION OF PANHANDLING, BEGGING, CHARITABLE AND POLITICAL SOLICITATION IN AREAS WITH SPECIFIC PERSONAL SAFETY AND PRIVACY CONCERNS:**

**A. Regulated locations.** Both “passive” and “aggressive” panhandling, begging, charitable and political solicitation activities are prohibited in the following areas that give rise to specific personal safety and privacy concerns as defined in 9.05.010 of this ordinance:

1. Areas with heightened personal security concerns as previously defined in subsection 09.05.010; and
2. Areas with heightened privacy considerations as previously defined in subsection 09.05.010.

**B. Prohibition.** Neither “aggressive” nor “passive” panhandling, begging, charitable and political solicitation shall be conducted in areas defined as involving heightened personal security or heightened privacy considerations.

**9.05.060: PANHANDLING, BEGGING, CHARITABLE PROTECTION OF PUBLIC ACCESS AND VEHICULAR SAFETY IN PUBLIC STREETS AND HIGHWAYS AND ON TRAFFIC MEDIANS AND ON HIGH VOLUME AND HIGH-SPEED HIGHWAYS.**

**A. Regulated locations.** Areas regulated by this section include those defined as “areas with heightened public safety concerns” as defined in section 9.050.010 of this Ordinance.

**B. Prohibition.**

1. Both passive and aggressive begging, panhandling, charitable and political solicitation shall be prohibited in “areas with heightened public safety concerns” as defined in subsection 09.05.010.

2. Exceptions. The Nye County Board of County Commissioners (“Board”) may identify limited periods each year in which these prohibitions should not be enforced as a result of particularly pressing governmental concerns related to such activities.

a. Charitable initiatives. The Board may designate up to two days a year or any additional days it deems appropriate as days on which these prohibitions shall not apply in order to allow effective solicitation for designated charities, provided that appropriate safety measures are implemented.

b. Election activities. The Board may designate up to five (5) days a year or any additional days it deems appropriate as days on which these prohibitions shall not apply in order to allow effective political communications in connection with local, state, and federal elections, provided that appropriate safety measures are implemented.

c. Documented public safety plan. In the event that the Board designates days as exceptions from this ordinance’s requirements, it shall also adopt a documented public safety plan to reduce risks to public safety that might otherwise arise.



d. Comparable treatment. To the extent that the Board adopts exceptions to the prohibitions set forth in section 9.05.060(B)(2) relating to charitable initiatives and election activities, such exceptions shall extend to all parties otherwise covered by the provisions of this ordinance relating to begging, panhandling, charitable and political solicitation.

**9.05.070: SOLICITATION AT POSTED PREMISES PROHIBITED:**

A. Any occupant or inhabitant of a residence or an owner, lessee, proprietor or their agent of a private business establishment may give notice of a desire to refuse solicitors or solicitation by clearly and unequivocally asking the solicitor to leave. Such notice may be, and is deemed to have been given, by displaying a no solicitation sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk or other entrance leading to the residence or private business establishment.

B. It is unlawful for any person to:

1. Solicit at a residence or private business establishment where the owner, occupant or inhabitant of the residence or the owner, lessee, proprietor or their agent of a private business establishment has properly posted a "No Solicitation Sign".

2. Fail to peaceably depart from or continue to solicit at a residence or private business establishment after being clearly and unequivocally notified by the owner, occupant or inhabitant of the residence or the owner, lessee, proprietor or their agent of a private business establishment, whether by posting or by other means, to leave the property or of their desire to refuse or cease the solicitation.

**9.05.080:** Each act of panhandling that is prohibited by the provisions of Section 9.05 shall be a separate violation of this ordinance.

**9.05.090: DUTIES OF SOLICITORS:**

A. Every person engaged in solicitation shall check each residence or business establishment for the presence of a "No Solicitation" sign. If a "No Solicitation Sign" is posted, the person shall desist from any efforts to solicit at the residence or business establishment and shall immediately depart from such property.

B. Any solicitor who is at any time clearly and unequivocally asked by an occupant of a residence to leave shall immediately and peacefully depart from such property.

**9.05.100: VAGRANCY-UNLAWFUL ACTS:**

It is unlawful for any person to engage in any of the following acts of vagrancy:

A. Go from house to house begging food, money or other articles, or seek admission to such houses upon frivolous pretext for no other apparent motive than to see who may be therein, or to gain an insight of the premises;

B. Keep a place where lost or stolen property is concealed;

C. Loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act;

D. Refuse to identify himself or herself and to account for his or her presence when requested by any peace officer so to do, if the surrounding circumstances are such as to indicate to a reasonable man that the public safety demands such identification;

E. Be found in any public place under the influence of any controlled substance in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of any controlled substance, interfere with or obstruct or prevent the free use of any street, sidewalk or other public way;

F. Prowl upon the private property of another, without visible or lawful business with the owner or occupant thereof, or while loitering, prowling or wandering upon the private property of another, peek in the door or window of any inhabited building or structure located thereon, without visible or lawful business with the owner or occupant thereof; or

G. Lie, sleep or doze on any street, sidewalk or alley or sleep or lodge in any building or structure, or automobile or other vehicle without owning the same or without permission of the owner or person entitled to possession of same; or

H. Sleep or doze in any designated public park in Nye County between the hours from 10:00 pm to 6:00 am daily including Ian Deutch Park, Simkins Park, Petrack Park and Kellogg Park (This prohibition will not apply if a person is sleeping during the restricted hours if they are present pursuant to a permit issued by a governmental agency); or

I. Use a public street, highway, alley, lane, parkway, sidewalk or other right-of-way, whether such right-of-way has been dedicated to the public in fee or by easement, for lying, sleeping or otherwise remaining sitting thereon, except in the case of a physical emergency or the administration of medical assistance.

**9.05.110: DISORDERLY CONDUCT:**

It is unlawful for any person to engage in any of the following acts of disorderly conduct:

A. Act in a violent or tumultuous manner toward another whereby any reasonable person is placed in danger or fear of safety of his life, limb or health.

B. Act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.

C. Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another.

D. For the purpose of engaging in any fight or brawl, assemble or congregate with another or others.

E. Jostling or roughly crowding or pushing any person in any public place.

F. Assemble or congregate with another or others in a public place for the purpose of or with the intent to engage in unlawful gambling. Gambling is defined as risking something of value for an opportunity to win a benefit, which is awarded by chance. All gambling is illegal unless a statute or ordinance specifically excludes it as legal. Charitable organizations may qualify for an exclusion from illegal gambling by being licensed

G. Accost or attempt to force his or her company upon any person against his or her will.

H. Use vulgar, profane, indecent, loud, boisterous, abusive, threatening or obscene language within the presence of another; make any lewd, vulgar or suggestive gestures with his or hands or body tending reasonably to arouse alarm, anger or resentment of others; do any act of violence, loud, boisterous or abusive conduct towards another; interfere with, annoy, accost or harass any other person which conduct by its nature would tend to incite a disturbance.

I. Act in a dangerous manner towards others tending reasonably to arouse alarm, anger or resentment in others.

J. Speaking words or phrases that constitute "fighting words" directed at the person of the addressee whose very utterance inflict injury or tend to incite an immediate breach of the peace. Profanity does not constitute "fighting words" unless coupled with other facts and circumstances which reasonably show that the combination of profanity and the other words or conduct directed at the addressee are likely to inflict injury or tend to incite an immediate breach of the peace.

K. Assemble or congregate for the purpose of trouncing upon another.

L. By acts of violence, interfere with another's pursuit of a lawful occupation.

M. Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuse to clear such public way when ordered by police officers, sheriff's deputies or by other law enforcement authority.

N. Make any indecent exposure of his or her person in a public place.

O. Refuse to leave a residence, business or commercial establishment after having been asked to do so by the owner or person in control of the premises, or by law enforcement.

P. Interrupt or disturb any individual, group, audience or other lawful assembly of people within this county by any noise or loud talking, indecent behavior or other annoyance, which may in any manner interfere with good order and decorum.

Q. Be grossly drunk in or on any street or other public place in the county. "Grossly" for purpose of this ordinance is defined as "greatly" or "coarsely" or "disgracefully".

#### **9.05.120: URINATE OR DEFECATE IN PUBLIC**

A. **Definitions.** For purposes of this section, the following terms have the following meanings:

1. **Appropriate sanitary facility** is a fixed or portable urinal, toilet, commode, or other facility or device that accommodates or is designed for the sanitary disposal of human bodily fluids or waste and that allows the user of the sanitary facility to be enclosed from public view while the user is urinating or defecating.

2. **Public Place** is any place to which the public or a substantial group of persons has access and/or view. A "public place" includes, but shall not be limited to, public ways, streets, sidewalks, walkways, alley or alleyways, highways, bridges, overpasses, parking lots, municipal buildings, municipal parking lot facilities, municipal parking lot ramps, vacant or undeveloped lots, front yards, backyards, driveways, transportation facilities, parks, pools, plazas, building facades, stairwells, alcoves, doorways, entranceways, pedestrian malls, playgrounds, places of amusement, hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

B. **Enforcement.**

1. No person may urinate or defecate in, on, or about a public place unless through the use of an appropriate sanitary facility.

2. This section shall not apply to the use of children's diapers, pull-ups, training diapers or pants, adult incontinence pads, sanitary napkins, maximum absorbency garments, or any other sanitary protection devices, so long as said devices are employed in accordance with their designed function.

3. Nothing in this section shall preclude a law enforcement officer from charging an offender for violation of any other applicable law or ordinance arising from the offender's prohibited conduct.

**9.05.130: PENALTY:**

A person who violates any of the provisions of this Section 9.05 for which no other punishment is provided is guilty of a misdemeanor and shall be punished as provided in Section 1.01.180 of the Nye County Code.

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

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

**EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the \_\_\_ day of \_\_\_\_\_, 2019.

Proposed on the \_\_\_ day of \_\_\_\_\_, 2019

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

Adopted on the \_\_\_ day of \_\_\_\_\_, 2019

Vote:      Ayes:      Commissioners:

            Nays:      Commissioners:

            Absent:      Commissioners:

BY: \_\_\_\_\_  
John Koenig, Chairman  
Nye County Board of  
County Commissioners

ATTEST: \_\_\_\_\_  
Sandra L. Merlino  
Clerk and Ex-Officio  
Clerk of the Board