



# NYE COUNTY BOARD OF COUNTY COMMISSIONERS

## AGENDA ITEM REQUEST FORM

<b>Department:</b> County Manager	<b>Meeting Date:</b>
<b>Category:</b> Timed Agenda Item - 10:00 a.m.	November 21, 2023
<b>Prepared by:</b> Lorina Dellinger	<b>Phone:</b> (775) 482-7319
<b>Presented by:</b> Lorina Dellinger	<b>Phone:</b>
<b>Action requested:</b> (Include what, with whom, when, where, why, and terms)	
<p>Public Hearing, discussion and deliberation to adopt, amend and adopt, or reject Nye County Bill No. 2023-20: A Bill proposing to amend Nye County Code Title 5, Business Licenses and Regulations, Chapter 5.16, entitled Outdoor Festivals, by Amending Section 5.16.030 Application for License: Time; Contents; Amending Section 5.16.040 Hearing: Notice; Investigation; Grant, Denial or Conditioning of License; Issuance of License; and amending Section 5.16.060 Denial of License: Grounds; Notice, providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.</p>	
<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)	
<b>Recommendation:</b>	

## Financial Impact

Cost:	Fund Name:	Fund #:
Budgeted: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	FY:	<input type="checkbox"/> One-Time <input type="checkbox"/> Recurring
Comments:		

## Review & Approval

Legal Review Required: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Legal Approval Received: <input checked="" type="checkbox"/>	Date: 9/11/23
Financial Review Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Submitted to Finance: <input type="checkbox"/>	Date:
Administrative Manager Review: <input checked="" type="checkbox"/>	Place on Agenda: <input checked="" type="checkbox"/>	Initials: ST

Item # 13

Bill No. 2023-20

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

**SUMMARY:** A Bill proposing to amend Title 5, Business Licenses and Regulations, Chapter 5.16, entitled Outdoor Festivals, by Amending Section 5.16.030 Application for License: Time; Contents; Amending Section 5.16.040 Hearing: Notice; Investigation; Grant, Denial or Conditioning of License; Issuance of License; and amending Section 5.16.060 Denial of License: Grounds; Notice, providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

**TITLE:** A BILL PROPOSING TO AMEND TITLE 5, BUSINESS LICENSES AND REGULATIONS, CHAPTER 5.16, ENTITLED OUTDOOR FESTIVALS, BY AMENDING SECTION 5.16.030 APPLICATION FOR LICENSE: TIME; CONTENTS; AMENDING SECTION 5.16.040 HEARING: NOTICE; INVESTIGATION; GRANT, DENIAL OR CONDITIONING OF LICENSE; ISSUANCE OF LICENSE; AND AMENDING SECTION 5.16.060 DENIAL OF LICENSE: GROUNDS; NOTICE, 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 Commissioners (“Board”) is authorized to amend the Nye County Code;

**WHEREAS**, the Board desires to amend the existing Outdoor Festivals Ordinance;

**NOW THEREFORE**, the Board of County Commissioners of the County of Nye, State of Nevada, does ordain:

**NYE COUNTY CODE IS HEREBY AMENDED AS FOLLOWS**, with ~~Deletions~~ shown in strike- through red font, and additions and modifications shown in underscored blue font:

1. CHAPTER TITLE. Nye County Code Title 5, Business Licenses and Regulations, Chapter 5.16 Outdoor Festivals is amended as follows:

Nye County Code Title 5, Business Licenses and Regulations, Chapter 5.16 Outdoor Assemblies.

2. CODE AMENDMENT. Nye County Code Title 5, Chapter 5.16, Sections 5.16.010 to 5.16.090 is amended and added to as follows:

**Chapter 5.16 OUTDOOR ASSEMBLIES**

**5.16.010: ASSEMBLY DEFINED:** As used in NCC 15.16.010 to NCC 15.16.090, inclusive, unless the context otherwise requires, “assembly” means a company of persons gathered together for any purpose at any location or series of locations, other than in a permanent building or permanent installation, which has been constructed for and will accommodate the number of persons gathered therein.

**5.16.020: LICENSE REQUIRED:** License required. Every person who permits, maintains, promotes, conducts, advertises, operates, undertakes, organizes, manages, sells or gives away tickets to an actual or reasonably anticipated assembly of one-thousand (1,000) or more individuals on any one day of the event shall obtain a license from the board of county commissioners of the county in which such assembly is proposed, in accordance with the provisions of NCC 15.16.010 to NCC 15.16.090, inclusive.

**5.16.030: APPLICATION FOR LICENSE: TIME; CONTENTS:** Application for a license to conduct such an assembly shall be made in writing to the License Department at least sixty (60) days prior to the time indicated for the commencement of the planned activity and no application fee is required. The application shall include:

- A. The name and address of the applicant or applicants.
- B. The legal description of the place where the proposed assembly is to be held.
- C. The date or dates and the hours of the assembly.
- D. The estimated attendance for each day of the assembly.
- E. The nature or purpose of the assembly.
- F. Such other information as the board determines is necessary.

**5.16.040: HEARING; NOTICE; INVESTIGATION; GRANT, DENIAL OR CONDITIONING OF LICENSE; ISSUANCE OF LICENSE:**

A. Upon receipt of a complete application the License Department shall:

1. Set the application for public hearing at a regular meeting of the board, not less than fifteen (15) days nor more than thirty (30) days thereafter, and give not less than ten (10) days' written notice thereof to the applicant.

2. Promptly give notice of such hearing and copies of the application to: the County Manager or his/her designee, the sheriff, the public works director, the emergency services director, the district attorney's office, and the applicable town, who shall investigate the application and report to the County Manager or his/her designee in writing not later than ten (10) days prior to the hearing, with appropriate recommendations related to their official functions, as to granting a license and conditions thereof.

B. Based upon the testimony of the witnesses and evidence presented at such hearing, including the reports of such officers, the board shall grant the license, deny the license or set conditions which must

be met, or security given that such conditions will be met, before a license is granted. If conditions are imposed by the board, the applicant shall furnish or cause to be furnished to the County Manager or his/her designee proof that all conditions have been met before the license is issued by the License Department.

C. When the County Manager or his/her designee certifies that conditions have been met, the License Department may issue a license specifying the name and address of the licensee, the kind of assembly licensed and the number of days of operation authorized. The licensee shall keep the license posted in a conspicuous place upon the premises at which the assembly is conducted. No license issued to this chapter shall be transferable or removed to another location.

**5.16.050: CONDITIONS WHICH MAY BE IMPOSED:** The conditions which may be imposed by the board, as provided in NCC 5.16.040, for the protection of the health, safety and property of local residents and persons attending such assemblies may include the following:

- A. A minimum number of law enforcement officers employed at the licensee's expense.
- B. Adequate drinking water.
- C. An adequate sewage system.
- D. Adequate food supplies.
- E. Adequate toilet facilities.
- F. Adequate medical facilities, including doctors and supplies.
- G. A minimum amount of parking space for vehicles.
- H. Adequate camping facilities.
- I. Indemnity or performance bonds.
- J. Adequate fire protection at the licensee's expense.
- K. Financial statements.
- L. A communication system.
- M. Posting of an indemnity and / or performance bond.
- N. Other conditions determined by the board to be necessary to protect the health, welfare and property of local residents and persons attending the assembly.

**5.16.060: DENIAL OF LICENSE: GROUNDS; NOTICE:**

A. After holding the hearing required under NCC 5.16.040, the board may deny issuance of the license if it finds any of the following:

1. That the applicant fails to meet the conditions imposed pursuant to the provisions of NCC 5.16.010 to 5.16.080, inclusive.

2. That the proposed assembly will be held in a manner or location not meeting the health, zoning, fire or building and safety standards established by the ordinances of the county or the laws of the State of Nevada.

3. That the applicant has knowingly made a false, misleading or fraudulent statement of material fact in the application for a license or in any other document required pursuant to this Chapter.

4. That the applicant, the applicant's employee, agent or any person connected or associated with the applicant as partner, director, officer, stockholder, associate or manager has previously conducted the type of assembly indicated in the application, which resulted in the creation of a public or private nuisance.

5. That the applicant, the applicant's employee, agent or any person associated with the applicant as partner, director, officer, stockholder, associate or manager has been convicted in a court of competent jurisdiction, by final judgment of:

(a) An offense involving the presentation, exhibition or performance of an obscene production, motion picture or place, or of selling obscene matter;

(b) An offense involving lewd conduct;

(c) An offense involving the use of force and violence upon the person of another;

(d) An offense involving misconduct with children; or

(e) A felony.

B. Where the application is denied, the License Department shall mail to the applicant written notice of denial within fourteen (14) days of such action, which notice shall include a statement of the reasons the application was denied.

**5.16.070: REVOCATION AND REINSTATEMENT OF LICENSE; NOTICE:**

A. The board may revoke any license or may reinstate any license on such suitable conditions as are determined by the board.

B. Notice of intent to revoke shall be given and the licensee is entitled to a hearing.

**5.16.080: UNLAWFUL ACTS. IT IS UNLAWFUL FOR ANY LICENSEE OR ANY EMPLOYEE, AGENT OR ASSOCIATE OF A LICENSEE TO:**

A. Hold an actual or reasonably anticipated assembly of 1,000 or more persons without first procuring a license to do so.

B. Hold such an assembly in such a manner as to create a public or private nuisance.

C. Exhibit, show or conduct within the place of such an assembly any obscene, indecent, vulgar or lewd exhibition, show, play, entertainment or exhibit, no matter by what name designated.

D. Knowingly allow any person to consume, sell or be in possession of intoxicating liquor while in such assembly except where the consumption or possession is expressly authorized by the board and under the laws of the State of Nevada.

E. Knowingly allow any person at the licensed assembly to use, sell or be in possession of any unlawful controlled substance while in, around or near a place of the assembly.

**5.16.090: VIOLATION DECLARED A MISDEMEANOR:**

A. Any of the above enumerated violations shall constitute a misdemeanor.

B. It is provided, however, that the County retains any and all civil remedies, including the right of civil injunction for the prevention of violations, and for the recovery of money damages.

C. All individual officers and directors of any corporate violator of this Chapter shall be personally liable and punishable for any violations of this Chapter committed by the corporation.

**SEVERABILITY.** If any provision of this ordinance or amendments thereto, or the application there 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 11<sup>th</sup> day of December, 2023.

Proposed on the 17<sup>th</sup> day of October, 2023

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

Adopted on the \_\_\_\_ day of \_\_\_\_\_, 2023

Vote: Ayes: Commissioners:  
Nays: Commissioners:  
Absent: Commissioners:

BY: \_\_\_\_\_  
Bruce Jabbour, Chair  
Nye County Board of  
County Commissioners

ATTEST: \_\_\_\_\_  
Mark F. Kampf  
Clerk and Ex-Officio  
Clerk of the Board

Bill No. 2023-20

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2. Promptly give notice of such hearing and copies of the application to: the County Manager or his/her designee, the sheriff, the public works director, the emergency services director, the district attorney's office, and the applicable town, who shall investigate the application and report to the County Manager or his/her designee in writing not later than ten (10) days prior to the hearing, with appropriate recommendations related to their official functions, as to granting a license and conditions thereof.

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3. That the applicant has knowingly made a false, misleading or fraudulent statement of material fact in the application for a license or in any other document required pursuant to this Chapter.
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5. That the applicant, the applicant's employee, agent or any person associated with the applicant as partner, director, officer, stockholder, associate or manager has been convicted in a court of competent jurisdiction, by final judgment of:
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  - (b) An offense involving lewd conduct;
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C. All individual officers and directors of any corporate violator of this Chapter shall be personally liable and punishable for any violations of this Chapter committed by the corporation.

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**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 11<sup>th</sup> day of December, 2023.

Proposed on the 17<sup>th</sup> day of October, 2023

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

Adopted on the \_\_\_\_ day of \_\_\_\_\_, 2023

Vote: Ayes:                      Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: \_\_\_\_\_

Bruce Jabbour, Chair

Nye County Board of

County Commissioners

ATTEST: \_\_\_\_\_

Mark F. Kampf

Clerk and Ex-Officio

Clerk of the Board