



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: April 10, 2018

DATE: March 1, 2018

TO: Board of County Commissioners

FROM: Bob Webb, Planning Manager, Planning and Building Division
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THROUGH: Dave Solaro, Arch., P.E., Assistant County Manager
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SUBJECT: Public hearing: Adoption of an updated Master Business License Fee Schedule which includes a new quarterly marijuana establishment license fee as authorized pursuant to AB 422, Sec. 65.6 (2017) and Washoe County Code section 25.728 and a new marijuana establishment relocation application fee; and, if approved, authorize the Chair to sign a Resolution adopting the Master Business License Fee Schedule with an effective date of April 20, 2018. The proposed quarterly marijuana establishment license fee will be 3% of a marijuana establishment's reported quarterly gross revenue and the proposed marijuana establishment relocation application fee will be \$500. (All Commission Districts.)

SUMMARY

Adoption of an updated Master Business License Fee Schedule which includes a new quarterly marijuana establishment license fee and a new marijuana establishment relocation application fee. Authorization for the Chair to sign a Resolution adopting the Master Business License Fee Schedule with an effective date of April 20, 2018.

Washoe County Strategic Objective supported by this item: Proactive Economic Development and Diversification

PREVIOUS ACTION

On March 27, 2018, the Board of County Commissioners (Board) adopted the Business Impact Statement for the new quarterly marijuana establishment license fee with a finding that the proposed fee does not impose a direct and significant economic burden on a business; nor does the proposed fee directly restrict the formation, operation or expansion of a business

On December 19, 2017, the Board directed staff to institute a license fee for marijuana establishments which will be 3% of a marijuana establishment's reported gross revenue and to recover costs associated with regulating marijuana establishments.

AGENDA ITEM # _____

BACKGROUND

NRS Chapter 453D regulating legalized (recreational) marijuana was created based on the voter approved 2016 initiative by the State Legislature during the 2017 Legislative session. The State Legislature also adopted amendments to NRS Chapter 244 to establish taxes for recreational marijuana (AB 422, Sec. 65.6). One of these amendments enables any Board of County Commissioners to collect a license tax (fee) on the growing, production, distribution and sale of marijuana to adults over the age of 21. The license tax (fee) may also be charged of medical marijuana establishments. The tax (fee) may be a flat fee, a percentage, or a combination of both; however, the tax (fee) may not exceed 3% of an establishment's gross revenues. The amendments to NRS 244 also enabled any Board of County Commissioners to charge a separate application fee, as long as the fee does not exceed application fees charged to other businesses in the jurisdiction.

Based on the changes to NRS Chapter 244 and the Board's direction at their December 19, 2017 meeting, staff proposes a 3% quarterly marijuana establishment license fee, based on an establishment's reported quarterly gross revenue. Gross revenue is defined in WCC section 25.013¹ as the reported gross receipts for marijuana, marijuana products, and/or marijuana paraphernalia. Gross receipts are also defined in WCC section 25.013. The new quarterly marijuana establishment license fee will not include the regional technology fee, as the amount of the new fee (3%) is set within State Law and cannot be exceeded.

At the December 19, 2017 meeting, the Board also directed staff to recover regulation costs associated with marijuana establishments. The Board has heard and acted upon several relocation requests from marijuana establishments over the past few years. Currently, there is no fee associated with such a request to relocate a marijuana establishment. Such a request involves staff time and resources to arrange a public meeting in the community, solicit agency comments, and arrange for the Board's NRS required public hearing. Staff proposes charging a \$500 application fee for any marijuana establishment relocation. Such a fee will not cover all staff time and resources, but will provide for a measure of cost recovery which can be evaluated in the future if additional relocation applications are received and processed.

The updated Master Business License Fee Schedule is included as Attachment A to this staff report. Page 1 of the Fee Schedule is currently adopted; pages 2 and 3 are the updates to the Schedule to incorporate the new quarterly marijuana establishment license fee. The updates to the Fee Schedule:

1. Establish the marijuana establishment application fee at \$77.75. The application fee is enabled by the changes to NRS Chapter 244 (AB 422, Sec. 65.6) and matches the current application fee currently charged for all other businesses in the unincorporated County. The application fee includes the regional technology fee.

¹ Amendments to WCC Chapter 25 (Business License Ordinance) are scheduled for a second reading and possible adoption by the Board on an agenda item immediately preceding this item on the Board's April 10, 2018 meeting agenda. If the Board does not adopt the ordinance amendments, then this item cannot be acted upon. Therefore, this staff report assumes Board adoption of the WCC Chapter 25 ordinance amendments. Staff recommends the Board refer to the ordinance adoption staff report for WCC Chapter 25 references.

2. Provide for calendar quarter payment dates for the new marijuana establishment license fee. The calendar quarters (January 1, April 1, July 1 and October 1) match the quarterly terms of a marijuana establishment as set forth in WCC section 25.740(4).
3. Set the marijuana establishment license fee at **3% of a marijuana establishment's reported quarterly gross revenue** for the preceding quarter. This fee conforms to NRS Chapter 244 and the Board's direction on the license fee.
 - a. Require full payment of the license fee no later than 15 calendar days after the start of each calendar quarter. This payment date conforms to the time limit set forth in WCC section 25.728. Setting the full payment date after the start of the calendar quarter allows a marijuana establishment to submit an actual, and not estimated, quarterly gross revenue report.
 - b. Enable partial payment of the license fee in advance of the quarterly calendar due date.
 - c. Require submission of the marijuana establishment's quarterly gross revenue report no later than 15 calendar days after the start of each calendar quarter. Each marijuana establishment will calculate its quarterly license fee.
 - d. Establish that a marijuana establishment license will be automatically renewed upon full payment of the required license fee. Additionally, each marijuana establishment must provide the annual report required by WCC section 25.748(5) prior to renewal of their license.
4. Provide for the application fee and initial quarter's marijuana establishment license fee for a new marijuana establishment, or for a currently licensed establishment applying for the new marijuana establishment license established in the ordinance adopted by the Board.
 - a. The application fee is due at the time of license application.
 - b. The quarterly marijuana establishment license fee commences at the next calendar quarter after the license is issued.
5. Establish a \$500 application fee for the relocation of a marijuana establishment within unincorporated Washoe County.

If the Board adopts the updated Master Business License Fee Schedule, the schedule will be effective on April 20, 2018. This effective date matches the effective date of the ordinance changes to WCC Chapters 25, 53 and 110 as adopted by the Board on April 10, 2018. Currently licensed marijuana establishments within unincorporated Washoe County include:

- Four temporary² retail marijuana stores (also licensed as a medical marijuana dispensary).
- One temporary recreational marijuana cultivation and production facility (also licensed as a medical marijuana cultivation and production facility).
- Two temporary marijuana distributors.
- Three medical marijuana cultivation facilities.
- Four medical marijuana dispensaries.

² All temporary marijuana establishment licenses expire on July 1, 2018; or on a later date if the State Department of Taxation extends the expiration date on the State's recreational marijuana establishment licenses.

- One facility for the production of edible marijuana products or marijuana-infused products (medical).

All currently licensed medical and temporary marijuana establishments will need to apply for a new single licensure marijuana establishment license after April 20, 2018. These current license holders will follow the streamlined application process outlined in WCC section 25.716.

As noted in the Previous Action section of this staff report, the Business Impact Statement required by NRS sections 237.030 through 237.150 was adopted by the Board on March 27, 2018. The Board determined that the new marijuana establishment license fee does not impose a direct and significant economic burden on a business; nor does the new fee directly restrict the formation, operation or expansion of a business.

NRS 237.100 requires the County to provide a procedure for an aggrieved business to object to a rule adopted pursuant to NRS 237.030 through 237.150. Any business such aggrieved must file a petition with the Board within 30 days of the date the rule (new marijuana establishment license fee) was adopted. This means that any petition must be filed before May 10, 2018. Staff recommends that any petition be in writing and filed with the County Clerk as required by NRS 237.100(4). The Board is required to determine the merits of any petition if so filed, and may amend the fee based on the petition.

The Resolution included as Attachment A includes the following components as articulated in this staff report:

- States that the fee is enabled by NRS Chapter 244 (AB 422, Sec. 65.6) and responds to the Board's direction at their December 17, 2018 meeting.
- States that the Board adopted the required Business Impact Statement with a finding that the fee does not have a significant business impact.
- Adopts the Master Business License Fee Schedule to include the new marijuana establishment license fee. Sets the new fee at 3% of a marijuana establishment's reported quarterly gross revenue.
- Sets a marijuana establishment relocation application fee at \$500.
- Establishes the effective date of the Master Business License Fee Schedule as April 20, 2018.
- Establishes the process for a person to object to the fee pursuant to NRS 237.100.

FISCAL IMPACT

The proposed 3% quarterly marijuana establishment license fee will be based on the reported quarterly gross revenue from each licensed marijuana establishment within unincorporated Washoe County. There are currently ten licensed recreational and/or medical marijuana establishments within the unincorporated County. County staff contacted licensed establishments on December 29, 2017 and requested gross revenue information to assist in the projection of annual revenue which could be realized from the new proposed fee. Three of the establishments responded with gross revenue information. Using this information, staff projected the potential gross revenue from all ten establishments and estimates that \$686,208 could be collected annually from the new quarterly marijuana establishment license fee.

All revenue raised from the new fee will be deposited into fund center 101-12 and specifically into cost center 101020 (Marijuana establishment). The Manager's Office may use the budget process to allocate revenue from this cost center to address direct impacts resulting from the three areas of Board focus: zoning, licensing and public safety. Any funds remaining within the marijuana establishment account will be secondarily distributed as a component of the General Fund and the adopted Washoe County budget.

RECOMMENDATION

It is recommended that the Board adopt an updated Master Business License Fee Schedule, as established in the Resolution attached to the staff report for this agenda item, which includes a new quarterly marijuana establishment license fee as authorized pursuant to AB 422, Sec. 65.6 (2017) and Washoe County Code section 25.728 and a new marijuana establishment relocation application fee; and, if approved, authorize the Chair to sign a Resolution adopting the Master Business License Fee Schedule with an effective date of April 20, 2018. The proposed quarterly marijuana establishment license fee will be 3% of a marijuana establishment's reported quarterly gross revenue and the proposed marijuana establishment relocation application fee will be \$500.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be:

“Move to adopt an updated Master Business License Fee Schedule, as established in the Resolution attached to the staff report for this agenda item. Further move to authorize the Chair to sign the Resolution included as Attachment A to this item adopting the Master Business License Fee Schedule with an effective date of April 20, 2018. The proposed quarterly marijuana establishment license fee will be 3% of a marijuana establishment's reported quarterly gross revenue and the proposed marijuana establishment relocation application fee will be \$500.”

Attachment: A. Resolution