

**BILL NO. 271**  
**CITY OF FERNLEY**  
**ORDINANCE # 2019-001**

AN ORDINANCE MODIFYING FERNLEY MUNICIPAL CODE TITLE 10 BUSINESS LICENSE REGULATIONS, CHAPTER 5: LICENSING OF MARIJUANA ESTABLISHMENTS BASED UPON CURRENT REGULATIONS ESTABLISHED BY THE STATE OF NEVADA AND OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF FERNLEY, hereinafter “the Council” DOES HEREBY ORDAIN:

That Section 1. Title 10, Chapter 5 “Licensing of Marijuana Establishments” of the Fernley Municipal Code is hereby modified as attached.

BILL # 271 BEING HEREBY PROPOSED on the 2<sup>nd</sup> day of January 2019.

BILL # 271 BEING HEREBY PASSED, APPROVED and ADOPTED this 16<sup>th</sup> of January 2019, by the following vote of the Council:

Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_ Abstentions: \_\_\_\_\_ Absent: \_\_\_\_\_

By: \_\_\_\_\_  
Roy Edgington, Mayor

Date: \_\_\_\_\_

Attest By: \_\_\_\_\_  
Kim Swanson, City Clerk

Date: \_\_\_\_\_

## CHAPTER 5 - LICENSING OF MARIJUANA ESTABLISHMENTS

### Sec. 10.05.01 – Definitions.

As used in this chapter, unless the context requires otherwise, the words and terms defined in this section shall have the meanings ascribed to them in NRS 453A and NRS 453D.

### Sec. 10.05.02. - Policy declaration.

It is declared to be the policy of the city that all marijuana establishments operating in the city shall be licensed and controlled in order to protect the public health, safety, morals and good order and the general welfare of the inhabitants of the city. Any marijuana establishment licensed by the state as a medical marijuana establishment only under the authority of NRS 453A shall require a marijuana establishment license under the authority of this chapter. Any marijuana establishment licensed by the state as a marijuana establishment under the authority of this NRS 453D shall require a retail marijuana establishment license under the authority of this chapter, regardless of whether the marijuana establishment is concurrently licensed by the state as a medical marijuana facility under the authority of NRS 453A.

It is unlawful for any person, firm, association or corporation with or without a fixed place of business in the city, either as owner, employee or lessee, to establish, conduct or operate a retail marijuana business without first having obtained a license for a medical marijuana establishment. Failure to maintain a medical marijuana license will result in immediate revocation of any other marijuana licenses held.

### Sec. 10.05.03. - Marijuana establishments licenses—Required.

- a) It is unlawful for any person, firm, association or corporation, with or without a fixed place of business in the city, either as owner, employee or lessee, without first having obtained a license, to engage in:
  - 1) The cultivation, testing, production of marijuana-infused products, distribution or dispensation of medical marijuana or marijuana-infused products without first obtaining a registration certificate from the state, business license and any other authorization to conduct business.
- b) The registration certificate and business license must be posted in a conspicuous place within the establishment.
- c) All employees of the firm, association or corporation must obtain and maintain their marijuana establishment agent registration card.
- d) Any state registration certificate must be maintained with the state or the city's business license will be revoked.
- e) If a person qualifies for one of the compassionate exceptions for self-cultivation, self-growing or self-production, that person will be required to register with the city for those activity(ies). The person must explain their specific exemption for self-cultivation, self-growing or self-production. The person will have to provide their registry identification card and the address where the medical marijuana is growing or being produced. The person must abide by NRS 453A.200 in relation to quantity to be exempt from prosecution.

### Sec. 10.05.04. - Individuals only to be licensed.

- a) A city license may be issued only to an individual person or persons who, as licensee or licensees, shall be held personally responsible for the orderly conduct of the business.
- b) If an applicant for a license is not the sole owner of the business to be conducted on the premises for which the license is sought, the application shall be accompanied by a verified statement of the owner or owners of the business appointing the applicant as the agent of the owner or owners and authorizing him to apply for the license and conduct the business.

Sec. 10.05.05. - Marijuana Establishment License—Application—Contents.

Any person desiring to establish, conduct or operate any marijuana establishment pursuant to NRS 453A shall submit a written and verified application for such license setting forth the following information:

- 1) The name, age, sex and residence address, and the addresses of all residences for the preceding five years, of the applicant;
- 2) A description of the premises to be licensed, stating the street and number and the portion of the premises to be occupied by the establishment for which the license is sought;
- 3) The particular type of marijuana establishment that the applicant proposes to carry on, conduct or operate on the described premises;
- 4) The name of the owner of the premises on which the licensed business is to be conducted, and the name of his authorized agent, if any;
- 5) A statement that, if the license is granted, the applicant will conduct the marijuana establishment in accordance with the provisions of the laws of the state and the ordinances of the city applicable to the conduct of such business, and that the application is made upon the express condition that, if the license is granted, it shall be subject to revocation in accordance with the provisions of this chapter;
- 6) Provide documentation that the applicant has received the necessary registration certificate from the state to operate a medical marijuana establishment;
- 7) Provide a safety plan, including, but not limited to, storage of marijuana products; loading and unloading; passage of employees and customers; disposal of marijuana products; and hours of operation; and
- 8) Provide a plan on the handling and storage of cash.

Sec. 10.05.06. – Retail Marijuana Establishment License—Application—Contents.

Any person desiring to establish, conduct or operate any marijuana establishment pursuant to NRS 453D must have obtained a Medical Marijuana license and shall submit a written and verified application for such license setting forth the following information:

- 1) The name, age, sex and residence address, and the addresses of all residences for the preceding five years, of the applicant;
- 2) A description of the premises to be licensed, stating the street and number and the portion of the premises to be occupied by the establishment for which the license is sought;
- 3) The particular type of marijuana establishment that the applicant proposes to carry on, conduct or operate on the described premises;

- 4) The name of the owner of the premises on which the licensed business is to be conducted, and the name of his authorized agent, if any;
- 5) A statement that, if the license is granted, the applicant will conduct the marijuana establishment in accordance with the provisions of the laws of the state and the ordinances of the city applicable to the conduct of such business, and that the application is made upon the express condition that, if the license is granted, it shall be subject to revocation in accordance with the provisions of this chapter;
- 6) Provide documentation that the applicant has received the necessary registration certificate from the state to operate a medical marijuana establishment;
- 7) Provide a safety plan, including, but not limited to, storage of marijuana products; loading and unloading; passage of employees and customers; disposal of marijuana products; and hours of operation; and
- 8) Provide a plan on the handling and storage of cash.

Sec. 10.05.07. - Filing application—Payment of fees.

Applicants for a marijuana establishment may only begin the licensing procedure by filing a license application after receiving the necessary land use and zoning approvals from the city for the operation of the marijuana establishment. Upon receiving the required land use entitlement approval, the applicant shall pay to the city the full amount of the annual fee applicable to the type of license for which application is made, and the license fee for the current quarter prorated to the end of said quarter. However, if the applicant has held a medical marijuana establishment license from the city for a period of less than one year, the initial fee shall be the license fee for the current quarter prorated to the end of said quarter.

Sec. 10.05.08. – Medical Marijuana Establishments and Retail Marijuana Establishments License—Expiration.

Each license issued under the provisions of this chapter shall expire effective on the date of the revocation of the Nevada registration certificate.

Sec. 10.05.09. - Medical Marijuana Establishments and Retail Marijuana Establishments License — Display.

Each license issued for any marijuana establishment shall be posted in a conspicuous place, in order that it may be readily inspected by any person.

Sec. 10.05.10. - Operation of businesses by receivers, assignees for the benefit of creditors, guardians and personal representatives.

- a) If a receiver or assignee for the benefit of creditors is appointed for a licensed business, or if a receiver, assignee for the benefit of creditors or guardian of the property of a person holding a license is appointed during the time for which such license was granted, or if a person holding a license dies during the term for which a license was granted, the receiver, assignee, guardian, administrator or executor may continue to carry on the licensed business on the designated premises for the balance of the term for which the license was granted, with the same rights and subject to the same restrictions and liabilities as if he were the original holder of the license in compliance with NRS 453A, state law and city requirements.
- b) Before continuing such business, the receiver, assignee, guardian, administrator or executor shall file a written and verified statement with the city clerk, addressed to the council, setting forth the

facts and circumstances under which he has succeeded to the rights of the original licensee, and his legal qualifications. The written statement must include documentation from the state that the state has approved the transfer of the operations of the marijuana establishment.

Sec. 10.05.11. - Medical Marijuana Establishments and Retail Marijuana Establishments License — Revocation—Grounds.

Any city license may be revoked by the council if it appears to the satisfaction of a majority of the members of the council that a licensee or an employee has:

- 1) Lost their registration certification from the state;
- 2) Been convicted, subsequent to issuance of the license, of an offense of such a nature that the licensee is no longer a suitable or qualified person to hold a license;
- 3) Made any false material statement in an application for a license;
- 4) Transferred, assigned or hypothecated a license;
- 5) Failed to pay any license fee in advance; and/or
- 6) Refused or neglected to comply with any of the provisions of this chapter.

Sec. 10.05.12. - Medical Marijuana Establishments and Retail Marijuana Establishments License — Revocation—Procedure.

- a) The council may, on its own motion or upon complaint under oath of any person, institute proceedings to revoke a license by mailing a complaint stating the alleged reason for such proceeding to the licensee at the address shown in his most recent application or supplemental application.
- b) The licensee shall, within five days of the date of such mailing, unless an extension of time is granted by the council, file with the clerk of the council a written and verified answer to the complaint.
- c) The council shall fix a day and time for a hearing at which the licensee shall be given an opportunity to be heard. If the licensee fails to file an answer within the time required or fails to appear at the place and time designated for the hearing, the council shall order the license revoked.
- d) The council shall, within ten days from the date of the hearing, enter its order revoking or refusing to revoke the license.
- e) There shall be no reopening, appeal or review of the proceedings before the council, except where it subsequently appears to the satisfaction of the council that the licensee's failure to answer or appear was due to matters beyond his control, and not to negligence.

Sec. 10.05.13. - Medical Marijuana Establishments and Retail Marijuana Establishments License — Issuance after revocation.

If any license is revoked under the provisions of this chapter, no license shall be granted to the licensee within two years of the date of such revocation and the former licensee must provide documentation from the state that the business has been issued a registration certificate to operate a medical marijuana establishment in the city.

Sec. 10.05.14. - Medical Marijuana Establishments and Retail Marijuana Establishments License — Revocation—False complaints.

It is unlawful for any person to cause any complaint to be filed with the council seeking the revocation of any license knowing such complaint to be unfounded in fact.

Sec. 10.05.15. - Medical Marijuana Establishments and Retail Marijuana Establishments License —Fee refund not allowed when ceases to operate.

If a licensee ceases to operate a licensed business or if the license is revoked, there shall be no refund of the license fee.

Sec. 10.05.16. - Unlawful for operator to dispense medical marijuana to a minor.

It is unlawful for any person operating any licensed medical marijuana establishment to dispense marijuana or any marijuana products to any person under the age of 18 years without the custodial parent present per state laws and regulations.

Sec. 10.05.17. - Unlawful for operator to dispense retail marijuana to a person under the age of 21.

It is unlawful for any person operating any licensed retail marijuana establishment to dispense marijuana or any marijuana products to any person under the age of 21 years.

Sec. 10.05.18. - Duties of the chief of police.

The chief of police or their designee shall:

- 1) Inspect or cause to be inspected each premise where marijuana is cultivated, produced, tested or dispensed;
- 2) Verify the agent registration card of any employee of a marijuana establishment and report the results of his investigation to the council and the division, and recommend the allowance or disallowance of each application;
- 3) All marijuana establishments are subject to the "Safety Plan and Operational Requirements" portion of the city business license application. Any medical marijuana licensee found not in compliance with the procedures outlined in the document is guilty of a misdemeanor and shall be punished as provided in section 1.04.01;
- 4) Institute, through the proper authorities, proceedings, actions and prosecutions for the enforcement of the provisions of this chapter relating to penalties, liabilities and punishments for refusal or neglect to comply with the provisions of this chapter;
- 5) Recommend to the council the revocation of any license if the licensee:
  - a. Has refused to comply with, or has violated, any of the provisions of this chapter;
  - b. Has been found guilty by a court of competent jurisdiction of a violation of any of the provisions of this chapter or of any law of the state regulating or pertaining to the conduct or operation of any medical marijuana establishment;
  - c. Has misrepresented a material fact in obtaining a license; and
  - d. Is no longer a suitable person to hold a license, having due consideration for the proper protection of the public health, safety, morals and good order, and the general welfare of the inhabitants of the city.

Sec. 10.05.19. - Access of officials and officers to Medical Marijuana Establishments and Retail Marijuana Establishments premises.

- a) Every official and police officer of the city shall have access to every part of the premises for which a license is issued at any time when such establishment is open for the transaction of business and at all other reasonable times.
- b) The city shall enter and inspect at least annually, with [or] without notice, any building or premises of a medical marijuana establishment to ensure compliance with the standards of the Fernley Municipal Code.
- c) If the city determines that there are any deficiencies in the operation of a medical marijuana establishment, the city may suspend the medical marijuana establishment business license and require a written plan and schedule for the corrections.

Sec. 10.05.20. - Annual license fees—Payment in advance—Exception.

Any marijuana establishment license fees shall be provided by resolution and shall be paid in advance, as follows:

- 1) The portion of the license fees based on the establishment's quarterly gross receipts shall be payable not later than 30 calendar days after the end of each calendar quarter.
- 2) Each establishment that is subject to this section shall, not later than 30 calendar days after the end of each calendar quarter, provide to the city a statement of the amount of revenue the company derived during that calendar quarter.
- 3) A license fee not received or postmarked within 30 calendar days after the end of each calendar quarter shall be delinquent, and the licensee shall pay, in addition to the license fee, a penalty of two percent per month of the delinquent amount.

Sec. 10.05.21. - Violation—Penalty.

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and shall be punished as provided in section 1.04.01 of this Code.