

**TITLE 10: COMMUNITY DEVELOPMENT AND BUILDING**

CHAPTER 1: ADOPTION OF THE CITY OF FERNLEY DEVELOPMENT CODE

10.01.01: To promote the public interest, health, safety, morals, convenience and general welfare, "the Council" hereby adopts the City of Fernley Development Code and as properly amended (ORD 2003-009).

## CHAPTER 2: COMPLIANCE OFFICER

10.02.01: DEFINITIONS: For the purposes of this chapter, unless the context otherwise requires, the following definitions apply.

CITY: The City of Fernley, NV.

COMPLIANCE OFFICER: The person or persons hired by the City of Fernley for the purposes of enforcement of the provisions of this chapter and the adopted codes.

10.02.02: COMPLIANCE OFFICER:

(A) Authority: The Compliance Officer is empowered to:

(1) Enforce all provisions of the adopted codes, including the power to issue misdemeanor citations for violations related to code enforcement matters as prescribed by law.

(B) Compliance Policy: The City Council may adopt by resolution, a policy, including, but not limited to, a Code Compliance Flow Chart, indicating how the investigation, process and enforcement would occur.

10.02.03 JURISDICITON: The terms of this chapter shall apply to all incorporated areas with the City of Fernley. (ORD 2014-009)

~~CHAPTER 3: PROHIBITION OF MEDICAL MARIJUANA ESTABLISHMENTS AS A  
MATTER OF LAND USE IN FERNLEY; AND OTHER MATTERS PROPERLY  
RELATING THERETO.~~

~~10.03.01: PROHIBITION AS A MATTER OF LAND USE:~~

~~Whereas, the Nevada Legislature adopted NRS 453A during the 2013 Session, and Section 453A.350 of the legislation requires that medical marijuana establishments be located in accordance with local governmental ordinances on zoning and land use, and be professional in appearance.~~

~~Whereas, existing Nevada law provides immunity from state and local prosecution for possessing, delivering and producing marijuana in certain limited amounts for patients with qualifying medical conditions.~~

~~Whereas, the Fernley City Council recognizes the rights of qualifying individuals to grow, possess, and use marijuana for medical purposes as provided by the Medical Use of Marijuana law adopted by the Nevada legislature in 2001.~~

~~Whereas, the City of Fernley has a long tradition of applying strict land use standards to protect the unique land use zones and communities in Fernley.~~

~~Whereas, the City of Fernley may make and enforce within its boundaries all local, sanitary, zoning and other ordinances and regulations not in conflict with general laws.~~

~~Whereas, the mere fact that a local law imposes restraints that the state law does not impose does not establish a conflict.~~

~~Whereas, zoning is a field covered by local regulation and there is significant local interest that may differ from one locality to another.~~

~~Whereas, regulations related to the sale and distribution of substances controlled by state and federal law are necessitated by the large geographic size of the city, the limited resources of the city, and the close proximity of residential, school, park and religious uses to commercial and industrial uses in the city.~~

~~Whereas, there is legal uncertainty between federal laws and Nevada laws regarding medical marijuana establishments. The United States Supreme Court has held that the federal Controlled Substances Act validly prohibits local cultivation and use of marijuana under all circumstances (*Gonzales v. Raich*, 125 S. Ct. 2195 (2005)) and the federal Controlled Substances Act prohibits marijuana use, distribution and possession, and that no medical necessity exception exists to these prohibitions (*United States v. Oakland Cannabis Buyers' Cooperative*, 121 S. Ct. 1711 (2001)).~~

~~Whereas, cities and counties in other states that have permitted the establishment of marijuana dispensaries and related facilities have witnessed an increase in crime, such as burglaries, robberies and sales of illegal drugs in the areas immediately surrounding~~

~~such facilities.~~

~~Whereas, regulations are further needed to protect the public, health, safety and welfare of residents, children, and businesses from harmful secondary effects of certain types of land use and such regulations are necessary and proper and consistent with the guidelines set forth in NRS 278.250.~~

~~10.03.02: DEFINITIONS:~~

~~As used in this Chapter, unless the context otherwise requires, the following definitions apply:~~

~~MEDICAL MARIJUANA ESTABLISHMENT: Shall have the same definition as in NRS 453.A116, and as may be amended.~~

~~10.03.03: PROHIBITION OF MEDICAL MARIJUANA ESTABLISHMENTS:~~

~~Notwithstanding any other provision of this Code, medical marijuana establishments are not allowed, and shall be unlawful as a permitted use, special use or accessory use in any zone throughout Fernley. This prohibition is not intended to interfere with the individual rights of persons to the medical use of marijuana as permitted by NRS 453A.~~

~~10.03.04: CONSISTENCY WITH STATE AND FEDERAL LAW~~

~~Notwithstanding any other provision of this Title, any land use, activity or establishment that contravenes either state or federal law, or both, is prohibited.~~

~~If any section, paragraph, sentence or phrase of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.~~

~~All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Fernley Municipal Code in conflict herewith are hereby repealed.~~

**CHAPTER 3**

**REDACTING THE PROHIBITION OF MEDICAL MARIJUANA ESTABLISHMENTS;  
DELAYED PROCESSING OF APPLICATIONS OF RECREATIONAL AND MEDICAL  
MARIJUANA ESTABLISHMENTS**

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10.02.01: Medical and Recreational Marijuana Establishments

Whereas, the Nevada Legislature adopted NRS 453A during the 2013 Session, and Section 453A.350 of the legislation requires that medical marijuana establishments be located in accordance with local government ordinances on zoning and land use, and be professional in appearance; and

Whereas, the Nevada Voters approved Ballot Question #2, an Initiative to Regulate and Tax Marijuana; and

Whereas, existing Nevada law provides immunity from state and local prosecution for possessing, delivering and producing marijuana in certain limited amounts for patients with qualifying medical conditions; and

Whereas, the Fernley City Council recognizes the rights of qualifying individuals to grow, possess, and use of marijuana for medical purposes as provided by the Medical Use of Marijuana law adopted by the Nevada legislature in 2001; and

Whereas, the City of Fernley has a long tradition of applying strict land use standards to protect the unique land use zones and communities in Fernley; and

Whereas, the City of Fernley may make and enforce within its boundaries all local, sanitary, zoning and other ordinances and regulations not in conflict with general laws; and

Whereas, zoning is a field covered by local regulation and there is significant local interest that may differ from one locality to another; and

Whereas, regulations are further needed to protect the public, health, safety and welfare of residents, children, and businesses from harmful secondary effects of certain types of land use and such regulations are necessary and proper and consistent with the guidelines set forth in NRS 278.250;

It is hereby declared that medical marijuana establishments are permitted within the City of Fernley.

It is further declared that any applications for medical or recreational marijuana establishments will be accepted but will not be processed until the regulations regarding marijuana establishments (such as zoning, specialty business licenses, etc.) have been completed and approved by the City of Fernley. (ORD 2017-001)