



Meeting Date: September 20, 2017
Agenda Item: # _____

Mission Statement

To provide our growing dynamic community excellent municipal services to make Fernley a great place to live, work, and play. Together, we enhance the desirability, safety, friendliness, aesthetics and quality of life in our city.

CITY OF FERNLEY CITY COUNCIL MEETING STAFF REPORT

REPORT TO: Mayor & City Council

REPORT THRU: Daphne Hooper, City Manager

REPORT BY: **Tim Thompson, Planning Director**

REVIEWED BY:

REVIEWED BY: Denise Lewis, Finance Director

AGENDA ITEM: Second Reading, Public Hearing: Bill #**261** – Discussion and possible action to adopt Bill #**261**, as an ordinance amending Title 32, Chapter 49 of the Fernley Municipal Code to permit medical marijuana establishments; to allow medical marijuana dispensaries to sell or dispense marijuana and marijuana-infused products at retail; to allow medical marijuana cultivation and production facilities to cultivate and produce marijuana and marijuana-infused products; to allow independent testing laboratories to test marijuana and marijuana-infused products; and other matters properly related thereto.

ACTION REQUESTED: Consent Ordinance Resolution Motion Receive/File

RECOMMENDED ACTION BY CITY COUNCIL

I move to adopt Bill #**261**, as an ordinance amending Title 10, Chapter 3 of the Fernley Municipal Code to permit medical marijuana establishments; to allow medical marijuana dispensaries to sell or dispense marijuana and marijuana-infused products at retail; to allow medical marijuana cultivation and production facilities to cultivate and produce marijuana and marijuana-infused products; to allow independent testing laboratories to test marijuana and marijuana-infused products; and other matters properly related thereto.

Key Points:

1. This Code Amendment will provide zoning authorization for the establishment of medical marijuana cultivation facilities, independent testing laboratories and facilities for the production of edible marijuana products or marijuana-infused products.
2. The amendment would permit licensed medical marijuana dispensaries to sell or dispense marijuana, edible marijuana products and marijuana-infused products at retail; permit licensed independent testing laboratories and medical marijuana production and cultivation facilities to test, produce and cultivate marijuana, edible marijuana products and marijuana-infused products at retail.
3. The amendment would also limit “home-grows” within a 25-mile radius of a dispensary.

POLICY REFERENCE

Nevada Statutes: NRS 453A & NRS 453D

Fernley Municipal Code: Title 32, Chapter 49

Policies & Procedure Manual: N/A

Community Assessment: N/A

City of Fernley Development Code: Chapter 49

SUPPORTING INFORMATION

N/A

FINANCIAL INFORMATION

FISCAL IMPACT:

1. Is There A Fiscal Impact? NO
2. Is it Currently Budgeted? N/A
3. If Budgeted, Which Line Item/Account?

FISCAL SYNOPSIS:

There is no fee associated with this request.

BACKGROUND INFORMATION

In the year 2000, voters in Nevada passed Question 9, amending the state constitution to sanction medical cannabis (i.e. marijuana) and, specifically, to allow physicians to authorize qualified patients to consume and grow cannabis for personal use. In 2013, the Nevada legislature passed and Governor Sandoval signed into law SB 374, which directed the Nevada Department of Health and Human Services to develop regulations for, and oversee the creation of, licensed establishments to produce, test and dispense cannabis and cannabis-infused products to authorized patients for medical use. On April 1, 2014, the final regulations became effective and the State began the process to accept applications for 'registration certifications' for medical marijuana establishments. The Division of Public and Behavioral Health of the Nevada Department of Health and Human Services administered the regulations for the operation of medical marijuana establishments and approved medical marijuana establishments to operate in each jurisdiction.

Originally, Lyon County was allocated two medical marijuana dispensaries. On October 15, 2014, the Fernley City Council approved **Ordinance #2014-013** which prohibited medical marijuana establishments as a matter of land use in Fernley.

In November 2016, Nevada citizens approved an Initiative (also known as Question 2) to regulate businesses and to tax marijuana sales to adults 21 years or older. The ballot measure, codified in NRS Chapter 453D, also provides for the operation and taxation of marijuana establishments, which will be regulated by the Nevada Department of Taxation (the "Department"). The Department has until December 31, 2017 to adopt all the regulations necessary to carry out the provisions of NRS 453D to provide for the taxation and regulation of marijuana establishments. Regulated marijuana establishments are cultivation facilities, testing facilities, product manufacturing facilities, distributors and dispensaries. During the 2017 Nevada Legislative Session, a bill was passed which transferred the medical marijuana program from the Department of Health and Human Services to the Department of Taxation.

On March 1, 2017, the Fernley City Council approved **Ordinance #2017-001**, which repealed and replaced Title 10, Chapter 3 in its entirety and rescinded the prohibition of medical marijuana establishments and delayed processing of applications of recreational and medical marijuana establishments. With the subsequent passage of Senate Bill 341, the City of Fernley was allocated a maximum of one (1) medical marijuana dispensary.

On May 8, 2017, the Tax commission adopted temporary regulations that will allow existing medical marijuana establishments (MME's) that are in good standing with the State of Nevada to apply for a temporary license to sell, manufacture, cultivate or produce non-medical marijuana. On July 1, 2017, the Department implemented temporary regulations which allowed MME's to begin cultivating, processing, testing and distributing and selling non-medical marijuana. The Department is using the term "marijuana establishment" to refer to such businesses. It is anticipated that the Department will publish the permanent regulations by the end of 2017.

PROJECT SUMMARY:

This Code Amendment will provide zoning authorization for the establishment of medical marijuana cultivation facilities, independent testing laboratories and facilities for the production of edible marijuana products or marijuana-infused products. Furthermore, the amendment would permit licensed medical marijuana dispensaries to sell or dispense marijuana, edible marijuana products and marijuana-infused products at retail; permit licensed independent testing laboratories and medical marijuana production and cultivation facilities to test, produce and cultivate marijuana, edible marijuana products and

marijuana-infused products at retail.

ANALYSIS

This proposed amendment to Chapter 10.03 establishes the authority to regulate medical marijuana cultivation facilities, independent testing laboratories and facilities for the production of edible marijuana products or marijuana-infused products. Rather than incorporate the proposed changes into various sections of the city's development code, this section is intended to address all land use and zoning aspects related to medical marijuana establishments. The proposed amendment includes definitions pertaining to marijuana and marijuana establishments. The definitions are consistent with state law.

The proposed amendment limits the medical marijuana dispensary use to properties which have a master plan land use designation of Commercial and a zoning classification of C-2 (General Commercial). The intent of the locational criteria is to ensure the dispensary is located in highly visible and well-travelled areas. Staff has identified the commercial corridor located from Interstate 80 and U.S. Highway 95A (exit 48), south to the roundabout at the intersection of U.S. Highway 50A, Farm District Road, and Main Street, thence west on Main Street to the intersection of U.S. Highway 95A and East Street, thence south on U.S. Highway 95A to the intersection of Sage Street and U.S. Highway 95A.

Cultivation facilities, facilities for the production of edible marijuana products or marijuana-infused products, and independent testing laboratory uses are only allowed in the M-1 (Industrial) zoning district provided the zoning is in conformance with the master plan land use designation.

NRS 453A prohibits medical marijuana establishments from locating within 1,000 feet of a public or private school providing formal education to pre-school/kindergarten to 12th grade or within 300 feet of a "community facility."

The proposed regulations require medical marijuana establishments make application for the project through the Design Review process prior to establishment. The design review process is administrative and does not require Planning Commission or City Council approval. If for some reason a marijuana establishment loses its Nevada registration certification, then the Design Review would be revoked by the City. The standards also provide that if the establishment closes, the Design Review is revoked. Typically, planning entitlements run with the land, the provisions in this section ensure potential new owners are subject to the same scrutiny of the state licensing process.

The City's proposed regulations require marijuana establishments to comply with state regulations, including the separation criteria. There are also standards governing operations including parking, loading and unloading, refuse disposal, a public safety plan, property access and emission controls.

The written public safety plan shall be to the approval of the City of Fernley and the Chief of Police. The public safety plan shall include a video a monitoring system which must, at a minimum: (a) Allow for the transmission and storage, by digital or analog means, of a video feed which displays the interior and exterior of the medical marijuana establishment; and (b) Be capable of being accessed remotely by a law enforcement agency in real-time upon request.

The proposed amendments do not include (non-medical) Marijuana Establishments as a permitted use in any of the city's zoning districts. The proposed regulations expressly prohibit the sale of marijuana and marijuana products at retail except from an approved medical marijuana establishment. The amendment would also limit "home-grows" within a 25-mile radius of a dispensary.

It is anticipated that the Department will publish the permanent regulations by the end of 2017. At that time, the City Council can direct staff to process additional amendments to allow businesses other than existing medical marijuana establishments to grow, produce or sell marijuana at retail.

PRIOR COUNCIL ACTION/REVIEW

See Background Information section.

ATTACHED INFORMATION

1. Bill #261, as an ordinance amending Title 32, Chapter 49.