

BILL #261
CITY OF FERNLEY
ORDINANCE # _____

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.

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

Section 1. Chapter 32.49 – Marijuana Establishments is hereby repealed as follows:

~~**Sec. 32.49.01. Medical and recreational marijuana establishments.**~~

~~(a) It is hereby declared that medical marijuana establishments are permitted within the city.~~

~~(b) 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. (Ord. No. 2017-001, 3-1-2017)~~

Section 2. Chapter 32.49 – Medical Marijuana Establishments is hereby added as follows:

Chapter 32.49 – Medical Marijuana Establishments

Section 32.49.01 – 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 this section.

<i>Direct access</i>	<i>The provision for immediate ingress and egress of vehicles from an abutting property to an adjacent street.</i>
<i>Medical marijuana establishment</i>	<i>Means: an independent testing laboratory; a cultivation facility; a facility for the production of edible marijuana products or marijuana-infused products; or a medical marijuana dispensary.</i>
<i>Medical marijuana dispensary</i>	<i>A facility licensed with the state that acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card.</i>

<i>Medical marijuana cultivation facility</i>	<i>A facility licensed by the State of Nevada that acquires, possesses, cultivates, delivers, transfers, transports, supplies and/or sells marijuana and related products to medical marijuana dispensaries, facilities for production of edible marijuana or marijuana-infused products or other cultivation facilities.</i>
<i>Medical marijuana production facility</i>	<i>A facility licensed by the State of Nevada that: acquires, possesses, or manufactures edible marijuana products; extracts oils from marijuana; and/or delivers, transfers, transports, supplies or sells edible marijuana products or marijuana-infused products to medical marijuana dispensaries.</i>
<i>Medical marijuana testing laboratory</i>	<i>A facility licensed by the State of Nevada that tests and analyzes marijuana, edible marijuana products and marijuana-infused products to be sold at medical marijuana dispensaries in Nevada.</i>
<i>Retail marijuana (at retail)</i>	<i>Marijuana cultivated, produced and processed into edible or marijuana-infused products, tested or sold for consumption by adults over the age 21 without the benefit of a medical marijuana card in accordance with Nevada Revised Statutes Chapter 453D.</i>

Section 32.49.02 – Medical marijuana dispensary.

State law governing medical marijuana dispensaries limits the number permitted to operate in the City of Fernley.

A. **Applicability.** *This section applies to any medical marijuana dispensary.*

B. *Design Review is required.*

C. **Standards.**

1. **Permitted Locations.** *Medical marijuana dispensaries shall only be located on parcels meeting all of the following criteria:*
 - a. *Master plan land use designation of Commercial; and*
 - b. *Zoning classification of C-2 (General Commercial); and*
 - c. *Having direct access to either U.S. Highway 95A or U.S. Highway 50A along the following corridor: heading north from the intersection of Sage Street and U.S. Highway 95A/U.S. Highway 50A to Main Street, then east on Main Street to the intersection of U.S. Highway 95A, U.S. Highway 50A, and Farm District Road, then north on U.S. Highway 95A to Interstate 80 (exit 48).*
 - (1) **Exception.** *Parcels not having direct access to U.S. Highway 95A may be considered provided the parcel is located within a radial distance of 750 feet of the centerline of the intersection of U.S. Highway 95A and Newlands Drive or the centerline of the intersection of U.S. Highway 95A and Chisholm Trail/Fremont Street.*
2. *The applicant must receive a Design Review approval for this use prior to establishment and issuance of a business license.*
3. *Parking requirements shall be determined through the Design Review process.*
4. *Medical marijuana dispensaries shall not be located within 1,000 feet of a Nevada licensed substance abuse treatment center measured from the front door of the dispensary to the closest property line.*
5. *The medical marijuana dispensary must comply with the location criteria listed in state law.*

6. *A medical marijuana dispensary may not apply for a variance to reduce the minimum separation distances.*
7. *The maximum size of patient access area of a medical marijuana dispensary shall be 2,500 square feet. Patient access area is defined as the portion of the dispensary building accessible to persons with a medical marijuana card.*
8. *The medical marijuana dispensary must comply with the operating standards in state law.*
9. *The medical marijuana dispensary shall be located within a building complying with regulations in state law.*
10. *The medical marijuana dispensary shall be located in a permanent building that meets City of Fernley building and fire codes for a commercial building, and shall not be located in a manufactured or mobile home, trailer, cargo container, motor vehicle or similar personal property.*
11. *The medical marijuana dispensary shall be required to connect to the city's water and wastewater utilities.*
12. *The dispensary must provide for secure delivery of marijuana or any other items associated with operations to the establishment, to the approval of City.*
13. *Loading and unloading of marijuana or any other items associated with operations shall only occur between the hours of 7:00 a.m. and 6:00 p.m.*
14. *A medical marijuana dispensary shall not be open to the public before or after the hours of 8:00 a.m. to 9:00 p.m.*
15. *Drive-through windows are not permitted.*
16. *The medical marijuana dispensary shall have a single secure customer entrance to the approval of City.*
17. *Marijuana remnants, marijuana-infused products, bi-products, and other waste material shall be disposed of in a safe, sanitary and secure manner, in a location and manner approved by both the State of Nevada and the City.*
18. *The applicant must provide a written public safety plan, subject to approval by the City, Police Chief, and Fire Chief. The plan shall include without limitation the installation of a video 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.**
19. *No marijuana shall be smoked, eaten or otherwise consumed on the premises of the medical marijuana dispensary. There shall be no outdoor seating area, vending machines nor loitering on the property.*
20. *No marijuana shall be displayed or kept in a medical marijuana dispensary so as to be visible from the outside of the premises.*
21. *An approved Design Review shall expire in eighteen (18) months from the date of issuance of the registration certificate issued by the state if it is not fully operational.*
22. *In the event, a medical marijuana dispensary loses its state issued certification or registration, any Design Review shall become null and void.*
23. *If a marijuana dispensary is closing, the manager of the establishment must notify the City of*

Fernley of the closing at least 15 days before the closure.

- D. Retail Sale of Marijuana Allowed.** *An approved medical marijuana dispensary may sell or dispense marijuana at retail as allowed by state laws if the medical marijuana dispensary is licensed or otherwise approved by the State of Nevada as a retail marijuana establishment and first obtains a retail marijuana license from the City of Fernley. The Design Review approval of the medical marijuana dispensary, and any conditions imposed in connection therewith, shall apply to any retail component of a medical marijuana dispensary.*

Section 32.49.03 – Medical marijuana production, testing or cultivation.

State law governing medical marijuana cultivation, testing or production does not limit the number of establishments permitted to operate in the City of Fernley, however the City of Fernley has limited these uses to the M-1 (Industrial) zoning district provided the zoning is in conformance with the master plan land use designation of Industrial.

- A. Applicability.** *This section applies to any cultivation facility, testing laboratory or facility for production of edible marijuana or marijuana-infused products.*

B. Standards.

- 1. Permitted Locations.** *Medical marijuana cultivation, testing or production uses are limited to the M-1 (Industrial) zoning district provided the zoning is in conformance with the master plan land use designation of Industrial.*
- 2.** *The applicant must receive Design Review approval for this use prior to establishment.*
- 3.** *Parking requirements shall be determined through the Design Review process.*
- 4.** *In the event a medical marijuana cultivation facility, testing laboratory or facility for production of edible marijuana or marijuana-infused products loses its state issued certification or registration the Design Review shall be revoked.*
- 5.** *The medical marijuana cultivation facility, testing laboratory or facility for production of edible marijuana or marijuana-infused products must comply with the location criteria listed in Nevada state laws.*
- 6.** *The medical marijuana cultivation facility, testing laboratory or facility for production of edible marijuana or marijuana-infused products shall be located within a building complying with the regulations in state law.*
- 7.** *The medical marijuana cultivation facility, testing laboratory or facility for production of edible marijuana or marijuana-infused products shall be located in a permanent building that meets City of Fernley building and fire codes for a commercial building, and shall not be located in a manufactured or mobile home, trailer, cargo container, motor vehicle or similar personal property.*
- 8.** *The medical marijuana cultivation facility, testing laboratory or facility for production of edible marijuana or marijuana-infused products shall be required to connect to the city's water and wastewater utilities.*
- 9.** *The medical marijuana cultivation facility, testing laboratory or facility for production of edible marijuana or marijuana-infused products must have restricted access to the site and building (e.g., gated, limited number of driveways, controlled entrance, etc.), subject to City approval.*
- 10.** *The loading or unloading of marijuana or any other items associated with operations shall, if feasible, be within the building of the permitted medical marijuana cultivation facility, testing laboratory and production facility for production of edible marijuana or marijuana-infused*

products or have a secured area to the approval of City.

11. *Loading and unloading of medical marijuana or any other items associated with operations shall only occur between the hours of 6:00 a.m. and 5:00 p.m.*
 12. *Medical marijuana cultivation facility, testing laboratory or production facility for production of edible marijuana or marijuana-infused products must comply with the operating standards in state laws and Regulations of the Nevada Department of Taxation.*
 13. *Emission of dust, fumes, vapors or odors into the environment from the premise must comply with air quality regulations of the Nevada Division of Environmental Protection.*
 14. *Marijuana remnants, marijuana-infused products, bi-products, and other waste material shall be disposed of in a safe, sanitary and secure manner, in a location and manner approved by both the State of Nevada and the City of Fernley.*
 15. *The applicant must provide a written public safety plan, subject to approval by the City, Police Chief, and Fire Chief. The plan shall include without limitation the installation of a video 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.**
 16. *No marijuana shall be smoked, eaten or otherwise consumed on the premises of the medical marijuana cultivation facility, testing laboratory or facility for production of edible marijuana or marijuana-infused products.*
 17. *No marijuana shall be displayed or kept in a medical marijuana cultivation facility, testing laboratory and production facility of edible marijuana or marijuana-infused products so as to be visible from the outside of the premises.*
 18. *An approved Design Review shall expire in eighteen (18) months from the date of issuance of the registration certificate issued by the state if it is not fully operational.*
 19. *If a medical marijuana cultivation facility, testing laboratory or facility for the production of edible marijuana products or marijuana-infused products is closing, the manager of the establishment must notify the City of Fernley of the closing at least 15 days before the closure.*
- C. ***Retail Sale of Marijuana Allowed.*** *An approved medical marijuana cultivation facility, testing laboratory or facility for the production of edible marijuana products or marijuana-infused products may operate at retail if allowed by state law provided that the medical marijuana cultivation facility, testing laboratory or facility for the production of edible marijuana products or marijuana-infused products is licensed or otherwise approved by the State of Nevada as a retail marijuana establishment and first obtains a retail marijuana license from the City of Fernley. The Design Review approval of the medical marijuana cultivation facility, testing laboratory or facility for the production of edible marijuana products or marijuana-infused products, and any conditions imposed in connection therewith, shall apply to any retail component of the medical marijuana cultivation facility, testing laboratory or facility for the production of edible marijuana products or marijuana-infused products.*

Section 32.49.04 – Prohibition.

Except as otherwise provided in this Chapter, sale of marijuana and marijuana products at retail is prohibited.

- Section 3.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- Section 4.** The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law.
- Section 5.** This ordinance shall become effective upon passage, approval and publication.
- Section 6.** The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.
- Section 7.** If any subsection, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.
- Section 8.** The City Council finds that this ordinance is not likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, or is otherwise exempt from Nevada Revised Statutes Chapter 237.

BILL # 261 BEING HEREBY PROPOSED on the 6th day of September 2017.

BILL # 261 BEING HEREBY PASSED, APPROVED and ADOPTED this 20th day of September 2017, by the following vote of the Council:

Ayes: _____ Nays: _____ Abstentions: _____ Absent: _____

FERNLEY CITY COUNCIL

By: _____ Date: _____
 Roy Edgington, Mayor

Attest By: _____ Date: _____
 Kim Swanson, City Clerk