

**BILL #260**  
**CITY OF FERNLEY**  
**ORDINANCE # \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 3 OF THE FERNLEY MUNICIPAL CODE, LICENSING OF MARIJUANA ESTABLISHMENTS AND TO ALLOW MEDICAL MARIJUANA DISPENSARIES TO SELL OR DISPENSE MARIJUANA AND MARIJUANA-INFUSED PRODUCTS AT RETAIL; LICENSE MARIJUANA CULTIVATION AND PRODUCTION FACILITIES TO CULTIVATE AND PRODUCE MARIJUANA AND MARIJUANA-INFUSED PRODUCTS; LICENSE INDEPENDENT TESTING LABORATORIES TO TEST MARIJUANA AND MARIJUANA-INFUSED PRODUCTS; LICENSE DISTRIBUTORS TO TRANSPORT 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 5 “Licensing of Marijuana Establishments” is hereby added as follows:

*Chapter 5 LICENSING OF MARIJUANA ESTABLISHMENTS*

**Section 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 this section.*

A. **“Community facility”** means:

1. *A facility licensed by the state and/or the city to provide day care to children.*
2. *A public park.*
3. *A playground.*
4. *A public swimming pool as defined in NRS 444.065.*
5. *A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.*
6. *A church, synagogue or other building, structure or place used for religious worship or other religious purpose.*

B. **“Cultivation facility”** means a business that:

- 1 *Is licensed by the State of Nevada; and*
- 2 *Acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells marijuana and related supplies to any other marijuana establishment.*

C. **“Facility for the production of edible marijuana products or marijuana-infused products”** means a business that:

1. *Is licensed by the State of Nevada; and*
2. *Acquires, possess, manufactures, delivers, transfers, transports, supplies or sells edible marijuana projects or marijuana-infused products to any other marijuana establishment.*

D. **“Independent testing laboratory”** means a facility certified by the State of Nevada to operate as an independent testing laboratory to test marijuana, edible marijuana products and marijuana-infused products that are sold in the State of Nevada pursuant to state law.

- E. **“Marijuana”** means:
1. The dried leaves and flowers of any plant of the genus *Cannabis*, and any mixture or preparation thereof that are appropriate for the use of marijuana; or
  2. The seeds of a plant of the genus *Cannabis*; or
  3. The resin extracted from any part of the plant; or
  4. Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin; or
  5. “Marijuana” does not include the mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.
- F. **“Medical Marijuana”** means any marijuana or marijuana-infused products acquired, possessed, cultivated, delivered, transferred, transported, supplied or sold pursuant to a license issued by the State of Nevada under the authority of Nevada Revised Statutes Chapter 453A.
- G. **“Marijuana-infused products”** means products that:
- 1 Are infused with marijuana or an extract thereof; and
  - 2 Are intended for use or consumption by humans through means other than inhalation or oral ingestion.
  - 3 The term includes, without limitation, topical products, ointments, oils and tinctures.
- H. **“Medical marijuana dispensary”** means a business that:
- 1 Is licensed by the State of Nevada; and
  - 2 Acquires, possesses, delivers, transfers, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card, or at retail as authorized by state law.
- I. **“Marijuana Distributor”** means a business that:
- 1 Is licensed by the State of Nevada; and
  - 2 Transports marijuana or marijuana-infused products from one marijuana establishment to another marijuana establishment.
- J. **“Marijuana establishment”** means:
- 1 An independent testing laboratory;
  - 2 A cultivation facility;
  - 3 A facility for the production of edible marijuana products or marijuana-infused products;
  - 4 A medical marijuana dispensary;
  - 5 A Marijuana distributor; or
  - 6 A business that has registered with the state and paid the requisite fees to act as more than one of the types of businesses listed in subsections 2, 3, 4 and 5 of this definition.
- K. **“Marijuana establishment agent”** means an owner, officer, board member, employee or volunteer of a marijuana establishment.
- L. **“Marijuana establishment agent registration card”** means a registration card that is issued by the State of Nevada authorizing a person to volunteer or work at a marijuana establishment.
- M. **“Marijuana establishment registration certificate”** means a registration certificate that is issued by the State of Nevada authorizing the operation of a marijuana establishment.

N. **“Retail Marijuana”** means any marijuana or marijuana-infused products acquired, possessed, cultivated, delivered, transferred, transported, supplied or sold pursuant to a license issued by the State of Nevada under the authority of Nevada Revised Statutes Chapter 453D.

**Section 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 of Nevada as a medical marijuana establishment only under the authority of NRS Chapter 453A shall require a marijuana establishment license under the authority of this Title. Any marijuana establishment licensed by the State of Nevada as a marijuana establishment under the authority of NRS Chapter 453D shall require a retail marijuana establishment license under the authority of this Title, regardless of whether the marijuana establishment is concurrently licensed by the State of Nevada as a medical marijuana facility under the authority of NRS Chapter 453A.

**Section 10.05.03 Marijuana establishments licenses—Required.**

- A. It is unlawful for any person, firm, association or corporation, either as owner, employee or lessee, without first having obtained a license, to engage in:
  - 1. The cultivation, testing, production of edible marijuana products or marijuana infused products, distribution or dispensation of medical marijuana or marijuana-infused products without first obtaining a registration certificate from the State of Nevada, 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; and
- D. Any state registration certificate must be maintained with the state or the city's business license will be revoked.

**Section 10.05.04 Retail 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 edible marijuana products or marijuana-infused products, distribution or dispensation of any marijuana or marijuana-infused products without first obtaining a registration certificate from the State of Nevada, 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; and
- D. Any state registration certificate must be maintained with the state or the city's business license will be revoked.

**Section 10.05.05 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.*

**Section 10.05.06 Medical marijuana establishment license—Application—Contents.**

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

- A. *The name, age, sex and residence address, and the addresses of all residences for the preceding five (5) years, of the applicant;*
- B. *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;*
- C. *The particular type of medical marijuana establishment that the applicant proposes to carry on, conduct or operate on the described premises;*
- D. *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;*
- E. *A statement that, if the license is granted, the applicant will conduct the medical 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;*
- F. *Provide documentation that the applicant has received the necessary registration certificate from the State of Nevada to operate a medical marijuana establishment;*
- G. *Provide a safety plan, including but not limited to, storage of medical marijuana products; loading and unloading; passage of employees and customers; disposal of medical marijuana products; and hours of operation; and*
- H. *Provide a plan on the handling and storage of money in the physical form of currency, such as banknotes and coins.*

**Section 10.05.07 Retail marijuana establishment license—Application—Contents.**

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

- A. *The name, age, sex and residence address, and the addresses of all residences for the preceding five (5) years, of the applicant;*
- B. *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;*

- C. *The particular type of marijuana establishment that the applicant proposes to carry on, conduct or operate on the described premises;*
- D. *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;*
- E. *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;*
- F. *Provide documentation that the applicant has received the necessary registration certificate from the State of Nevada to operate a marijuana establishment;*
- G. *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*
- H. *Provide a plan on the handling and storage of money in the physical form of currency, such as banknotes and coins.*

**Section 10.05.08 Filing application—Payment of fees.**

*Applicants for any marijuana establishment license 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 fee applicable to the type of license for which application is made.*

**Section 10.05.09 Marijuana establishment 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.*

**Section 10.05.10 Marijuana establishment 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.*

**Section 10.05.11 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 of Nevada that the state has approved the transfer of the operations of the marijuana establishment.*

**Section 10.05.12 Marijuana establishment license – Revocation -Grounds.**

*Any marijuana establishment 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:*

- A. Lost their registration certification from the State of Nevada;*
- B. 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;*
- C. Made any false material statement in an application for a license;*
- D. Transferred, assigned or hypothecated a license;*
- E. Failed to pay any license fee in advance; and/or*
- F. Refused or neglected to comply with any of the provisions of this chapter.*

**Section 10.05.13 Marijuana establishment 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 (5) 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 (10) 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.*

**Section 10.05.14 Marijuana establishment 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 (2) years of the date of such revocation and the former licensee must provide documentation from the State of Nevada that the business has been issued a registration certificate to operate a marijuana establishment in the City of Fernley.*

**Section 10.05.15 Marijuana establishment 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.*

**Section 10.05.16 Marijuana establishment 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.*

**Section 10.05.17 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 eighteen (18) years without the custodial parent present per Nevada State laws and regulations.*

**Section 10.05.18 Duties of the chief of police.**

*The chief of police or their designee shall:*

- A. Inspect or cause to be inspected each premise where marijuana is cultivated, produced, tested or dispensed;*
- B. 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;*
- C. All marijuana establishments are subject to the "Safety Plan and Operational Requirements" portion of the City of Fernley business license application. Any 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 10.05.21 of this Title;*
- D. 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;*
- E. Recommend to the council the revocation of any license if the licensee:*
  - 1. Has refused to comply with, or has violated, any of the provisions of this chapter;*
  - 2. 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;*
  - 3. Has misrepresented a material fact in obtaining a license; and*
  - 4. 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.*

**Section 10.05.19 Access of officials and officers to medical marijuana establishment premises.**

- A. Every official and police officer of the city shall have access to every part of the premises for which a marijuana establishment 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 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 marijuana establishment, the city may suspend the marijuana establishment business license and require a written plan and schedule for the corrections.*

**Section 10.05.20 Annual license fees -Payment in advance -Exception.**

*Marijuana establishment license fees shall be established by Resolution.*

- A. *Application fees will be paid in their entirety.*
- B. *Base annual fees will be paid in their entirety, on or before the annual renewal date.*
- C. *The portion of the license fees based on the establishment's quarterly gross receipts shall be payable not later than thirty (30) calendar days after the end of each calendar quarter.*
- D. *Each establishment that is subject to this section shall, not later than thirty (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.*
- E. *A license fee not received or postmarked within thirty (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 (2) percent per month of the delinquent amount.*

**Section 10.05.21 No city liability, indemnification.**

- A. *By accepting a license issued pursuant to this Code, the licensee waives and releases the city, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.*
- B. *By accepting a license issued pursuant to this Code, the licensee, and its owners, managers, agents, employees and affiliates jointly and severally agree to indemnify, defend and hold harmless the city, and any of its elected or appointed officers, agents, employees or attorneys from any and all claims, demands, actions, damages, decrees, judgments, attorney fees, costs and expenses which may be asserted against the city, or such elected or appointed officers, employees or attorneys arising out of or in any manner connected with the medical marijuana establishment that is subject of the license, including without limitation any injury, loss or damage, including claims arising from bodily injury, personal injury, sickness, disease, death, property loss of damage or any other loss of any kind whatsoever arising there from. The licensee's duty to defend and indemnify the city hereunder shall apply regardless of the city's active or passive fault. The licensee's duty to defend the city is absolute and shall arise as soon as any demand or claim is asserted against the city and is not conditioned upon a finding of fault of the licensee. The city is entitled to choose the attorney assigned to defend against the claims and the licensee shall immediately pay all defense fees and costs charged by the attorney selected by the city.*

**Section 10.05.22 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.*

**Section 10.05.23 Miscellaneous.**

- A. *All ordinances or parts of ordinances in conflict herewith are hereby repealed.*
- B. *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.*
- C. *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.*

*D. 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 # 260 BEING HEREBY PROPOSED on the 6<sup>th</sup> day of September 2017.

BILL # 260 BEING HEREBY PASSED, APPROVED and ADOPTED this 20<sup>th</sup> day of September 2017, by the following vote of the Council:

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

FERNLEY CITY COUNCIL

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

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

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

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