



**BILL NO. 484
ORDINANCE NO. 484**

BILL NO. 484 PROPOSING TO AMEND CITY OF MESQUITE CODE TITLE 9, UNIFIED DEVELOPMENT ORDINANCE, BY ADDING CHAPTER 15 “MEDICAL MARIJUANA,” TO ESTABLISH ZONING REGULATIONS AND STANDARDS FOR MEDICAL MARIJUANA ESTABLISHMENTS, AND TO PROVIDE FOR OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, it is reasonable and appropriate to amend the Mesquite Municipal Code from time to time; and

WHEREAS, under NRS 278.020 the Nevada Legislature has granted to the governing body (City Council) authority to prepare and adopt a Master Plan, and to divide the City into zoning districts and adopt zoning regulations; and

WHEREAS, the Nevada State Legislature enacted Senate Bill 374 during the 2013 legislative session authorizing the use of medical marijuana and providing for the supply of medical cannabis; and

WHEREAS, the Nevada State Division of Health and Human Services has enacted rules and regulations governing medical marijuana establishments; and

WHEREAS, NRS 453A.350 authorizes local governments to establish regulations pertaining to the location, land use, appearance, and signage of medical marijuana establishments; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE AS FOLLOWS:

SECTION 1: Mesquite Municipal Code, Title 9 Unified Development Ordinance is hereby amended by adding Chapter 15 “Medical Marijuana Establishments,” as set forth in Attachment 1 of this Bill; and

SECTION 2: If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no way affect remaining provisions of this ordinance.

SECTION 3: All ordinances, parts of ordinances or chapters, sections or paragraphs contained in the Mesquite Municipal Code in conflict herewith are hereby repealed.

SECTION 4: 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.

SECTION 5: This ordinance shall become effective 20 days after publication.

SECTION 6: The City Clerk shall cause this ordinance to be published once immediately following its adoption, by title, in a newspaper qualified pursuant to provisions of Chapter 238 of NRS, as amended from time to time.

PASSED, ADOPTED, AND APPROVED this 22nd day of July, 2014.

By: _____

Allan Litman, Mayor

ATTEST:

BY: _____

Cherry Lawson, City Clerk

AYE:

NAY:

ABSTAIN:

PUBLICATION DATE:

EFFECTIVE DATE:

Approved as to Form

By: _____

Cheryl Truman Hunt, City Attorney

Attachment 1

Chapter 15
MEDICAL MARIJUANA

9-15-1: SHORT TITLE, AUTHORITY AND APPLICATION:

9-15-2: INTENT AND PURPOSE:

9-15-3: DEFINITIONS:

9-15-4: MEDICAL MARIJUANA ESTABLISHMENT ZONING REQUIREMENTS:

9-15-5: REQUIREMENT TO OBTAIN CONDITIONAL USE PERMIT:

9-15-6: APPLICATION:

9-15-7: MANDATORY CONDITIONS OF APPROVAL:

9-15-8: MEDICAL MARIJUANA ESTABLISHMENT LOCATION RESTRICTIONS:

9-15-9: SECURITY AND SCREENING

9-15-1: SHORT TITLE, AUTHORITY AND APPLICATION:

A. Short Title: This chapter shall be known and may be cited as the *Medical Marijuana Ordinance*.

B. Authority: The city council has the authority to adopt this chapter pursuant to the Nevada constitution and Nevada Revised Statutes, including, but not limited to NRS 278 and NRS 453A.350

C. Application: This chapter shall apply to all lands within the boundaries of the city, as defined in this chapter. (Ord. 484, 7-22-2014)

9-15-2: INTENT AND PURPOSE:

A. Intent: The intent of this chapter is to establish the zoning, land use and development requirements applicable to medical marijuana uses, as authorized under Chapter 453A of Nevada Revised Statutes.

B. Purpose: Pursuant to its general authority to regulate the cultivation, production, dispensing and sale of medical marijuana, the City Council declares that the public health, safety and general welfare of the City are best promoted and protected by requiring the zoning regulations and standards set forth in this chapter.

9-15-3: DEFINITIONS:

A. Definitions: Certain words or phrases unique to this chapter shall be construed as herein set out unless it is apparent from the context that they have a different meaning:

Community Facility: Means any of the following: A facility that provides day care to children, a public park, a playground, a public swimming pool, a center or facility which provides recreational opportunities or services to children or adolescents, a church, synagogue, or other building, structure or place used for religious worship or other religious purposes.

Cultivation Facility: Means a business that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells marijuana or related supplies to medical marijuana dispensaries, facilities for the production of edible marijuana products or marijuana-infused products, or other cultivation facilities.

Edible Marijuana Products: Means products that contain marijuana or an extract thereof, are intended for human consumption by oral ingestion, and are presented in the form of foodstuffs, extracts, oils, tinctures and other similar products.

Facility For The Production Of Edible Marijuana Products Or Marijuana-Infused Products: Means a business that acquires, possesses, manufactures, delivers, transfers, transports, or sells edible marijuana products or marijuana-infused products to medical marijuana dispensaries.

Independent Testing Laboratory: Means a private, independent testing laboratory wherein marijuana, edible marijuana products, and marijuana-infused products that are to be sold in the State of Nevada are tested to determine (a) the concentration of THC and cannabidiol; (b) whether the tested material is organic or non-organic; (c) the presence and identification of molds and fungus; and (d) the presence and concentration of fertilizers and other nutrients.

Marijuana: Means (a) all parts of any plant of the genus *Cannabis*, whether growing or not; (b) the seeds thereof; (c) the resin extracted from any part of the plant; and (d) every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. "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.

Marijuana-Infused Products: Means products that: (a) are infused with marijuana or an extract thereof; and (b) are intended for use or consumption by humans through means other than inhalation or oral ingestion. The term includes, without limitation, topical products, ointments, oils and tinctures.

Medical Marijuana Dispensary: Means a business that acquires, possesses, delivers, transfers, transports, supplies, sells, or dispenses marijuana or related supplies and educational materials to the holder of a valid Nevada registry identification card, or his/her caregiver.

Medical Marijuana Establishment: 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.

Paraphernalia: means accessories, devices and other equipment that is necessary or useful for a person to engage in the medical use of marijuana. (For more detail see NRS 453.554)

9-15-4: MEDICAL MARIJUANA ESTABLISHMENT ZONING REQUIREMENTS:

- A. **Allowed Zones:** Medical marijuana establishments shall be allowed within the Light Industrial (IR-1) and Heavy Industrial (IR-2) zones, subject to compliance with the distance separation requirements contained herein and upon the approval of a Conditional Use Permit.
- B. **Limit on Medical Marijuana Dispensary Permits:** There shall be allowed no more than one (1) medical marijuana dispensary for each twenty-five thousand (25,000) in population for the combined population of the city of Mesquite and the town of Bunkerville, as determined and reported by the state of Nevada department

of taxation, pursuant to the provisions of Nevada Revised Statutes 360.283, and as certified by the governor, pursuant to the provisions of Nevada Revised Statutes 360.285.

- C. **Permanent Building:** The business shall be located in a permanent building, with an engineered foundation that meets City of Mesquite building code, and not located in a mobile home, trailer, cargo container, motor vehicle, or similar personal property. A medical marijuana establishment may be located in a completely enclosed, stand-alone building, or one or more establishments under the same ownership may be located together in the same building. A separate business license must be obtained, however, for each dispensary, cultivation facility, or production facility.
- D. **Access:** The proposed medical marijuana establishment will have direct access (both ingress and egress) from a public street. Only one (1) secured exterior doorway shall be allowed for the purpose of ingress or egress to a Medical Marijuana Dispensary, and such doorway shall be visible from the street or parking lot. Any existing doorways beyond this allowance shall be permanently closed by removing the door and frame and filling in the opening with permanent construction to match the exterior wall.
- E. **Circulation:** No drive-through facilities shall be permitted in conjunction with a medical marijuana dispensary.
- F. **Outside Storage:** No outside storage shall be permitted for medical marijuana establishments, including the use of shipping containers for on-site storage.
- G. **Size:** The minimum size of a medical marijuana dispensary shall be 1,000 square feet, and the size and design must provide sufficient interior space to provide for adequate customer waiting areas, customer queuing, and transaction space.
 - 1. The maximum size tenant space for a medical marijuana dispensary shall be limited to the square footage dedicated for such use with one exit (3,000 square feet).
 - 2. The minimum size of a medical marijuana cultivation facility shall be 5,000 square feet.
 - 3. The minimum size of a medical marijuana production facility shall be 3,500 square feet.
- H. **Accessory Uses:** No accessory uses are permitted in association with a medical marijuana dispensary.
- I. **Signs:** Signage for the establishment shall conform to the standards found in Section 9-10-9 Sign Regulations for Industrial Districts; and if located in the Mesquite Technology and Commerce Center (MTCC), signs shall meet the MTCC Design Standards, and shall be reviewed and approved by the City's Architectural Review Committee.
- J. **Expiration of Permit:** The conditional use permit shall be void without further action if:

1. The use ceases for a period exceeding 90 days.
 2. Substantial progress towards commencement of the business is not made within ninety (90) days of conditional use permit approval.
 - a. For purposes of this section, substantial progress shall mean obtaining a license from the State Department of Health, and/or, obtaining an occupancy permit or building permit for the proposed facility.
- K. **State Approval:** A medical marijuana establishment shall obtain approval from the State of Nevada to operate such a facility prior to the Conditional Use Permit being exercised.
- L. **Off-Street Parking:** Medical marijuana establishments shall provide off-street parking facilities in conformance with Mesquite Municipal Code 9-8-5 Off-Street Parking and Loading.
1. All parking spaces required by this Section 9-8-5 for medical marijuana establishments shall be located on the same parcel of land as the use.
 2. On-site Parking Requirements:
 - (a) **Medical Marijuana Dispensary:** One space for each 250 square feet of gross floor area.
 - (b) **Medical Marijuana Production Facility:** One space for each 500 square feet of gross floor area.
 - (c) **Medical Marijuana Cultivation Facility:** One space for each 1,000 square feet of gross floor/yard area identified for cultivation.
 - (d) **Independent Testing Laboratory:** One space for each 300 square feet of gross floor area.

9-15-5: REQUIREMENT TO OBTAIN CONDITIONAL USE PERMIT: Medical marijuana dispensaries, cultivation facilities, independent testing laboratories, and facilities for the production of edible marijuana products or marijuana-infused products, shall require the approval of a Conditional Use Permit.

9-15-6: APPLICATION: In addition to the general application requirements detailed elsewhere in the Unified Development Ordinance, an applicant for a Conditional Use Permit to allow for the operation of a medical marijuana dispensary, marijuana cultivation facility, an independent testing laboratory, or a facility for the production of edible marijuana products or marijuana-infused products shall complete a supplemental application which includes all of the following information:

- A. A site plan drawn to scale showing the location of the proposed building on the lot; property lines; adjoining streets; driveway locations; parking layout; landscaping; walls/fences; solid waste enclosures; and easements.
- B. Elevation drawings or photographs of the proposed building which demonstrate that the building is consistent with the traditional style of pharmacies and medical offices in the community.
- C. Rendering of proposed signage showing that the proposed signs are consistent with Chapter 10 of this Code. Evidence shall be submitted that the division to regulate medical marijuana has approved the name, logo, sign(s) and advertisement of the establishment.
- D. The City of Mesquite regulatory zone for the parcel.

- E. Name of the medical marijuana establishment.
- F. Site address and assessor's parcel number.
- G. A statement describing what activity will occur at the site - medical marijuana cultivation facility, facility for the production of edible marijuana products or marijuana-infused products, medical marijuana independent testing laboratory, medical marijuana dispensary, or a combination of the above.
- H. The name and physical address of any other medical marijuana establishment within Clark County in which any owner, officer, manager, or director of the applicant has an ownership interest in, or contractual relationship or otherwise associated with, other medical marijuana establishments.
- I. The name and location of the off-site medical marijuana cultivation facility providing the medical marijuana, if applicable. The name and location of the medical marijuana independent testing laboratory providing laboratory service, if applicable.
- J. A description of all toxic, flammable or other materials regulated by a federal, state or local government with authority over the business that will be used or kept at the medical marijuana establishment, the location of such materials, how such materials will be stored, and how such materials will be used. The City of Mesquite Fire Marshall shall review the application submission, as applicable, for compliance with local, state and federal regulations.
- K. A plan that complies with existing Clark County health district regulations governing air quality for the medical marijuana establishment that prevents or controls any dust, fumes, vapors, or odor of marijuana off the premises of the establishment.

9-15-7: MANDATORY CONDITIONS OF APPROVAL: All Conditional Use Permit applications for medical marijuana establishments must abide by the following conditions of approval. The City Council may impose conditions of approval that are more restrictive than those required by this section. The approval of all conditional use permits authorizing the operation of a medical marijuana establishment must contain at a minimum the following conditions:

- A. The conditional use permit grantee must provide to the City of Mesquite Development Services Department a copy of the registration certificate issued by the State of Nevada prior to commencing operations.
- B. The establishment must continue to meet all requirements for a medical marijuana establishment to qualify for and maintain its certificate of registration as set forth by State law.
- C. The establishment must comply with all operating procedures required by State law.
- D. The establishment must prohibit anyone from consuming marijuana on the premises.
- E. If the establishment has signage, the signage shall conform to the requirement of 9-15-4(K).
- F. The establishment must prohibit anyone under the age of eighteen years on the premises.
- G. The establishment must prohibit medical marijuana activities including, without limitation, cultivating, growing, processing, displaying, selling or storage from being conducted outdoors.

- H. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in an enclosed facility.
- I. The establishment must prevent medical marijuana or paraphernalia from being displayed or kept in a manner that is visible from outside the facility.
- J. The establishment must post a legible sign inside the facility stating that:
 - 1. The use or distribution of marijuana is a violation of federal law.
 - 2. The possession, use, or distribution of marijuana for non-medical purposes is a violation of state law.
 - 3. Consumption of marijuana on the premises is prohibited.
 - 4. No one under the age of eighteen years is permitted on the premises.
- K. The conditional use permit grantee shall submit (on a form provided by the City) a notarized affidavit in which the grantee acknowledges that the operation of a medical marijuana establishment is a violation of federal law.
- L. The conditional use permit grantee shall submit a notarized statement in which the grantee agrees to hold the City of Mesquite harmless against any federal law enforcement actions that may result from the activities of the medical marijuana establishment that is the subject of the conditional use permit.
- M. The facility must employ security and surveillance systems as outlined in 9-15-9 below.

9-15-8: MEDICAL MARIJUANA ESTABLISHMENT LOCATION RESTRICTIONS:

- A. All medical marijuana establishments must be located a distance of at least 1,000 feet from any of the following land uses:
 - 1. Public or private schools (grades K-12)
 - 2. Community Facilities as defined in this chapter.
 - 3. This distance limitation does not apply to a church or synagogue that is located in an industrial zone.
- B. All medical marijuana dispensaries must be located a distance of at least 300 feet from a Residential Zone Boundary Line
- C. These separation requirements in A and B (above) shall be measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property lines of the land use parcels in question.

9-15-9: SECURITY AND SCREENING:

- A. The establishment must install security surveillance cameras that monitor all entrances, along with the interior and exterior of the premises. Recordings from these cameras must be maintained in a retrievable manner for at least 90 days from the date recorded. All entrances must be illuminated with dusk till dawn lighting, and dispensary entrances shall be visible from a public street or parking lot.
- B. The establishment must install and maintain in good working condition robbery and burglary alarm systems.