

Licensing of Medical Marijuana Establishments

BILL NO. 2679

INTRODUCED BY COUNCIL

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 5 OF THE SPARKS MUNICIPAL CODE;
LICENSING OF MEDICAL MARIJUANA ESTABLISHMENTS AND PROVIDING OTHER
MATTERS PROPERLY RELATED THERETO.**

THE CITY COUNCIL OF THE CITY OF SPARKS DOES ORDAIN:

Section 1. Section 5.80.010: “Definitions” is hereby added as follows:

Section 5.80.010 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 Washoe County 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 registered with the Division pursuant to Nevada State laws and*
 - 2. *Acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells marijuana and related supplies to:*
 - a. *Medical marijuana dispensaries;*
 - b. *Facilities for the production of edible marijuana products or marijuana-infused products; or*
 - c. *Other cultivation facilities.*
- C. *“Division” means the Nevada Division of Public and Behavioral Health of the Department of Health and Human Services.*
- D. *“Facility for the production of edible marijuana products or marijuana-infused products” means a business that:*
 - 1. *Is registered with the Division pursuant to Nevada State laws and*
 - 2. *Acquires, possess, manufactures, delivers, transfers, transports, supplies or sells edible marijuana projects or marijuana-infused products to medical marijuana dispensaries.*
- E. *“Independent testing laboratory” means a facility certified by the Division to operate as an independent testing laboratory to test marijuana, edible marijuana*

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products and marijuana-infused products that are sold in the state of Nevada pursuant to Nevada State laws.

- F. *“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 medical use of marijuana; and*
 - 2. The seeds of a plant of the genus Cannabis;*
 - 3. The resin extracted from any part of the plant; and*
 - 4. Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.*
 - 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 there from), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.*
- 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 registered with the Division pursuant to Nevada State laws 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.*
- I. *“Medical 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; or*
 - 5. A business that has registered with the Division and paid the requisite fees to act as more than one of the types of businesses listed in subsections 2, 3 and 4.*
- J. *“Medical marijuana establishment agent” means an owner, officer, board member, employee or volunteer of a medical marijuana establishment.*
- K. *“Medical marijuana establishment agent registration card” means a registration card that is issued by the Division pursuant to NRS 453A.332 to authorize a person to volunteer or work at a medical marijuana establishment.*
- L. *“Medical marijuana establishment registration certificate” means a registration certificate that is issued by the Division pursuant to Nevada State laws to authorize the operation of a medical marijuana establishment.*
- M. *“Nevada laws and regulations” means the laws of the state of Nevada governing the operation and registration of medical marijuana establishments, known as NRS 453A and NAC.*

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Section 2. Section 5.80.020: “Policy Declaration” is hereby added as follows:

Section 5.80.020 Policy declaration.

It is declared to be the policy of the City that all medical 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.

Section 3. Section 5.80.030: “Medical marijuana establishments licenses - required” is hereby added as follows:

Section 5.80.030 Medical Marijuana Establishments licenses—required.

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:

Medical marijuana cultivation; testing; production of edibles or infused products; or dispense medical marijuana without first receipt of a registration certificate from the State of Nevada, business license and any other authorization to conduct business;

- A. *The registration certificate and business must be posted in a conspicuous place within the establishment;*
- B. *All employees of the firm, association or corporation must obtain and maintain their medical establishment agent registration card; and*
- C. *The state registration certificate must be maintained with the state or the City’s business license will be revoked.*
- D. *If a person qualifies for one of the compassionate exceptions for self-cultivation, self-growing or self-production, that person will be required to register with the City for those activity(ies). The person must explain their specific exemption for self-cultivation, self-growing or self-production. The person will have to provide their registry identification card and the address where the medical marijuana is growing or being produced. The person must abide by NRS 453A.200 in relation to quantity to be exempt from prosecution.*

Section 4. Section 5.80.040: “Individuals only to be licensed” is hereby added as follows:

Section 5.80.040 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.*

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Section 5. Section 5.80.050: “Medical marijuana establishment license – application - contents” is hereby added as follows:

Section 5.80.050 Medical marijuana establishment license—Application—Contents.

Any person desiring to establish, conduct or operate any medical marijuana establishment 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 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 which 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 cash.*

Section 6. Section 5.80.060: “Filing application – payment of fees” is hereby added as follows:

Section 5.80.060 Filing application—Payment of fees.

Applicants for a medical marijuana establishment shall begin the licensing procedure by filing a license application after receiving the necessary approvals from the City for the operation of the medical marijuana establishment. Upon receiving the required land use entitlement approval, the applicant shall pay to the City the full amount of the annual fee applicable to the type of license for which application is made, and the license fee for the current quarter pro-rated to the end of said quarter. However, if the applicant has held a medical marijuana establishment license from the City for a period of less than one year, the initial fee shall be the license fee for the current quarter pro-rated to the end of said quarter.

Section 7. Section 5.80.070: “Medical marijuana establishment license - expiration” is hereby added as follows:

Section 5.80.070 Medical marijuana establishment license—Expiration.

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Each license issued under the provisions of this chapter shall expire effective on the date of the revocation of the Nevada registration certificate.

Section 8. Section 5.80.080: “Medical marijuana establishment license - display” is hereby added as follows:

Section 5.80.080 Medical marijuana establishment license—Display.

Each license issued for any medical marijuana establishment shall be posted in a conspicuous place, in order that it may be readily inspected by any person.

Section 9. Section 5.80.090: “Operation of businesses by receivers, assignees for the benefit of creditors, guardians and personal representatives” is hereby added as follows:

Section 5.80.090 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, 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 of Nevada Regulation governing medical marijuana and City of Sparks regulations.*
- 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 Division that the Division has approved the transfer of the operations of the medical marijuana establishment.*

Section 10. Section 5.80.100: “Medical marijuana establishment license – revocation - grounds” is hereby added as follows:

Section 5.80.100 Medical marijuana establishment license—Revocation—Grounds.

Any City 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;*

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- 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 11. Section 5.80.110: “Medical marijuana establishment license – revocation - procedure” is hereby added as follows:

Section 5.80.110 Medical 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 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 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 12. Section 5.80.120: “Medical marijuana establishment license – issuance after revocation” is hereby added as follows:

Section 5.80.120 Medical 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 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 medical marijuana establishment in the City of Sparks.

Section 13. Section 5.80.130: “Medical marijuana establishment license – revocation – false complaints” is hereby added as follows:

Section 5.80.130 Medical 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 14. Section 5.80.140: “Medical marijuana establishment license – fee refund not allowed when ceases to operation” is hereby added as follows:

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Section 5.80.140 Medical 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 15. Section 5.80.150: “Unlawful for operator to dispense medical marijuana to a minor” is hereby added as follows:

Section 5.80.150 Unlawful for operator to dispense medical marijuana to a minor.

- A. *It is unlawful for any person operating any licensed medical marijuana establishment, to dispense marijuana or any marijuana products to any person under the aged eighteen years without the custodial parent present per Nevada State laws and regulations.*

Section 16. Section 5.80.160: “Duties of the chief of police” is hereby added as follows:

Section 5.80.160 Duties of the chief of police.

The chief of police or their designee shall:

- A. *Inspect or cause to be inspected each premises where medical marijuana is cultivated, produced, tested or dispense;*
- B. *Verify the agent registration card of any employee of a medical 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 medical marijuana establishments are subject to the “Safety Plan and Operational Requirements” portion of the City of Sparks business license application. Any medical 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 1.12.010 of SMC;*
- 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.*

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Section 17. Section 5.80.170: “Access of officials and officers to medical marijuana establishment premises” is hereby added as follows:

Section 5.80.170 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 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 medical marijuana establishment to ensure compliance with the standards of the Sparks Municipal Code.*
- C. *If the City determines that there are any deficiencies in the operation of a medical marijuana establishment, the City may suspend the medical marijuana establishment business license and require a written plan and schedule for the corrections.*

Section 18. Section 5.80.180: “Annual license fees – payment in advance - exception” is hereby added as follows:

Section 5.80.180 Annual license fees—Payment in advance—Exception.

Medical marijuana establishment license fees shall be in the amounts provided in Section [5.80.190](#) and shall be paid in advance, as follows:

- A. *Base annual fees will be paid in their entirety, prorated on a calendar year basis from the date the license is issued.*
- B. *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.*
- C. *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.*
- D. *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 percent (2%) per month of the delinquent amount.*

Section 19. Section 5.80.190: “License fees for specific medical marijuana establishments” is hereby added as follows:

Section 5.80.190 License fees for specific medical marijuana establishments.

Medical marijuana independent testing laboratories shall pay license fees in accordance with Section 5.12.100 of the Sparks Municipal Code. License fees for all other medical marijuana establishments shall be paid as follows:

- A. *For medical marijuana cultivation, a base fee of \$3,000.00 per year plus, for each quarter based on the establishment’s gross receipts for the previous quarter, an*

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additional \$1.00 for each \$1,000.00 in gross receipts (or portion thereof) in excess of \$10,000.00.

- B. For a medical marijuana facility for the production of edible marijuana products or marijuana-infused products, a base fee of \$3,000.00 per year plus, for each quarter based on the establishment's gross receipts for the previous quarter, an additional \$1.00 for each \$1,000.00 in gross receipts (or portion thereof) in excess of \$10,000.00.*
- C. For a medical marijuana dispensary, a base fee of \$5,000.00 per year plus, for each quarter based on the establishment's gross receipts for the previous quarter, an additional \$5.00 for each \$1,000.00 in gross receipts (or portion thereof) in excess of \$10,000.00.*
- D. For self-cultivation, self-growing or self-production of medical marijuana, the person must register annually with the City of Sparks. There is no fee associated with the required registration.*

Section 20. Section 5.80.200: "Violation - penalty" is hereby added as follows:

Section 5.80.200 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 1.12.010](#) of this code.

SECTION 21: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 22: The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law.

SECTION 23: This ordinance shall become effective upon passage, approval and publication.

SECTION 24: 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 25: 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 26: 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.

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PASSED AND ADOPTED this ____ day of _____, 20__, by the following vote of the City Council:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

APPROVED this ____ day of _____, 20__, by:

GENO MARTINI, Mayor

ATTEST:

TERESA GARDNER, City Clerk

APPROVED AS TO FORM AND LEGALITY:

CHESTER H. ADAMS, City Attorney