

ORDINANCE NO. 3435
(ZOA-17-880900 – Development Code Update – Marijuana Establishments)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO AMEND TITLE 19 – HENDERSON DEVELOPMENT CODE - REGARDING REGULATIONS FOR MARIJUANA ESTABLISHMENT USES BY AMENDING PORTIONS OF SECTION 19.5.5 - COMMERCIAL USES, CHAPTER 19.6 - ADMINISTRATION AND CHAPTER 19.12 - DEFINITIONS, OF THE HENDERSON MUNICIPAL CODE; TO MAKE VARIOUS CORRECTIONS, REVISIONS AND UPDATES AS NECESSARY.

- WHEREAS, it is the intent of the City of Henderson to maintain a zoning ordinance for the safe and orderly development of property; and
- WHEREAS, the City of Henderson adopted a new zoning ordinance on January 19, 2010; and
- WHEREAS, the Nevada State Legislature adopted Bill No. SB487 of the Nevada Revised Statutes to allow for Medical Marijuana Establishments subject to standards; and
- WHEREAS, the City of Henderson understands that the marijuana in any form is prohibited by Federal Law, though the State of Nevada has approved legislation to allow for Retail Marijuana; and
- WHEREAS, the City of Henderson is providing language to allow and regulate Retail Marijuana Establishments per SB487 and subject to the Title 19 and Title 4 compliance; and
- WHEREAS, a zoning ordinance is considered a “living document” and will invariably need amending to make minor corrections, revisions, and updates as necessary; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

- SECTION 1. Section 19.5.5 – Commercial Uses, Chapters 19.6 – Administration, and 19.12 – Definitions, of Title 19 - Henderson Development Code are hereby amended, as represented in Exhibit A, consisting of 21 pages, hereto attached.
- SECTION 2. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.

SECTION 3. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on September 8, 2017, in the Review Journal.

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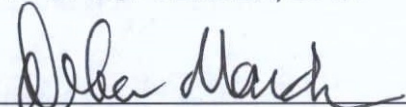
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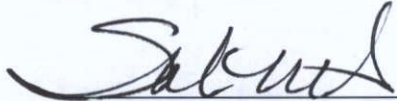
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PASSED, ADOPTED, AND APPROVED THIS 5TH DAY OF SEPTEMBER, 2017.




Debra March, Mayor

ATTEST:


Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on August 15, 2017, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

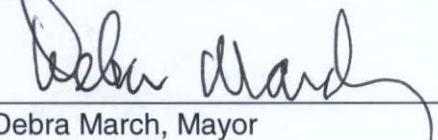
Thereafter on September 5, 2017, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held September 5, 2017, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye: Debra March, Mayor
Councilmembers:
Gerri Schroder
Dan K. Shaw

Those voting nay: John F. Marz
Dan H. Stewart

Those abstaining: None
Those absent: None




Debra March, Mayor

ATTEST:


Sabrina Mercadante, MMC, City Clerk

EXHIBIT A

19.5.1

B. USE REGULATIONS

Sections 19.5.3 through 19.5.6 list the uses allowed in this Code and summarize information related to each use, including the definition, a table showing the districts in which the use is allowed, the procedure under which the use may be approved, use-specific standards (if applicable), the minimum off-street parking requirement, and off-street loading group.

1. Explanation of Tables

The following abbreviations apply for all tables in this chapter:

- (a) "P" (Permitted Use) = use permitted, subject to all applicable regulations of this Code.
- (b) "S" (Standards) = use permitted, subject to additional standards listed for the specific use type in addition to all applicable regulations of this Code.
- (c) "C" (Conditional Use) = use allowed only if reviewed and approved as a conditional use, in accordance with Section 19.6.6.A. Base standards may apply to a CUP approval, as specified in the table for the specific use type.
- (d) "A" (Accessory Use) = use permitted as an accessory use to a principal use in the district. This does not exclude other land uses which are generally considered accessory to the primary use.
- (e) "T" (Temporary Use) = use is permitted only by means of a Temporary Use Permit (or a conditional use permit when exceeding the allowed time limit) in accordance with 19.6.6.D, unless otherwise expressly allowed by the HMC. Base standards may apply to a TUP; see standards for the specific use type.
- (f) Blank cell = use not allowed in the respective zoning district.

2. Off-Street Parking and Loading Requirements

The number of off-street parking spaces and loading zone requirements for uses listed in Sections 19.5.3 through 19.5.6 shall be as listed in the tables of that section. The requirements listed are minimums. Other general requirements and standards relating to parking and loading, including those that pertain to location, design, computation and handicapped parking, are as set forth in Section 19.7.4, *Parking and Loading*.

3. Use-Specific Standards

- (a) For all uses in this Chapter, the "All Districts" standards apply in all districts unless otherwise indicated, and any district-specific standards supplement the all-district standards unless otherwise indicated.
- (b) Any modifications to the use-specific standards of this chapter through the conditional use permit approval process shall be specifically recorded in the approved permit. The use-specific standards of this chapter are not subject to modification through the waiver process.
- (c) The use-specific standards in this chapter include cross-referencing tools that are intended to assist the City and the public in using and applying this Code. These cross-referencing tools are for the sake of convenience and assistance only, and do not diminish the applicability of substantive standards and limitations that appear

outside this chapter. Except as otherwise specifically indicated, the absence or omission of a cross-reference in the land use tables of this chapter shall not be deemed to limit or negate any other provision of this Code.

- (d) The public consumption of cannabis products is prohibited within all Use Classifications of this Development Code. This provision shall not be construed to prohibit private consumption of cannabis consistent with Nevada Law.

19.5.5

Y. **[MEDICAL] MARIJUANA ESTABLISHMENTS**

1. Purpose and Intent

The purpose and intent of this section is to provide a procedure for the regulations of **[medical]** marijuana establishments within the City of Henderson. These regulations are in addition to the regulations of Title 4 of the Henderson Municipal Code and provide all land use regulations for **[medical]** marijuana establishments.

2. Distance Limitations for **[Medical]** Marijuana Establishments

Table 19.5.5-2 Minimum Separation [1]

[Medical] Marijuana Establishment	Protected Uses			Separation between [Medical] Marijuana Dispensaries (feet)[3]
	Separation to School (feet)[2]	Separation to Community Facility (feet)	Separation to public park or public playground (feet)[4]	
Cultivation Facility	1,000	300	1,000	
Dispensary	1,000	300	1,000	5,280 [5]
Infusion or Manufacturing	1,000	300	1,000	
Independent Testing Laboratory	1,000	300	1,000	

Note: The separation from a **[medical]** marijuana establishment to a protected use is for a protected use that existed or occupied on the date on which the application for the **[proposed-medical]** marijuana establishment was submitted to the State **[Health-Division]** of Nevada.

[1] Distance shall be measured as the shortest straight line between the **front door** **[exterior-walls]** of the building **[or-portion-thereof]** of the proposed **[medical]** marijuana establishment to the property line of the protected use. If both the proposed **[medical]** marijuana establishment and the protected use are tenants within a commercial or industrial development and located on the same parcel of property, the distance shall be measured as the shortest straight line distance between the **[closest-exterior-wall(s)]** **front door** of the building **[or-portion-thereof]** of the proposed **[medical]** marijuana establishment to the closest exterior wall(s) of the building or portion thereof of the protected use.

[2] Means a public or private school that provides formal education traditionally associated with preschool through grade 12.

[3] Distance separation between **[medical]** marijuana dispensaries shall be measured as the shortest straight line between the closest exterior walls of the building or portion thereof of the proposed **[medical]** marijuana dispensary to the closest exterior walls of the building or portion thereof of the established **[medical]** marijuana dispensary. This distance may be waived by City Council, if it can be shown by clear and convincing evidence

by the applicant that a waiver or reduction of such separation requirements will not compromise the general intent of this Code to protect the public health, safety and general welfare of the citizens of the City.

[4] For purposes of this section, "public park or public playground" includes privately owned and/or maintained parks that are made available for public purposes.

[5] This distance separation does not apply to medical and recreational dispensaries under the same ownership, within the same tenant space.

3. **[Medical] Marijuana, Cultivation Facility**

RESIDENTIAL											PUBLIC	
RS-1	RS-2	RS-4	RS-6	RS-8	RM-10	RM-16	RH-24	RH-36	RMH	DH	PS	DP
COMMERCIAL					INDUSTRIAL				MIXED-USE			
CN	CO	CC	CH	CT	CA	IL	IG	IP	MC	MN	MR	
						C	C	C				

(a) Definition

Means an enclosed facility that acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells **[medical]** marijuana and related supplies to **[medical]** marijuana dispensaries; facilities for the production of edible marijuana products or marijuana-infused products; or other **[medical]** marijuana cultivation facilities, as defined in NRS Chapter 453A, as may be amended or renumbered.

(b) Standards

- (1) Shall comply with all H.M.C. Title 4 regulations.
- (2) Shall comply with the distance separation requirements of 19.5.5.Y.
- (3) There shall be no emission of dust, fumes or vapors into the environments from the facility. The air filtration system shall be designed by a Nevada licensed engineer and shall be installed prior to certificate of occupancy. The ventilation system shall be designed so that the odor of marijuana cannot be detected by a person with normal sense of smell at the exterior of the marijuana business or at any adjoining use or property. The existence of a detectable odor shall be determined by measuring the concentration of cannabis terpenes in accordance with the City's marijuana odor policy.
- (4) Shall be located in a permanent building and shall not be located in a trailer, cargo/shipping container or motor vehicle.
- (5) There shall be no outdoor storage, including the use of cargo/shipping containers for on-site storage.
- (6) There shall be no retail sales at the cultivation facility.
- (7) Shall be a minimum of 5,000 gross square feet.

~~[(8)] Windows must remain unobstructed, allowing visibility into the facility. Window tint, decals and signage of any kind shall be strictly prohibited.~~

~~[(9)]~~ (8) Signs shall meet the following regulations:

- i. Shall be limited to wall signs only.

- ii. Maximum sign area shall be 25 square feet.
- iii. Wall signs shall be constructed only of pan channel letters (no cabinet or can signs).
- iv. Wall signs shall be internally illuminated. No exposed lighting sources are permitted.
- v. No animation or electronic message unit signs are permitted.
- vi. Color and design, including lettering shall complement the architecture of the building.
- vii. Sign regulations or master sign criteria shall apply in addition to the above regulations. The most restrictive regulations apply.
- viii. Signage shall be professional, and be consistent with the traditional style of signage for pharmacies and medical offices.

~~[(10)]~~(9) Approval of a conditional use permit does not guarantee approval of a business license.

~~[(11)]~~(10) The conditional use permit shall lapse without further action if the use ceases for a period exceeding 90 days.

- (c) Off-Street Parking Requirement
Schedule "B" (Section 19.7.4.C.2)
- (d) Off-Street Loading Group
Group Two (Section 19.7.4.D.)

4. Medical Marijuana, Dispensary

RESIDENTIAL											PUBLIC	
RS-1	RS-2	RS-4	RS-6	RS-8	RM-10	RM-16	RH-24	RH-36	RMH	DH	PS	DP
COMMERCIAL						INDUSTRIAL			MIXED-USE			
CN	CO	CC	CH	CT	CA	IL	IG	IP	MC	MN	MR	
C	C	C	C			C	C	C				

(a) Definition

Means a business that is registered with the State of Nevada ~~[Division of Public and Behavioral Health of the Department of Health and Human Services]~~ Department of Taxation pursuant to NRS 453A.322, as may be amended or renumbered; and 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 or to another medical marijuana dispensary.

(b) Standards

- (1) Shall comply with all H.M.C. Title 4 regulations.
- (2) Shall comply with the distance separation requirements of 19.5.5.Y.
- (3) Shall have operating hours between the hours of 8:00 am and ~~[8:00]~~ 11:00 pm, unless extended through the conditional use permit approval.
- (4) Drive-through services are prohibited.
- (5) There shall be no emission of dust, fumes or vapors into the environment from the facility.
- (6) Shall be a minimum of 1,400 gross square feet.
- (7) Shall not provide outdoor seating.
- (8) There shall be no outdoor display of merchandise or merchandise visible from the outside of the establishment.
- (9) Shall be located in a permanent building, and shall not be located in a trailer, cargo/shipping container or motor vehicle.
- (10) There shall be no outdoor storage, including the use of cargo/shipping containers for on-site storage.
- (11) Windows in common customer space must remain unobstructed, allowing visibility into the facility. Window tint, decals and signage of any kind shall be strictly prohibited.
- (12) If signage is installed, signs ~~[Signs]~~ shall meet the following regulations:
 - i. Shall be limited to wall signs, monument or freestanding signs;
 - ii. Maximum sign area shall be 25 square feet;

- iii. A maximum of 25% of the wall sign or tenant panel of a freestanding sign may include a logo;
- iv. Wall signs shall be constructed only of pan channel letters (no cabinet or can signs);
- v. Wall signs shall be internally illuminated. No exposed lighting sources are permitted;
- vi. No animation or electronic message unit signs are permitted;
- vii. Color and design, including lettering shall complement the architecture of the building;
- viii. Signage shall be professional, and be consistent with the traditional style of signage for pharmacies and medical offices; and
- ix. Sign regulations or master sign criteria shall apply in addition to the above regulations. The most restrictive regulations apply.

(13) The conditional use permit shall lapse without further action if the use ceases for a period exceeding 90 days.

(14) Approval of a conditional use permit does not guarantee approval of a business license.

(c) Industrial Districts

- (1) Dispensaries may be permitted in the same building in conjunction with a cultivation site under the same ownership or management.
- (2) Stand-alone medical dispensaries shall only be permitted within buildings that contain multiple tenant spaces designed with retail/office storefronts, located on arterial roadways as designated by the Master Transportation Plan.

(d) Off-Street Parking Requirement

One space per 250 square feet.

(e) Off-Street Loading Group

Group Two (Section 19.7.4.D.)

5. Retail Marijuana, Dispensary

RESIDENTIAL										PUBLIC		
<u>RS-1</u>	<u>RS-2</u>	<u>RS-4</u>	<u>RS-6</u>	<u>RS-8</u>	<u>RM-10</u>	<u>RM-16</u>	<u>RH-24</u>	<u>RH-36</u>	<u>RMH</u>	<u>DH</u>	<u>PS</u>	<u>DP</u>
COMMERCIAL						INDUSTRIAL			MIXED-USE			
<u>CN</u>	<u>CO</u>	<u>CC</u>	<u>CH</u>	<u>CT</u>	<u>CA</u>	<u>IL</u>	<u>IG</u>	<u>IP</u>	<u>MC</u>	<u>MN</u>	<u>MR</u>	
<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>	<u>C</u>	<u>C</u>				

(a) Definition

Means a business that is registered with the State of Nevada Department of Taxation to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers.

(b) Standards

(1) A retail dispensary shall ~~require a conditional use permit, and unless otherwise approved by council may~~ only be in conjunction with a medical marijuana dispensary.

dispensary at the same location.

(2) Shall comply with all H.M.C. Title 4 regulations.

(3) Shall comply with the distance separation requirements of 19.5.5.Y.2

(4) Shall have operating hours between the hours of 8:00 am and 11:00 pm, unless extended through the conditional use permit approval.

(5) Drive-through services are prohibited.

(6) There shall be no emission of dust, fumes or vapors into the environment from the facility.

(7) Shall be a minimum of 1,400 gross square feet of combined dispensary area.

(8) Shall not provide outdoor seating.

(9) There shall be no outdoor display of merchandise or merchandise visible from the outside of the establishment.

(10) Shall be located in a permanent building, and shall not be located in a trailer, cargo/shipping container or motor vehicle.

(11) There shall be no outdoor storage, including the use of cargo/shipping containers for on-site storage.

(12) Windows in common customer space must remain unobstructed, allowing visibility into the facility. Window tint, decals and signage of any kind shall be strictly prohibited.

(13) If signage is installed, signs shall meet the following regulations:

i. Shall be limited to wall signs, monument or freestanding signs;

ii. Maximum sign area shall be 25 square feet;

iii. A maximum of 25% of the wall sign or tenant panel of freestanding sign may include a logo;

iv. Wall signs shall be constructed only of pan channel letters (no cabinet or can signs);

v. Wall signs shall be internally illuminated. No exposed lighting sources are permitted;

vi. No animation or electronic message unit signs are permitted;

- vii. Color and design, including lettering shall complement the architecture of the building;
- viii. Signage shall be professional, and be consistent with the traditional style of signage for pharmacies and medical offices; and
- ix. Sign regulations or master sign criteria shall apply in addition to the above regulations. The most restrictive regulations apply.

(14) The conditional use permit shall lapse without further action if the use ceases for a period exceeding 90 days.

(15) Approval of a conditional use permit does not guarantee approval of a business license.

(c) Industrial Districts

(1) Dispensaries may be permitted in the same building in conjunction with a cultivation site under the same ownership or management.

(2) Dispensaries shall only be permitted within buildings that contain multiple tenant spaces designed with retail/office storefronts, located on arterial roadways as designated by the Master Transportation Plan.

(d) Off-Street Parking Requirement

One space per 250 square feet.

(e) Off-Street Loading Group

Group Two (Section 19.7.4.D.)

6.[5.]—~~Medical~~ Marijuana, Infusion or Manufacturing Facility

RESIDENTIAL											PUBLIC	
RS-1	RS-2	RS-4	RS-6	RS-8	RM-10	RM-16	RH-24	RH-36	RMH	DH	PS	DP
COMMERCIAL						INDUSTRIAL			MIXED-USE			
CN	CO	CC	CH	CT	CA	IL	IG	IP	MC	MN	MR	
						C	C	C				

(a) Definition

~~[An enclosed facility that produces products that are infused with marijuana or an extract thereof, and 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, defined in NRS Chapter 453A, as may be amended or renumbered.]~~ Means an enclosed facility and entity licensed by the State of Nevada Department of Taxation to purchase marijuana, manufacture, process, and package marijuana and marijuana products, and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

(b) Standards

- (1) Shall comply with all H.M.C. Title 4 regulations.
- (2) Shall comply with the distance separation requirements of 19.5.5.Y.
- (3) Shall be a minimum of 1,400 gross square feet.
- (4) There shall be no retail sales at the facility.
- (5) Shall be located in a permanent building and shall not be located in a trailer, cargo/shipping container or motor vehicle.
- (6) There shall be no outdoor storage, including the use of cargo/shipping containers for on-site storage.

~~[(7) Windows must remain unobstructed, allowing visibility into the facility. Window tint, decals and signage of any kind shall be strictly prohibited.]~~

~~[(8)]~~(7) If signage is installed, signs [Signs] shall meet the following regulations:

- i. Shall be limited to wall signs only;
- ii. Maximum sign area shall be 25 square feet;
- iii. A maximum of 25% of the wall sign may include a logo;
- iv. Wall signs shall be constructed only of pan channel letters (no cabinet or can signs);
- v. Wall signs shall be internally illuminated. No exposed lighting sources are permitted;
- vi. No animation or electronic message unit signs are permitted;
- vii. Color and design, including lettering shall complement the architecture of the building;
- viii. Signage shall be professional, and be consistent with the traditional style of signage for pharmacies and medical offices;
- ix. Sign regulations or master sign criteria shall apply in addition to the above regulations. The most restrictive regulations apply.

~~[(9)]~~(8) Approval of a conditional use permit does not guarantee approval of a business license.

~~[(10)]~~(9) The conditional use permit shall lapse without further action if the use ceases for a period exceeding 90 days.

(c) Off-Street Parking Requirement

1 space per 500 square feet.

(d) Off-Street Loading Group

Group Two (Section 19.7.4.D.)

7.[6. Medical] Marijuana, Independent Testing Laboratory

RESIDENTIAL											PUBLIC	
RS-1	RS-2	RS-4	RS-6	RS-8	RM-10	RM-16	RH-24	RH-36	RMH	DH	PS	DP
COMMERCIAL						INDUSTRIAL			MIXED-USE			
CN	CO	CC	CH	CT	CA	IL	IG	IP	MC	MN	MR	
						S	S	S				

(e) Definition

~~[Means a facility that tests marijuana, edible marijuana products and marijuana-infused products that are to be sold in the State of Nevada, as defined in NRS 453A, as may be amended or renumbered.]~~ Means an entity licensed by the State of Nevada Department of Taxation to test marijuana and marijuana products, including for potency and contaminants.

(f) Standards

- (1) Shall comply with all H.M.C. Title 4 regulations.
- (2) Shall comply with the distance separation requirements of 19.5.5.Y.
- (3) There shall be no emission of dust, fumes or vapors into the environments from the facility.
- (4) There shall be no retail sales at the facility.
- (5) Shall be located in a permanent building and shall not be located in a trailer, cargo/shipping container or motor vehicle.
- (6) There shall be no outdoor storage, including the use of cargo/shipping containers for on-site storage.

~~[(7) Windows must remain unobstructed, allowing visibility into the facility. Window tint, decals and signage of any kind shall be strictly prohibited.]~~

7[(8)] If signage is installed, signs [Signs] shall meet the following regulations:

- i. Shall be limited to wall signs only;
- ii. Maximum sign area shall be 25 square feet;
- iii. A maximum of 25% of the wall sign may include a logo;
- iv. Wall signs shall be constructed only of pan channel letters (no cabinet or can signs);
- v. Wall signs shall be internally illuminated. No exposed lighting sources are permitted;
- vi. No animation or electronic message unit signs are permitted;
- vii. Color and design, including lettering shall complement the architecture of the building;

- viii. Signage shall be professional, and be consistent with the traditional style of signage for pharmacies and medical offices;
- ix. Sign regulations or master sign criteria shall apply in addition to the above regulations. The most restrictive regulations apply.

~~[(9) Approval of a conditional use permit does not guarantee approval of a business license.]~~

~~[(10) The conditional use permit shall lapse without further action if the use ceases for a period exceeding 90 days.]~~

(g) Off-Street Parking Requirement

1 space per 500 square feet.

(h) Off-Street Loading Group

Group Two (Section 19.7.4.D.)

19.6.6.A – Conditional Use Permits

A. CONDITIONAL USE PERMITS

1. Purpose/Description

The conditional use permit review and approval procedure provides a discretionary approval process for uses with unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure proposed conditional uses will not have a significant adverse impact on surrounding uses or on the community-at-large.

2. Application Filing

Applications for conditional use permits shall be submitted to the Community Development and Services Director.

3. Public Hearing Notice

Notice of public hearings on conditional use permits shall be posted and mailed in accordance with Section 19.6.3.B.4, *Public Notice*.

4. Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed conditional use permit application in light of the approval criteria of Section 19.6.6.A.7, *Conditional Use Permit Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

For medical marijuana establishments, the Community Development and Services Director shall provide a report to the City Council.

5. Planning Commission Review and Decision

(a) Within 50 days of receipt of a complete application, the Planning Commission shall hold a public hearing on the proposed conditional use permit. At the close of the public hearing, the Planning Commission shall act to approve, approve with conditions, or deny the application, based on the approval criteria of Section 19.6.6.A.7, *Conditional Use Permit Approval Criteria*. However, the Planning Commission's vote shall be a recommendation only when the application is being processed concurrently with an application that requires a final decision by the City Council.

(b) Design review applications that are being processed concurrently with conditional use permits shall be reviewed and approved concurrently by the Planning Commission.

6. City Council Review and Decision

Within 50 days of receipt of a complete application, the City Council shall hold a public hearing on the proposed [medical] marijuana establishment conditional use permit. At the close of the public hearing, the City Council shall act to approve, approve with conditions, or deny the application based on the approval criteria for Section 19.6.6.A.7, *Conditional Use Permit Approval Criteria*.

7. Conditional Use Permit Approval Criteria

(a) General Criteria

Conditional use permits may be approved by the Planning Commission only if they find that all of the following criteria are met:

- (1) The proposed use complies with all applicable provisions of this Development Code unless otherwise expressly stated;
- (2) The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
- (3) Any significant adverse impacts resulting from the use will be mitigated or offset to the maximum practical extent;
- (4) The proposed use will not cause substantial diminution in value of other property in the neighborhood in which it is to be located;
- (5) Public safety, transportation, and utility facilities and services will be available to serve the subject property while maintaining sufficient levels of service for existing development;
- (6) Adequate assurances of continuing maintenance have been provided; and
- (7) Any significant adverse impacts on the natural environment will be mitigated to the maximum practical extent.

(b) Liquor Licenses

Conditional use permits for liquor licenses may be approved by the Planning Commission only if they find that all of the "General" approval criteria of Section 19.6.6.A.7(a) and the following criteria have been met:

- (1) The proposed use, its site design and conditions applied thereto, are intended to result in a facility where littering, loitering, and outdoor disturbance or excessive noise are not likely to occur.
- (2) The proposed use will not adversely affect the welfare of the neighborhood residents because on-site consumption occurs in designated and properly designed areas indoors or outdoors and that, for package sales locations, adequate measures are proposed that on-site consumption is not likely to occur.
- (3) The proposed project, based upon its physical positioning on the site and its architectural and design features, is compatible with the surrounding neighborhood. Considerations to ensure compatibility may include, but are not limited to, an evaluation of security, noise, light and glare, parking location and availability, and service area locations.

(c) [Medical] Marijuana Establishments

- (1) Conditional use permit applications for [Medical] Marijuana establishments shall not require Planning Commission approval and will proceed directly for final action at City Council. Conditional use permits for [Medical] Marijuana establishment shall be heard in conjunction with a City of Henderson business license application on the same City Council meeting.
- (2) All [Medical] Marijuana Establishments require approval of a conditional use permit. Conditional use permits for [medical] marijuana establishments are only valid at a given location for the operator who obtains the Nevada State

certificate for the facility. The conditional use permit approval shall expire and become null and void if the [medical] marijuana establishment operator loses or otherwise forfeits his or her State certificate to operate that facility.

- (3) Conditional use permits for [medical] marijuana establishments may only be submitted to Community Development and Services in conjunction with an application to the City of Henderson Business License Department. A conditional use permit application is not deemed complete and will not be scheduled for a public hearing until the City of Henderson Business License application has been reviewed and approved in accordance with Business License [medical] marijuana establishment suitability criteria. Once deemed approved, a conditional use permit will be scheduled for a public hearing meeting.
- (4) Conditional use permits for [medical] marijuana establishments may be approved, only if they meet all of the "General" approval criteria of Section 19.6.6.A.7.(a) and the standards of 19.5.5.Y.
- (5) Conditional use permits for medical marijuana establishments for cultivation, infusion and/or manufacturing and laboratories, approved prior to July 2017, shall be considered marijuana establishments. These approved sites, unless adding another establishment type to the existing site, shall not require any change to an approved conditional use permit.

8. Findings of Fact

The decision of the Planning Commission shall be accompanied by written findings of fact specifying the reasons for the decision.

9. Notice of Decision

Within five days of the Planning Commission's decision on a conditional use permit, the Community Development and Services Director shall mail notice of the decision to the applicant and all other parties who have made a written request for notification.

10. Appeals

Appeals of the Planning Commission's decision on conditional use permits shall be taken to the City Council in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

Appeals of the City Council decision on conditional use permits shall be processed through the court system.

11. Effective Date

Decisions of the Planning Commission on a conditional use permit shall become effective ten days after the date that the City Clerk received written notice of the Planning Commission's approval of the conditional use permit, unless a valid appeal is filed in accordance with Section 19.6.9.E, *Appeals*.

Decisions of the City Council on a conditional use permit shall become effective upon posting of the decision with the City Clerk's office, unless a valid appeal is filed in accordance with Section 19.6.9.E, *Appeals*.

12. Lapse of Approval

- (a) Except as otherwise provided herein, a conditional use permit shall lapse and have no further effect one year after its effective date or at such alternate time specified

FIGURE|19.6.6-A: SUMMARY OF THE CONDITIONAL USE PERMIT PROCESS

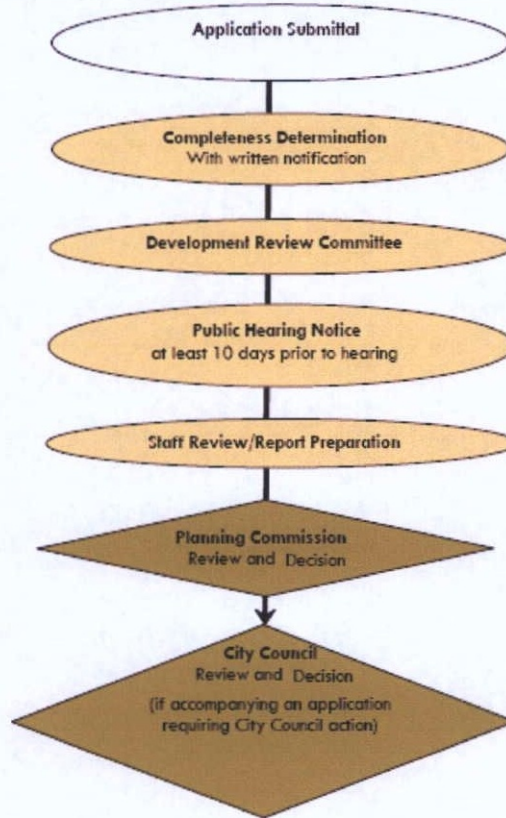
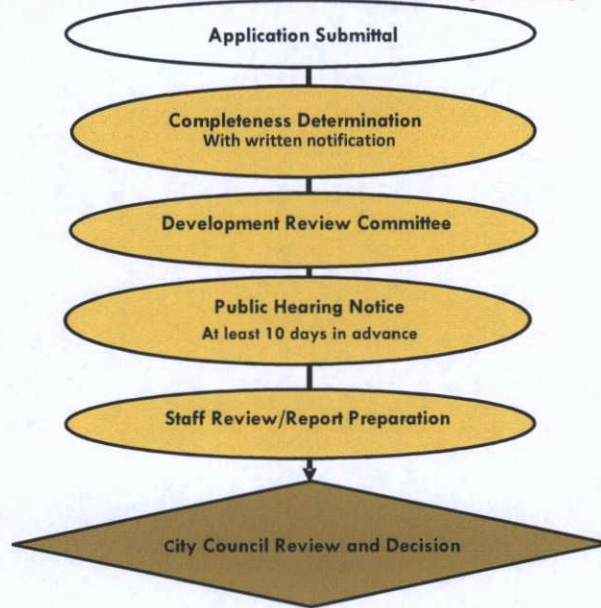


Figure 19.6.6 Summary of a Conditional Use Permit – ~~[Medical]~~ Marijuana



in the approval unless one or more of the following criteria has been met:

- (1) A building permit, other than a grading permit, has been issued and construction diligently pursued toward completion of the building.
 - (2) A certificate of occupancy has been issued.
 - (3) The use is established and maintained.
 - (4) The conditional use permit is renewed.
- (b) A conditional use permit shall lapse upon termination of a project or expiration of a building permit.
- (c) Except as otherwise provided herein, a conditional use permit shall lapse if the rights granted by it are discontinued for 180 consecutive days or other period of time as specified by the City Council as part of a closure plan.
- (d) A conditional use permit for a ~~[medical]~~ marijuana establishment shall not be effective until the licensee has received State of Nevada approval and approval of a business license from the City of Henderson.
- (e) The process by which a conditional use may be extended is set forth below:
- (1) The Community Development and Services Director may renew or extend the time of a conditional use permit when the applicant demonstrates good cause for the extension. Any such administrative extension granted shall not exceed one year in length, and no more than one extension may be granted by the Community Development and Services Director.
 - (2) Additional extensions of time may be approved by the Planning Commission, whose decision may be appealed to the City Council in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.
- (f) The process by which a discontinued use may be extended is set forth below. Uses can only be extended at the location for which they were originally approved.

(1) Established Use

Any established use, defined as a use that was approved and opened for business, which is anticipated to be discontinued for more than 180 days, may be extended as part of an approved closure plan processed through the Community Development and Services Department, and which requires City Council action. The closure plan must specify the period of time for the extension of the established use. The closure plan does not extend a business license; any business license extension shall be processed through Business Licensing Department procedures.

(2) Non-Established Use

Any non-established use, defined as a use that was approved but never opened for business, may be extended through the extension of time process described in 19.6.6.A.12(e). The extension of time must specify the period of time for the extension of the non-established use. The closure plan does not extend a business license; any business license extension shall be processed through Business Licensing Department procedures.

13. Transferability

- (a) The status of a conditional use permit is not affected by changes of tenancy, ownership, or management.
- (b) A conditional use permit for a [medical] marijuana establishment shall not be transferable to another location. ~~[tenant, ownership or management. (Refer to NRS)]~~
- (c) Any transferability is subject to approval of Title 4 licensing requirements.

14. Amendments

A request for changes in conditions of approval of a conditional use permit or a change to development plans that would affect a condition of approval shall be processed in the same manner as the original application. The Community Development and Services Director shall be authorized to approve minor modifications that have no potential for significant offsite impacts, provided that they do not involve any of the following:

- (a) A five percent or greater increase in building height;
- (b) A five percent or greater increase in floor area or building coverage when calculated on a total, aggregate project basis; or
- (c) A five percent decrease in common open space.

15. Successive Applications

Following denial of a conditional use permit request, no new application for the same or substantially the same use shall be accepted within one year of the date of denial, unless denial is made without prejudice.

16. Complaints Regarding Approved Conditional Use Permits

Complaints regarding approved conditional use permits shall be processed in accordance with the provisions of Chapter 19.11: *Enforcement*.

19.6.10.C – Distance Separation Analysis

C. DISTANCE SEPARATION ANALYSIS

1. Applicability

A distance separation analysis is utilized to measure the distances between a proposed use and a protected use, as defined by this Code. This analysis is used to determine if the proposed use meets the required distance separation from one or more protected uses and if waivers, if applicable, are needed for the proposed use to proceed. The distance separation analysis shall be completed by city staff.

2. Application Filing

Applications for distance separation analysis shall be submitted to the Community Development and Services Director.

3. Community Development Review and Report

The Community Development and Services Director or designee shall review each proposed distance separation analysis application and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a final determination to the applicant.

4. Notice of Decision

Within seven working days of submittal of a complete application, the Community Development and Services Director or designee shall provide notice of the decision to the applicant and all other parties who have made a written request for notification.

5. Lapse of Approval

- (a) A distance separation analysis determination for liquor, massage, reflexology, smoke/tobacco shop establishment, teenage dancehall, teenage nightclub, sexually-oriented business, halfway house for recovering alcohol and drug abusers, residential facility for groups, check cashing/deferred deposit/auto title loans, and general day care and group child care facility uses shall lapse 60 days from notice of decision.
- (b) A distance separation analysis determination for **[medical]** marijuana establishment use shall lapse 120 days from notice of decision.

6. Appeals

Appeals of the Community Development and Services Director's or designee's distance separation analysis determination shall be made to the Planning Commission in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

7. Business Licenses

Approval of conditional use permits does not guarantee the issuance or approval of a business license. Licensure must be sought, reviewed, and approved separately in accordance with all applicable Title 4 regulations for said license.

19.12 Measurements and Definitions

MARIJUANA

Any of the following, or as defined in NRS 453A and 453D, as may be amended or renumbered:

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;
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.

MEDICAL USE OF MARIJUANA

Means (a) the possession, delivery, production or use of marijuana; (b) the possession, delivery or use of paraphernalia used to administer marijuana; or (c) any combination of the acts described in subsections (a) and (b), as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her chronic or debilitating medical condition.

[MEDICAL] MARIJUANA, CULTIVATION FACILITY

~~[A business that is registered with the State of Nevada Department of Health and Human Services—Health Division pursuant NRS 453A.322; and which 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.]~~
Means an entity licensed to cultivate, process, and package marijuana, to have marijuana tested by a marijuana testing facility, and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers as defined in NRS 453D.030.

[MEDICAL] MARIJUANA, DISPENSARY FACILITY - MEDICAL

A facility that is registered with the State of Nevada ~~[Department of Health and Human Services—Health Division pursuant to Title 10 of Senate Bill 374]~~ of Taxation; 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 as defined by NRS 453A.410.

MARIJUANA, DISPENSARY FACILITY - RETAIL

Means an entity licensed by the State of Nevada Department of Taxation to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers.

[MEDICAL] MARIJUANA, EDIBLE MARIJUANA PRODUCTS

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

[MEDICAL] MARIJUANA, ESTABLISHMENT

~~[An independent testing laboratory; a cultivation facility; a facility for the production of edible marijuana products or marijuana-infused products; a medical marijuana dispensary; or a business that has registered with the State of Nevada Department of Health and Human Services—Health Division and paid the requisite fees to act as more than one of the types of businesses listed.]~~ Means a marijuana cultivation facility, an independent marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or medical marijuana dispensary or a retail marijuana store which is licensed by the State of Nevada Department of Taxation.

[MEDICAL] MARIJUANA, INDEPENDENT TESTING LABORATORY

~~[A laboratory certified by the State of Nevada to test marijuana, edible marijuana products and marijuana-infused products that are to be sold in the State of Nevada.]~~ Means an entity licensed by the State of Nevada Department of Taxation to test marijuana and marijuana products, including for potency and contaminants.

[MEDICAL] MARIJUANA, MARIJUANA-INFUSED PRODUCTS

Marijuana products that are infused with marijuana or an extract thereof; and are intended for use or consumption by humans through means other than inhalation or oral ingestion. This term includes, without limitation, topical products, ointments, oils and tinctures.