

ORDINANCE NO. 3433
(Establish Henderson Municipal Code Chapter 4.118 – Retail Marijuana Regulations
and Licenses)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON,
NEVADA, TO ESTABLISH CHAPTER 4.118 – RETAIL MARIJUANA
REGULATIONS AND LICENSES - OF THE HENDERSON MUNICIPAL
CODE.

WHEREAS, regulation and licensing of marijuana establishments is necessary to protect
the safety and welfare of the citizens of the City of Henderson; and

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

SECTION 1. Chapter 4.118 Retail Marijuana Regulations and Licenses is hereby
established as follows:

Sections:

4.118.010 - Definitions.

4.118.020 - Purpose and intent.

*4.118.030 –License required—Privilege—Issuance prohibited to designated
persons.*

4.118.035 - Finding of suitability

4.118.040 - Unlawful to operate without marijuana establishment license.

4.118.050 – Reserved.

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4.118.070 - Conditions applying to specific location/business types.

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4.118.100 - Applicant—Business premises required.

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specified.*

*4.118.140 - Change of location—Restrictions—Marijuana establishment
origination fee.*

*4.118.150 - License—Permit—Transfer of ownership and changes in business
structure—Council approval required.*

4.118.160 - Closure or non-operational status—Responsibility to maintain use.

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[4.118.200 - Delivering off premises.](#)

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[4.118.240 - Suspension—Revocation—Limitation—Penalty.](#)

[4.118.250 – Marijuana establishment responsible for the acts of employees.](#)

[4.118.260 - Marijuana establishments subject to local government audit.](#)

[4.118.270 – Public consumption of marijuana - Prohibition.](#)

[4.118.010 - Definitions.](#)

[Whenever used in this chapter, the following words must have the meanings ascribed in this section, unless the context clearly indicates a different meaning:](#)

[Applicant shall have the same meaning as set forth in chapter 4.04, as may be amended.](#)

[Business interest means a person that holds a financial interest or any other affiliated interest in a marijuana establishment.](#)

[Consumer shall have the same meaning as set forth in NRS 453D.030, as may be amended or renumbered.](#)

[Employee means an employee, independent contractor, agent, or volunteer of a marijuana establishment, or employee of a marijuana management company.](#)

[Gross revenue, as used in connection with the determination of license fees, means the total amount of the sale price of all goods sold, originating in the city and regardless of destination. All such totals are to be calculated without any deduction therefrom on account of the cost of the property sold, cost of materials used, labor or service costs, interest paid or payable, or any other expense whatsoever; provided, however, that cash discounts allowed or taken on sales or services, all taxes, all allowances for bad debts, and all revenues derived from business operations covered by another city business license or licenses, shall be excluded from gross sales.](#)

[Inventory control system shall have the meaning set forth in NRS 453A.108, as may be amended or renumbered.](#)

Key employee shall have the meaning as set forth in HMC 4.04.010, as may be amended or renumbered.

Legal residence shall have the same meaning as set forth in NRS 10.155, as may be amended or renumbered.

Marijuana shall have the same meaning as set forth in NRS 453D.030, as may be amended or renumbered.

Marijuana cultivation facility shall have the same meaning as set forth in NRS 453D.030, as may be amended or renumbered.

Marijuana distributor shall have the same meaning as set forth in NRS 453D.030, as may be amended or renumbered.

Marijuana establishment shall have the same meaning as set forth in NRS 453D.030, as may be amended or renumbered.

Marijuana management company shall have the same meaning as set forth in HMC 4.05.289.02.

Marijuana products shall have the same meaning as set forth in NRS 453D.030, as may be amended or renumbered.

Marijuana product manufacturing facility shall have the same meaning as set forth in NRS 453D. 030, as may be amended or renumbered.

Marijuana paraphernalia shall have the same meaning as set forth in NRS 453D.030, as may be amended or renumbered.

Marijuana testing facility shall have the same meaning as set forth in NRS 453D.030, as may be amended or renumbered.

Owner means any individual, partnership, limited partnership, association, limited liability company, or corporation, including the partners, managers and members of any such partnership, limited partnership, association, or limited liability company, who has a business interest in a marijuana establishment or who has an equitable or beneficial right to the profits of a marijuana establishment.

Process means to harvest, dry, cure, trim and separate parts of the 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 customers.

Public Place means an area to which the public is invited or in which the public is permitted regardless of age. "Public place" does not include a retail marijuana store.

Retail marijuana store shall have the same meaning as set forth in NRS 453D.030, as may be amended or renumbered.

4.118.020 - Purpose and intent.

A. In November 2016, the voters of the state passed an initiative amending Article 4 of the Nevada Constitution to allow for the regulation of retail sales of marijuana in a manner similar to alcohol. In 2017, the Nevada State Legislature passed, and the governor signed into law, Senate Bills 487, 344 and Assembly Bill 422, which further defined and clarified local government's role in the regulation of retail sales of marijuana, cultivation of marijuana, manufacturing of marijuana products and marijuana distributors in the state.

B. While the council recognizes that the retail sale of marijuana has been approved by the voters of this state, there are many negative secondary effects that have been reported in communities that authorize the retail sale of marijuana, such as an increase in violent crimes, theft, traffic, noise, drug and gang activity, and firearms violations. Therefore, the public health, safety, and welfare of the inhabitants of the city require the regulation of all businesses engaged in the business of marijuana sales, cultivation, infusion or testing.

C. Federal law makes it unlawful to cultivate, possess, distribute, or dispense marijuana. However, on August 29, 2013, the United States Department of Justice ("DOJ") issued a memorandum advising that the DOJ would allow enforcement of state laws that authorize marijuana production, distribution, and possession to be handled primarily by state and local law enforcement regulatory bodies as long as the state and local governments enact laws that implement "strong and effective regulatory enforcement systems" to address the federal government's identified enforcement priorities. The following enforcement priorities were specified by the DOJ as being particularly important to the federal government:

1. Preventing the distribution of marijuana to minors;

Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

3. Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;

4. Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

5. Preventing violence and the use of firearms in the cultivation and distribution of marijuana;

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6. Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;

7. Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

8. Preventing marijuana possession or use on federal property.

D. Accordingly, in addition to protecting the public health, safety, morals, good order and general welfare of the inhabitants of the city and to safeguard the public, this chapter is intended to adequately address these enforcement priorities.

4.118.030 –License required—Privilege—Issuance prohibited to designated persons.

All marijuana establishments as defined in this chapter shall be licensed and controlled so as to protect the public health, safety, morals, good order and general welfare of the inhabitants of the city and to safeguard the public.

A. The right to obtain and maintain a license under this chapter is a privilege and the operation of such marijuana sales, cultivation, infusion or testing facilities is a privileged business subject to regulations. The license may be revoked for violation of the conditions of this chapter, including those conditions set forth in section 4.118.240; the laws of the state; other ordinances of the city; the DOJ enforcement priorities cited 4.118.020(C); or for any other cause deemed sufficient by the council in the exercise of its sole discretion.

B. In conformity with the policy of this chapter, the following persons are declared unqualified to hold a marijuana establishment license under the provisions of this chapter:

1. A person whose state registration certificate, license issued under the provisions of this chapter, or those ordinances or statutes of any other agency lawfully engaged in the licensing or regulation of medical marijuana dispensing or the retail sale of marijuana, cultivation, infusion or laboratory services, has been suspended or revoked for cause;

A person, who at the time of renewal of any license issued under this chapter, would not be eligible for such license upon a first application;

3. A partnership, limited partnership, association or limited liability company, unless all of the partners, managers and members of such partnership, limited partnership, association or limited liability company that

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has been found suitable under the provisions of chapter 4.03 and in accordance with section 4.118.035;

4. A corporation, unless all of the owners, officers, and directors, if any, have been found suitable under the provisions of chapter 4.03 and in accordance with section 4.118.035;

5. A person who does not beneficially own the premises for which a license is sought or does not have a lease which cannot be verified thereon for the full period for which the license is to be used;

6. Any employee of the city;

7. Any business entity owned or partially owned by a partnership, limited partnership, association, limited liability company, or corporation whose headquarters are not in the United States, or by an individual who is not a legal United States citizen or whose legal residence is not the United States;

8. Any business entity with an officer or a board member or director who is not a legal United States citizen and whose legal residence is not the United States; or

9. Any publicly traded company.

C. For the purposes of this chapter only marijuana establishments that will cultivate, dispense, infuse/produce edible marijuana products or provide laboratory testing at an approved location pursuant to title 19 may be licensed as a marijuana establishment.

D. A marijuana establishment license will not be issued to an applicant that has not had the appropriate individuals, set forth in this chapter, undergo a background investigation and finding of suitability pursuant to section 4.03.020 and 4.118.035. In his or her discretion, the director may accept an equivalent background investigation conducted by the Nevada Department of Taxation or another government entity or agency.

E. No marijuana establishment license shall be issued to an applicant unless its ownership, irrespective of corporate or business structure can ultimately be traced to ownership or control by a natural person or persons, at least one of whom has been a Nevada resident for at least one year prior to the date of the application.

4.118.035 - Finding of suitability

In addition to the requirements of chapter 4.03, any individual applicant or individual who is a partner, owner, officer, board member, or director must be found suitable by the director and meet the following requirements:

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A. Such individuals must be 21 years or older;

B. Such individuals shall not have been convicted of a felony or any crime of moral turpitude as may be further defined in chapter 4.04 and must provide an identity history summary check provided by the Federal Bureau of Investigation or similar background check document deemed sufficient by the director at the cost of the applicant;

C. Such individuals be United States citizens and must have established legal residence in the United States at least one year prior to the date of the application;

D. Such individuals shall not have had a license, issued or renewed under the provisions of this chapter or those ordinances or statutes of any other agency lawfully engaged in the licensing or regulation of marijuana sales, cultivation, infusion or laboratory services, that has been suspended or revoked for cause; and

E. Such individuals must not be employees of the city.

4.118.040 - Unlawful to operate without marijuana establishment license.

It shall be unlawful for any person to operate, conduct or carry on any marijuana establishment as described in this chapter within the city without first obtaining and thereafter maintaining a marijuana establishment license as herein required and paying the fee(s) as set forth in chapter 4.05.

Notwithstanding this provision, marijuana is currently classified as a Schedule I drug under the Controlled Substances Act ("CSA") 21 U.S.C. Section 841(a)(1), and federal law makes it unlawful to manufacture, distribute, dispense or possess any controlled substance.

4.118.050 – Reserved.

4.118.060 – Reserved.

4.118.070 - Conditions applying to specific location/business types.

A. General requirements for all marijuana establishments except independent testing laboratories:

1. Marijuana establishments must have at least one responsible key employee on the licensed premises to act as the establishment's agent at all times when employees or customers are present on the premises. The key employee must comply with the provisions set forth in section 4.04.180.

2. Marijuana establishments must make available to the division at any time a list of all employees that are authorized to be on premises, which list must include the employees designated as key employees.

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3. All marijuana establishment employees must have on their person a valid marijuana establishment agent identification card issued by the state at all times when at the marijuana establishment location.
4. All independent contractors, maintenance and business professionals allowed access to a marijuana establishment where the general public does not have access must be logged and given visitor identification. This identification must be displayed on the person of the individual at all times while on the premises of the marijuana establishment.
5. A marijuana establishment may not allow the use, smoking, ingestion or consumption of any marijuana, edible marijuana product, or marijuana-infused product on the licensed premises.
6. Any theft in excess of \$250.00 in retail value of marijuana seedlings, clones, plants, or other plant materials, extract, marijuana-infused product, or other item containing marijuana must be reported to the Henderson Police Department and the division in writing within 24 hours of the theft.
7. To prevent unauthorized access to marijuana at a marijuana establishment the establishment must be in compliance with all security requirements adopted by the Department of Taxation and set forth in NRS 453D.
8. Marijuana establishments must develop and enforce policies and procedures:
 - a. That restrict access to the areas of the establishment where the general public does not have access that contain marijuana or marijuana-infused products, to individuals authorized to be in that area only;
 - b. That provide for the identification of individuals authorized to be in the areas where the general public does not have access of the establishment that contain marijuana or marijuana -infused products;
 - c. That prevent loitering;
 - d. For conducting electronic monitoring; and
 - e. That prevents the distribution of marijuana to minors.
9. Marijuana establishments must have an agreement with an authorized waste management service or other approved plan to remove and destroy all waste generated from the cultivation, infusion or dispensing of marijuana from the location. Disposal of waste must meet all state and federal guidelines. Waste must be maintained in a secure location until removal from the location. Waste must be rendered unusable by grinding and incorporating the marijuana waste with non-marijuana waste, such that the resulting mixture is

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at least 50 percent non-marijuana waste. This requirement shall be required of all businesses that are licensed pursuant to HMC Title IV that may come into possession of unwanted marijuana products.

10. Marijuana establishments are required to use an inventory control system compliant with NRS Chapter NRS 453A, 453D, and State Department of Taxation regulations to track all inventories that includes marijuana clones, marijuana plants, harvested marijuana product for dispensing, edible or infused items or harvested marijuana product sent to independent testing laboratories.

11. Marijuana establishments are required to comply with all standards set forth by Henderson Building and Fire safety officials prior to conducting business.

12. All officers, board members, directors, and employees of the marijuana establishment shall be required to obtain and maintain a valid marijuana establishment agent registration card in compliance with NRS Chapter 453A, 453D, and State Department of Taxation regulations.

B. Retail Marijuana Stores.

1. A retail marijuana store shall only be operated in conjunction with an existing medical marijuana establishment at the same address, and must be licensed by the same license holder as a medical marijuana dispensary licensed pursuant to HMC 4.116.

2. A retail marijuana store shall have a lobby waiting area at the entrance to the dispensary to receive clients, and a separate and secure designated area for dispensing marijuana to customers. The primary entrance shall be maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site parking areas.

3. If employing private security the security provider must be licensed in accordance with this title and NRS Chapter 648.

4. Retail marijuana stores must display in the lobby waiting area a placard no smaller than 18 inches tall by 20 inches wide that states the following:

a. Federal law makes it unlawful to possess and consume marijuana products;

b. Marijuana products cannot be transferred, shared or gifted to any other individual;

c. Do not operate heavy machinery or automobiles while under the influence of marijuana;

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- d. Marijuana has intoxicating effects and may be habit forming;
- e. There may be health risks associated with consumption of marijuana;
- f. Marijuana should not be used by women who are pregnant or breast feeding; and
- g. Marijuana should be kept in a secure location and out of reach of minors and pets.
- 5. Except as otherwise provided in this subsection, it shall be unlawful for any person to advertise any marijuana, edible marijuana product or marijuana-infused product anywhere in the city where the advertisement is visible to members of the public from any street, sidewalk, park or other public place, including advertising utilizing any of the following media:
 - a. Any hand-held, human signage or other portable sign;
 - b. Any handbill, leaflet or flier directly handed to any individual, deposited, fastened, thrown, scattered, cast or placed in a public place, left upon a motor vehicle, or posted upon any public property, right-of-way or private property without the consent of the property owner;
 - c. Any sign mounted or displayed on a vehicle;
 - d. Any free promotional materials.
- 6. Retail marijuana stores are prohibited from offering for sale the following:
 - a. Any alcoholic beverage, liquor or spirits as defined in chapter 4.36;
 - b. Any products containing nicotine;
 - c. Any non-marijuana food or beverages;
 - d. Any personal care items except those sold in compliance with NRS 453A;
- 7. Any retail marijuana store offering for sale non-marijuana based products, including but not limited to, clothing, souvenirs, hats or keychains must comply with state laws and regulations, including but not limited to NRS 453D and any regulations set forth in the Nevada Administrative Code;
- 8. Any paraphernalia offered for sale must be designed for individual use only;
- 9. A marijuana dispensary is limited to ten percent of retail space for paraphernalia, not to include the lobby area.

10. Prior to conducting any sales in accordance with subsections 7 and 8 of subsection B of this section a license must be obtained pursuant to section 4.05.010 and thereafter be maintained in order to offer sales of the specified items.

11. All marijuana products sold must be enclosed in childproof packaging designed and constructed consistent with state law.

C. Marijuana Cultivation facilities.

1. Cultivation areas of the establishment must be in compliance with regulations set forth in NRS Chapter 453A, 453D, and State Department of Taxation regulations. The city reserves the right to enforce these sections and may levy sanctions to a marijuana establishment based on non-compliance that may include citations and fines, civil penalties, and suspension and revocation of licensure pursuant to chapter 4.06.

Areas designated for deliveries from suppliers or couriers must be separated from cultivation areas by floor to ceiling walls and locking doors.

3. Marijuana establishments are encouraged to use the most efficient process for the conservation of water resources.

D. Marijuana product manufacturing facility.

1. Production of edible and infused marijuana products must be in compliance with NRS Chapter 453A, 453D, and State Department of Taxation regulations. The city reserves the right to enforce these sections and may levy sanctions to a marijuana establishment based on non-compliance that may include citations and fines, civil penalties, and suspension and revocation of licensing pursuant to chapter 4.06.

Areas designated for deliveries from suppliers or couriers must be separated from production areas by floor to ceiling walls and locking doors.

3. Except as otherwise provided in this subsection, use of flammable gases including, but not limited to, butane and propane are prohibited for the extraction of oils from marijuana plants. Extraction processes utilizing flammable gasses may be permitted upon approval of the fire chief. These systems, processes and processing areas must, at a minimum:

a. Be located in premises that are verified by an independent, qualified industrial hygienist and a Nevada licensed engineer as safe and in compliance with all applicable codes;

b. Utilize listed or approved closed-loop extraction systems;

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c. Ensure all flammable gas/liquid transfers shall take place within a chemical fume hood having electrical system classified for a hazardous atmosphere in accordance with the most recent edition of National Fire Protection Association (NFPA) 45, Standard on Fire Protection for Laboratories Using Chemicals, spray booth or spay room complying with the Henderson Fire Code; and

d. Utilize flammable gas monitoring that sound local alarms and close gas valves at levels greater than 25% of lower explosive limit (LEL).

4. Other extraction processes involving flammable gasses or hazardous materials as defined in the Henderson Fire Code may be permitted upon approval of the fire chief and approval of the associated use permit by City Council.

5. Solvents fit for human consumption shall be permitted in the extraction process.

6. Production of edible and infused marijuana products must be in compliance with all current and future standards set by the Nevada Department of Taxation, the Nevada Division of Public and Behavioral Health and the Southern Nevada Health District for preparation and handling of items meant for human consumption.

E. Independent testing laboratories. Independent testing laboratories for marijuana products must be in compliance with NRS Chapter 453A, 453D, and State Department of Taxation regulations. The city reserves the right to enforce these sections and may levy sanctions to a marijuana establishment based on non-compliance that may include citations and fines, civil penalties, and suspension and revocation of licensing pursuant to chapter 4.06.

F. Marijuana management companies.

1. Each marijuana management company as defined in section 4.05.289 shall maintain a marijuana management business license as set forth in this chapter and comply with the applicable provisions of this chapter including the following requirements:

a. A marijuana management company shall not, in whole or in part, own or control a marijuana establishment, including but not limited to any of its owners, officers, board members, directors, or employees serving as an owner, officer, board member or director of a marijuana establishment.

b. Any and all contracts, agreements, and other controlling documents between the marijuana management company and the marijuana establishment shall be made available to the division prior to issuance or

renewal of a marijuana management license, and at any other time upon request by the Division.

c. Marijuana management companies must have at least one responsible key employee on the premises to act as the marijuana establishment's agent at all times when there are employees, customers, distributors, or other third-parties are-present on the premises. The key employee must comply with the provisions set forth in section 4.04.180.

d. Marijuana management companies must make available to the division at any time a list of all employees that are authorized to be on premises, which list must designate which employees are key employees.

e. All marijuana management company employees must have on their person a valid marijuana establishment agent identification card issued by the state at all times when at the marijuana establishment location.

4.118.080 License—Application—Contents—General.

A. Whenever a person desires to open, keep, carry on or conduct any marijuana establishment in the city, or engage in the business thereof, such person must make application in writing to the division to obtain a marijuana establishment license. The application must be submitted at the time of application for purposes of receiving written approval on distance and zoning requirements pursuant to title 19.

B. As part of the application process, an applicant shall make all individuals referenced in section 4.118.035 available for a background investigation under the provisions of chapter 4.03 and a finding of suitability under section 4.118.035.

C. Prior to issuance of a marijuana establishment license, the applicant receiving such a license shall execute, and shall have each of its owners, officers, board members and directors execute, an indemnification and release agreement with the city on a form approved by the city attorney, and the applicant shall, if applicable, pay the non-refundable indemnification and release agreement fee set forth in subsection 4.05.289(E) of this title.

D. Marijuana establishment applications must contain:

1. Completed Henderson application and attestations.

Documentation from an in-state or out-of-state financial institution which demonstrates that the applicant has liquid assets as required by NRS 453A.322, NRS Chapter 453D, and State Department of Taxation regulations, which are unencumbered and can be converted within 30 days and the source of such assets.

3. Evidence of the amount of taxes paid to, or other beneficial financial contributions made to, the state and its political subdivisions within the last five years by the applicant or the persons who are proposed to be owners, officers, board members or directors of the proposed marijuana establishment.

4. Proposed organizational structure that lists all owners, officers, board members and directors by name and their percentage of ownership.

5. Any lease, operating or management agreement, or any other agreement, irrespective of form, affecting the ownership, control, or operation of the proposed marijuana establishment.

6. Security plan that includes customer, building and product security measures.

7. Business plan with a description of the electronic verification system and inventory control system to include seed to sale tracking capabilities of the proposed marijuana establishment consistent with state law.

8. Staffing plan that will insure proper management and education of employees.

9. Detailed budget for the proposed establishment, including pre-opening, construction and first year operating expenses, if applicable.

10. Operations manual that demonstrates compliance with all state and local laws and ordinances.

11. A plan to minimize the environmental impact of the proposed establishment.

12. Background information/resume highlighting any previous experience at or operating other businesses or non-profit organizations, including educational achievements and demonstrated knowledge of the marijuana industry.

13. The identity of an owner who has maintained a legal residence in Nevada for at least one year prior to the date of the application.

14. Any additional information deemed necessary by the division or the director.

4.118.090 - Application process.

A. If or when additional medical marijuana registration certificates are made available by the state, the city council may, by resolution, accept an allocation of additional certificates. So long as an application would not result in a number of licenses in excess of the allocated certificates determined by

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the city council, the division may accept applications for applicants currently in possession of a valid provisional or finalized registration certificate.

B. Regardless of whether an applicant has received a license from the state, all applicants shall be subject to all application, backgrounding, indemnification and other fees consistent with state law set forth in chapter 4.05, and must comply with all provisions in this chapter, section 19.5.5.Y, any requirements of NRS Chapter 453D, and any applicable regulations issued by the Nevada Department of Taxation or the Nevada Division of Public and Behavioral Health. All license applications are subject to approval by the council.

C. Concurrently with title 19 zoning approval processes, the division will review applications for compliance with all provisions of this chapter, including sections 4.118.030, 4.118.070, and 4.118.080. In addition, the director will conduct a background investigation of all of the applicant's owners, officers, board members and directors, and any other person the director deems necessary, to determine whether such persons are suitable for involvement with the operations of a marijuana establishment.

1. Only applicants that comply with all provisions of this chapter will receive approval by the division. Approval by the division does not constitute final approval or selection for licensure.

a. For an applicant that receives approval by the division, the division will forward its application to the community development department for that department's approval of distance/zoning.

b. An applicant that receives approval by both the division and the community development department will be provided documentation that the applicant may use for the state's provisional certification process.

c. At the conclusion of the state's provisional certification process, all applicants that have received a provisional marijuana establishment license will be submitted to the council for final selection of up to the maximum number of marijuana establishment licenses allowed within the city.

2. Applicants that fail to be approved by the division shall be notified in writing. Applicants that fail to be approved may request a review pursuant to chapter 4.04.

3. All applicants approved by the council must satisfy all required building and fire inspection criteria, any state inspections, and all applicable food safety inspections by the health department before beginning operations.

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D. In making its final selection and approval for licensure, the council shall utilize a merit based approach that will include, but not be limited to, the following criteria:

1. Ranking provided by the Nevada Department of Taxation, if applicable;
2. Demonstration of applicant's ability to vertically integrate cultivation, production and dispensary facilities;
3. Location of each facility contained in the application;
4. Plan for integration within the surrounding area;
5. Demonstration of water conservation plan (if a marijuana cultivation facility);
6. Demonstration of Henderson community involvement and/or proposed Henderson community involvement by the applicants;
7. The amount of taxes paid to, or other beneficial financial contributions made to, the state or its political subdivisions by the applicant or the persons who are proposed to be owners, officers, or board members or directors of the proposed marijuana establishment;
8. Information regarding any bankruptcy proceedings involving owners, officers, board members or directors;
9. Information regarding any litigation/legal proceedings, regardless of disposition, dealing with business interests of all owners, officers, and board members or directors; and
10. Any other information regarding the suitability of the applicant's owners, officers, or board members or directors.

E. In conformity with the policy of this chapter, the council may deny an application upon its discretion when:

1. In the judgment of the council the granting of such license may tend to create or constitute a public nuisance;

By the granting of such license, a disorderly establishment or place may be maintained;

3. The granting of such license may seriously and adversely affect the valuation of neighboring, adjoining, and/or contiguous property;

4. The council, after investigation, is satisfied that the applicant is not a fit and proper person to operate the business contemplated by its application;

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5. In the judgment of the council there are ample and sufficient establishments in the license area or place to properly serve such area or place;

6. Violations of the DOJ enforcement criteria set forth in subsection 4.118.020(C) have occurred; or

7. Any other good and sufficient reason is presented.

4.118.100 - Applicant—Business premises required.

The division shall not issue a license for a marijuana establishment to any applicant unless the applicant has an established place of business in a properly zoned area in accordance with title 19 and has been recommended by the Nevada Department of Taxation as an approved applicant.

4.118.120 - Investigation fees—Required—Fees charged.

Any person applying for a marijuana establishment license of any of the several types enumerated herein is required to submit to the city an investigation fee, as set forth in chapter 4.03, for each person required to be investigated, including the applicant and each owner, officer, board member or director of the applicant and any other person deemed necessary by the director.

4.118.130 - Issuance restrictions—Proximity of marijuana establishments specified.

Pursuant to its general regulatory authority to regulate the sale, cultivation, infusion or testing of marijuana, the council declares that the health, safety, morals and welfare of the inhabitants of the city are best promoted and protected by requiring a separation between certain marijuana uses. All distance requirements between marijuana establishments and any developed residential zoning district with an "R" designation are as set forth in title 19. The council retains all discretion to approve or disapprove marijuana establishment license applications.

4.118.140 - Change of location—Restrictions—Marijuana establishment origination fee.

No marijuana establishment license is transferable to a new location unless such proposed change of location complies with and meets all requirements of this title and title 19. The council may authorize such change of location, which authorization may be withheld for any reason deemed sufficient by the council. Location changes are subject to an administrative fee as set forth in chapter 4.04. There shall be no marijuana establishment origination fee required for a change of location. A change of location must also be approved by the

Nevada Department of Taxation pursuant to the regulations adopted by the Department of Taxation.

4.118.150 - License—Permit—Transfer of ownership and changes in business structure—Council approval required.

A. No marijuana establishment license issued or renewed under this chapter can be transferred except with the prior approval of the council and must follow all Department of Taxation policies and procedures for transferring of ownership. Further, all changes in business structure, including any new officers or board members or directors, also require prior approval by the council.

B. Any proposed transfer of ownership or changes in business structure must be reported to the division at least 60 days prior to the effective date of the proposed transfer or change.

C. Any new owner, officer, or board member or director must comply with the requirements of 4.118.030 shall be required to undergo the same background investigation and finding of suitability pursuant to chapter 4.03 and section 4.118.035.

4.118.160 - Closure or non-operational status—Responsibility to maintain use.

A. In the event a marijuana establishment licensee desires to close or discontinue its business operations for any period of time in excess of three months, it must submit a written notification to the division within 30 calendar days of the closure or discontinuance requesting approval for non-operational status beyond the initial three-month period. The notification must include a closure plan detailing the length of closure or period of non-operational status and the licensee's plans for reopening, relocating, selling, or otherwise divesting itself of the business. The licensee may not discontinue operation of the business for more than a three-month period and maintain a valid marijuana establishment license without council approval. The council may approve non-operational status of the business beyond the initial three-month period in time increments not to exceed one year but in no event shall the council approve any non-operational status beyond a maximum of two years.

A marijuana establishment license shall be automatically revoked at the expiration of the time periods provided by this section unless council approval has been granted pursuant to this section. All semiannual license fees must be paid notwithstanding the licensee's non-operational status. Failure to maintain the fees will result in automatic revocation of the marijuana establishment license and termination of the established use.

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B. It shall be the responsibility of the licensee to maintain, extend, or renew any necessary land use approvals under title 19.

4.118.170 - Issuance of moratorium.

The council may declare a moratorium by resolution on any or all marijuana establishment applications or licenses if, in its discretion, it is found to be in the best interests of the city.

4.118.180 - Land use and location requirements—Compliance with title 19.

A. Locations for certain marijuana establishments are subject to distance restrictions as set forth in title 19.

B. The floor plan of an applicant premises under this chapter must be approved pursuant to the requirements of title 19.

C. A marijuana establishment license will not be issued unless the location is in accordance with title 19.

D. Approval of a location or of a use permit pursuant to title 19 does not guarantee or constitute approval of any marijuana establishment license.

E. Establishments shall be operated in compliance with the requirements set forth in title 19 related to marijuana establishments and its operation.

4.118.190 - Marijuana establishments—Interconnectivity allowed.

Marijuana establishments may be interconnected in the interior subject to the following:

A. Interconnectivity is limited to dispensary, cultivation and infusion facilities only;

B. The cultivation and infusion facilities shall not be open or available for public ingress or egress except in an emergency;

C. The interconnected establishments shall be subject to the provisions of title 19;

D. The interconnected establishments shall comply with all applicable regulations of the Nevada Department of Taxation, the Nevada Division of Public and Behavioral Health, the Southern Nevada Health District, and the health department; and

E. Operations of interconnected establishments may be impacted due to enforcement actions related to any of the interconnected facilities.

4.118.200 - Delivering off premises.

Delivery of marijuana for recreational use is prohibited.

4.118.210 - Intoxication on premises.

It is unlawful for any person, while engaged in the performance of his or her duties, to be under the influence of alcohol, marijuana, or any other controlled substance that is prohibited pursuant to state or federal law, or an illegally obtained or ingested controlled substance that is available by prescription, in or about the premises where the business of selling marijuana products is being conducted and while such person is engaged in the performance of his or her duties.

4.118.220 - Distributing to minors—Establishment of policy—Copy on premises—Requirement to show.

A. The owners and managers of every marijuana establishment that sells, gives, or otherwise furnishes marijuana, edible marijuana products, or marijuana-infused products shall adopt a policy to prevent any person under 21 years of age from obtaining marijuana, edible marijuana products, or marijuana-infused products from that establishment.

B. The policy shall be in accordance with all provisions of the Henderson Municipal Code and state law.

C. A copy of the policy shall be kept on the premises at all times and shall be made known to and available to all employees.

D. The policy shall be available upon request by the division or Henderson Police Department.

4.118.230 - Minor—Employment.

Except as otherwise provided by state law, it is unlawful for any marijuana establishment to employ a person under the age of 21 years, or to permit a person under the age of 21 years to sell marijuana, edible marijuana products, or marijuana-infused products.

4.118.240 - Suspension—Revocation—Limitation—Penalty.

Any activity which is contrary to the purpose and intent of this chapter, or which violates any ordinance, regulation, or statute of the city or the state, is a violation of this chapter and is grounds for disciplinary action which may result in a revocation, suspension, or limitation of a marijuana establishment license and any and all other licenses held within the city. Without limiting the generality of the foregoing, each of the following is declared to be subject to disciplinary action, including but not limited to:

A. Any person who violates any provision of title 4;

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B. Any person who knowingly does any act to sell, lease or purchase a marijuana establishment business operation or any portion thereof without taking immediate and affirmative steps to obtain approval;

C. Failure to report the names of all persons having an interest in the ownership of or having an equitable or beneficial right to the profits of a marijuana establishment, including failure to report any change in ownership as required by this chapter;

D. Failure to report the officers, board members or directors of the applicant or marijuana establishment license holder, including failure to report any change to the officers, board members or directors as required by this chapter;

E. Failure to report any lease, operating or management agreement, amendment to management agreement, or any other agreement, irrespective of form affecting the ownership, control, or operation of the marijuana establishment;

F. Failure of any person to report any information which is its duty to supply under any statute, ordinance, and/or regulation of the state or city;

G. Allowing any person that becomes ineligible to hold a medical marijuana establishment license based on conduct subsequent to the issuance of a license, as set out in the statutes, ordinances, and/or regulations of the state or city to continue involvement with the establishment;

H. Making any misrepresentation of any material fact;

I. Allowing any person whose marijuana establishment license in any other jurisdiction has been revoked for cause to continue involvement with the establishment;

J. Failure to comply in any way with the following factors established by the United States Department of Justice in its Memorandum titled "Guidance Regarding Marijuana Enforcement" dated August 29, 2013:

1. Preventing the distribution of marijuana to minors;

Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;

3. Preventing revenue from the sale of marijuana from states where it is legal under state law in some form to other states;

4. Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

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5. Preventing violence and the use of firearms in the cultivation and distribution of marijuana;

6. Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;

7. Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

8. Preventing marijuana possession or use on federal property.

In addition to any revocation, suspension, or limitation, the city may impose a civil penalty in accordance with the provisions of chapter 4.07.

4.118.250 – Marijuana establishment responsible for the acts of employees.

Every licensee shall be responsible for the acts of its employees committed while on the licensed premises and during the course and scope of employment. Every licensee shall accordingly use adequate care in the selection of its employees. In any license suspension, limitation or revocation proceedings, the fact that the licensee did not have actual knowledge of the events complained of shall be no defense and every licensee accepts its license subject to said condition.

4.118.260 - Marijuana establishments subject to local government audit.

In addition to the provisions of section 4.04.090, all marijuana establishments shall maintain records at the location accurately and truthfully documenting:

A. All records and receipts of the establishment, including, but not limited to, all contributions, reimbursements, and reasonable compensation, whether in cash or in kind, and all expenditures incurred by the business for the cultivation, production, sale or dispensing of marijuana or marijuana products;

B. All records and receipts for the retail sale, transfer or wholesale sale of any marijuana or marijuana product and the corresponding electronic tracking inventory reference as may be required by state law concerning the seed to sale tracking of the marijuana establishment's marijuana inventory;

C. An inventory record documenting the dates, amounts, and content testing results of all marijuana cultivated by business, including the amounts of marijuana stored at the location at any given time;

D. A log documenting each transfer of marijuana reflecting the amount transferred, the date transferred, and the full name of the member to whom it was transferred;

E. A log documenting each transfer of marijuana in any form reflecting the amount transferred, the date delivered, and the full name of the employee whom transferred it to another marijuana establishment;

F. Any loss, damage or destruction of the records shall be reported to the city within 24 hours of the loss, destruction or damage; and

G. Surveillance cameras must be directly positioned over the cash register in order to provide clear view over the:

1. Area where the tender type (cash, credit card or checks) is exchanged between the buyer and seller; and

Register or computer keys utilized to enter the sales information.

4.118.270 – Public consumption of marijuana - Prohibition.

The consumption of marijuana shall be prohibited in any public place including, but not limited to any business licensed by HMC Title 4, any private club or any advertised private parties.

- 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.

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