

1 **BILL NO. 2013-45**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO DECLARE A MORATORIUM ON THE APPLICATION FOR,
4 CONSTRUCTION AND/OR OPERATION OF MEDICAL MARIJUANA ESTABLISHMENTS AS
CONTEMPLATED BY SENATE BILL 374 OF THE 2013 LEGISLATIVE SESSION.

5 Sponsored by:
6 Mayor Pro Tem Stavros S. Anthony

Summary: This ordinance acts to enact a
moratorium of the application for, construction
or operation of medical marijuana
establishments as contemplated by Senate Bill
7 374

8 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
9 AS FOLLOWS:

10 SECTION 1: A MORATORIUM IS HEREBY DECLARED ON ALL MEDICAL
11 MARIJUANA ESTABLISHMENTS CONTEMPLATED BY SB 374, PROHIBITING CITY
12 ACCEPTANCE AND CONSIDERATION OF ANY AND ALL LAND USE APPLICATIONS,
13 BUSINESS LICENSE APPLICATIONS, BUILDING PERMIT APPLICATIONS AND ANY
14 OTHER APPLICATION OR REQUEST TO OPERATE OR OTHERWISE LICENSE OR PERMIT
15 ANY OF THE MEDICAL MARIJUANA ESTABLISHMENTS AS CONTEMPLATED BY SB 374.

16 SECTION 2: THIS MORATORIUM SHALL COMMENCE UPON THE
17 ADOPTION OF THIS ORDINANCE BY THE CITY COUNCIL, AND SHALL TERMINATE AT
18 THE CLOSE OF BUSINESS ONE HUNDRED EIGHTY CALENDAR DAYS FROM DATE OF
19 COMMENCEMENT OF THE MORATORIUM, UNLESS: 1) EARLIER TERMINATED BY THE
20 CITY COUNCIL; OR 2) AN EXTENSION OF THIS MORATORIUM IS APPROVED BY THE
21 CITY COUNCIL AT A PUBLIC MEETING. ONE EXTENSION OF A PERIOD OF NO GREATER
22 THAN ONE HUNDRED EIGHTY DAYS IS CONTEMPLATED BY THIS ORDINANCE AND
23 APPROVAL OF SUCH EXTENSION MAY BE CONSIDERED BY A SIMPLE MAJORITY VOTE,
24 WITHOUT THE NEED FOR ADOPTING A NEW ORDINANCE.

25 SECTION 3: The City Council of the City of Las Vegas declares this moratorium for
26 the following reasons:

27 (A) SB 374, colloquially known as the Medical Marijuana Act, was adopted by the
28 Nevada Legislature during its 77th Session and approved by the Governor of the state of Nevada on

1 June 12th, 2013; and

2 (B) Provisions of SB 374 require the Health Division of the Department of Health
3 and Human Services of the state of Nevada (“Health Division”) to promulgate regulations for the
4 consideration of applications and the issuance for certificates to allow the operations of Medical
5 Marijuana Establishments¹ (“MMEs” or “MME”) in the state of Nevada, and specifically in the
6 County of Clark, where the City of Las Vegas is located; and

7 (C) SB 374 mandates that the Health Division finalize these regulations on or prior
8 to April 1, 2014, and the City of Las Vegas understands that the Health Division is attempting to
9 present final regulations for adoption by December 14, 2013; and

10 (D) SB 374 requires an applicant for an MME to provide “proof of licensure with
11 the applicable local governmental authority or a letter from the applicable local governmental
12 authority certifying that the proposed medical marijuana establishment is in compliance with those
13 restrictions and satisfies all applicable building requirements;” and

14 (E) The City of Las Vegas Municipal Code zoning code currently does not allow
15 for any of the MMEs contemplated by SB 374, nor does the City of Las Vegas business licensing code
16 allow for the issuance of any business license for any of the MMEs contemplated by SB 374, and
17 because these uses and businesses are not permitted to operate in the City of Las Vegas, no building
18 permits can be issued specifically for the construction of structures to house any of the MMEs
19 contemplated by SB 374; and

20 (F) As some potential applicants for state MME certificates might attempt to assert
21 to the City of Las Vegas that such MME is a use contemplated by the City of Las Vegas Zoning Code
22 or the City of Las Vegas Business Licensing Code, the City Council desires to make clear that the
23 City’s current municipal code, as drafted, does not permit any of the MMEs as contemplated by SB
24 374, and the City Council desires that its City Manager does not accept any land use applications,
25 business license applications, building permit applications or any other application or request to
26 operate or otherwise license or permit any of the MMEs contemplated by SB 374; and

27
28 ¹SB 374 defines MMEs as: Medical Marijuana Dispensaries, Cultivation Facilities, Laboratories or Facilities for the
Production of Edible Marijuana Products or Marijuana-Infused Products.

1 (G) The City Council understands that there are numerous arguments for and
2 against the use of marijuana for the treatment of certain debilitating diseases and ailments; and

3 (H) Because the City Council must either decide to regulate MMEs and/or prohibit
4 some or all MMEs within its jurisdiction, and this challenge presents very complicated and difficult
5 issues from both a policy and legal perspective; and

6 (I) Because the Health Division currently does not currently have a draft of
7 proposed regulations concerning the certification and operation of MMEs and the products to be
8 produced and sold by these MMEs, nor will the Health Division have final regulations concerning the
9 certification and operation of MMEs and the products to be produced and sold by these MMEs until
10 at least December of 2013, and possibly not until the statutory deadline of April 1, 2014; and

11 (J) Because the City Council desires to take a responsible amount of time to
12 thoughtfully consider the policy and legal implications of permitting MMEs to exist within the
13 boundaries of the City of Las Vegas;

14 (K) The City Council desires to declare this moratorium as provided in Sections 1
15 and 2 above, to prohibit staff acceptance and consideration of any and all land use applications,
16 business license applications, building permit applications and any other application or request to
17 operate or otherwise license or permit any of the medical marijuana establishments as contemplated
18 by SB 374, for a period of 180 days, in order to permit the Health Division to draft and submit final
19 regulations for MMEs by their internal December 14th deadline, and to permit the City Council to
20 responsibly consider the policy and legal implications of the SB 374 and the Health Division
21 regulations and to provide amendments to the Las Vegas Municipal Code to address the policy and
22 legal implications medical marijuana establishments within the jurisdictional limits of the City of Las
23 Vegas.

24 SECTION 4: If any section, subsection, subdivision, paragraph, sentence, clause or
25 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
26 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
27 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
28 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,

1 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
2 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
3 invalid or ineffective.

4 SECTION 5: All ordinances or parts of ordinances or sections, subsections, phrases,
5 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
6 1983 Edition, in conflict herewith are hereby repealed.

7 PASSED, ADOPTED and APPROVED this ____ day of _____, 2013.

8 APPROVED:

9
10 By _____
CAROLYN G. GOODMAN, Mayor

11 ATTEST:

12 _____
13 BEVERLY K. BRIDGES, MMC
City Clerk

14 APPROVED AS TO FORM:

15 _____
16  8/7/13
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2013, and referred to a committee for recommendation, the
3 committee being composed of the following members _____
4 _____; thereafter the said committee reported favorably on said ordinance on the
5 ____ day of _____, 2013, which was a _____ meeting of said
6 Council; that at said _____ meeting, the proposed ordinance was read by title
7 to the City Council as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11

APPROVED:

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By _____
CAROLYN G. GOODMAN, Mayor

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ATTEST:

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BEVERLY K. BRIDGES, MMC
City Clerk

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