

BILL NO. 2014-17

ORDINANCE NO. _____

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

Proposed by: Flinn Fagg, Director of Planning

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

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

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

SECTION 2: THIS MORATORIUM SHALL COMMENCE UPON THE ADOPTION OF THIS ORDINANCE BY THE CITY COUNCIL, AND SHALL TERMINATE UPON THE SOONER OF: 1) THE CLOSE OF BUSINESS ON SEPTEMBER 15, 2014 (ONE HUNDRED EIGHTY CALENDAR DAYS FROM DATE OF THE COUNCIL HEARING ADOPTING SUCH ORDINANCE); OR 2) THE ADOPTION OF ALL NECESSARY MUNICIPAL CODE ORDINANCE AMENDMENTS (TO INCLUDE LVMC TITLE 6 AND TITLE 19) ADDRESSING EITHER THE PROHIBITION OR PERMISSIBILITY OF MEDICAL MARIJUANA ESTABLISHMENTS AS CONTEMPLATED BY SB 374 WITHIN THE BOUNDARIES OF THE CITY OF LAS VEGAS.

SECTION 3: AT NO TIME PRIOR TO THE CONSIDERATION OF THIS MORATORIUM BY THE CITY COUNCIL SHALL THE CITY MANAGER ACCEPT ANY LAND USE APPLICATIONS, BUSINESS LICENSE APPLICATIONS, BUILDING PERMIT APPLICATIONS

1 AND ANY OTHER APPLICATION OR REQUEST TO OPERATE OR OTHERWISE LICENSE OR
2 PERMIT ANY OF THE MEDICAL MARIJUANA ESTABLISHMENTS AS CONTEMPLATED BY SB
3 374.

4 SECTION 4: The City Council of the City of Las Vegas declares this moratorium for the
5 following reasons:

6 (A) SB 374, colloquially known as the Medical Marijuana Act, was adopted by the
7 Nevada Legislature during its 77th Session and approved by the Governor of the state of Nevada on June
8 12th, 2013; and

9 (B) provisions of SB 374 require the Health Division of the Department of Health and
10 Human Services of the state of Nevada ("Health Division") to promulgate regulations for the consideration
11 of applications and the issuance for certificates to allow the operations of Medical Marijuana
12 Establishments¹ ("MMEs" or "MME") in the state of Nevada, and specifically in the County of Clark,
13 where the City of Las Vegas is located; and

14 (C) SB 374 mandates that the Health Division finalize these regulations on or prior to
15 April 1, 2014, and the City of Las Vegas understands that the Health Division is attempting to present final
16 regulations for adoption in March of 2014; and

17 (D) SB 374 requires an applicant for an MME to provide "proof of licensure with the
18 applicable local governmental authority or a letter from the applicable local governmental authority
19 certifying that the proposed medical marijuana establishment is in compliance with those restrictions and
20 satisfies all applicable building requirements;" and

21 (E) the City of Las Vegas Municipal Code zoning code currently does not allow for
22 any of the MMEs contemplated by SB 374, nor does the City of Las Vegas business licensing code allow
23 for the issuance of any business license for any of the MMEs contemplated by SB 374, and because these
24 uses and businesses are not permitted to operate in the City of Las Vegas, no building permits can be issued
25

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

1 specifically for the construction of structures to house any of the MMEs contemplated by SB 374; and

2 (F) as some potential applicants for state MME certificates might attempt to assert to
3 the City of Las Vegas that such MME is a use contemplated by the City of Las Vegas Zoning Code or the
4 City of Las Vegas Business Licensing Code, the City Council desires to make clear that the City's current
5 municipal code, as drafted, does not permit any of the MMEs as contemplated by SB 374, and the City
6 Council desires that its City Manager does not accept any land use applications, business license
7 applications, building permit applications or any other application or request to operate or otherwise license
8 or permit any of the MMEs contemplated by SB 374; and

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

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

14 (I) because the Health Division will not have final regulations concerning the
15 certification and operation of MMEs and the products to be produced and sold by these MMEs until at least
16 March of 2014, and possibly not until the statutory deadline of April 1, 2014; and

17 (J) because the City Council desires to take a responsible amount of time to
18 thoughtfully consider the policy and legal implications of permitting MMEs to exist within the boundaries
19 of the City of Las Vegas;

20 (K) because the City Council indicated by majority vote at its public meeting on
21 February 5, 2014 that it desires for its staff to create proposed ordinance provisions for the regulation of
22 MMEs within the City of Las Vegas for its consideration at a future meeting;

23 (L) and because the current moratorium expires on or about March 17, 2014;

24 (M) the City Council desires to declare this moratorium as provided in Sections 1, 2
25 and 3 above, to prohibit staff acceptance and consideration of any and all land use applications, business
26 license applications, building permit applications and any other application or request to operate or

1 otherwise license or permit any of the medical marijuana establishments as contemplated by SB 374, for a
2 period of no longer than 180 calendar days, in order to permit the Health Division to draft and submit final
3 regulations for MMEs in the state of Nevada, and to permit the City Council to responsibly consider the
4 policy and legal implications of the SB 374 and to provide amendments to the Las Vegas Municipal Code
5 to address the policy and legal implications medical marijuana establishments within the jurisdictional
6 limits of the City of Las Vegas.

7 SECTION 4: If any section, subsection, subdivision, paragraph, sentence, clause or
8 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
9 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
10 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City
11 of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph,
12 sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections,
13 subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

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

17 PASSED, ADOPTED and APPROVED this ____ day of _____, 2014.

18 APPROVED:

19 By _____

20 CAROLYN G. GOODMAN, Mayor

21 ATTEST:

22 _____
23 BEVERLY K. BRIDGES, MMC
City Clerk

24 APPROVED AS TO FORM:

25 _____
26 James B. Lewis,
Deputy City Attorney

2/13/14
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the ____
2 day of _____, 2014, and referred to a committee for recommendation, the committee
3 being composed of the following members _____;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2014, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council as first
7 introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11 APPROVED:

12
13 By _____
CAROLYN G. GOODMAN, Mayor

14 ATTEST:

15 _____
16 BEVERLY K. BRIDGES, MMC
City Clerk