



April 18, 2017
Staff Report to the
Municipal Planning Board

LDC2017-00152
ITEM #13

MEDICAL CANNABIS LOCATION AND PERFORMANCE STANDARDS LAND DEVELOPMENT CODE AMENDMENT

SUMMARY

Owner	Description of the Request:	Public Comment
N/A	Amend Chapter 58 of the Land Development Code to add Medical Cannabis dispensary performance standards, create a Certificate of Compliance process for Medical Cannabis dispensaries, and define Medical Cannabis and related terms in Chapter 63.	Staff posted this item on the City's website, and placed a classified ad in the Orlando Sentinel. No public comments have been received as of the date of the Staff Report.
Applicant	Staff's Recommendation:	
City of Orlando	Approval of the request.	
Project Planner		
Shannan Stegman		
Updated: May 1, 2017		

ANALYSIS

Background.

U.S. - Marijuana/cannabis has been illegal under federal law since the enactment of the Controlled Substances Act in 1970. The Act defines it as having no accepted medical use and made it illegal to import, manufacture, distribute, possess or use marijuana in the United States.

Florida – The Florida Compassionate Medical Cannabis Act (SB1030) was approved by the Florida Legislature and signed by the Governor on June 18, 2014. The Act made it legal for people suffering from qualifying medical conditions to possess and purchase low THC ("Charlotte's Web") medical cannabis. Following a lengthy rules making process, six organizations were ultimately approved by the State to begin cultivating and dispensing low THC cannabis in July 2016. On November 8, 2016, Florida voters overwhelmingly approved Amendment 2, making it the 28th state to legalize medical marijuana/cannabis. A seventh dispensing organization was approved by the state in December, 2016. The Florida Department of Health - Office of Compassionate Use (OCU) is charged with overseeing the regulatory infrastructure for medical cannabis in the state. This infrastructure includes, but is not limited to, licensing of patients, healthcare providers and Medical Cannabis Treatment Centers (dispensaries). To date, seven organizations have been licensed by the state to cultivate and distribute medical cannabis within the state.

Orlando – Following the enactment of the Florida Compassionate Medical Cannabis Act, three state approved dispensing organizations applied to open dispensaries within the City of Orlando. All three organizations received a Zoning Official Determination allowing them proceed through the permitting process. On July 25, 2016 the City enacted a moratorium on new medical cannabis dispensaries while it developed guidelines for appropriately locating dispensaries and procedures for permitting and reviewing such uses. Due to the complexity of the issue, the moratorium was extended on November 14, 2016 and is set to expire on July 1, 2017. While the State of Florida is still in the process of finalizing its regulations and rule making process with regards to Amendment 2, it is anticipated that local regulatory oversight will be permitted so long as it does not conflict with state regulations. Thus, the City needs to move forward with developing its own regulations prior to the expiration of the moratorium.

Overview.

With the passage of Amendment 2, there is a need to consider regulating medical cannabis dispensaries, specifically with regards to location and performance, within the City limits. Based on extensive research of other communities that permit medical cannabis dispensaries, staff recommends treating dispensaries similar to other pharmaceutical uses (light retail) and permitting them where

retail uses are allowed, as long as certain anti-concentration requirements are met. While some communities have determined dispensaries should be located far from commercial activity, even relegating them to industrial sites, staff wants to ensure that people in chronic pain, cancer patients, and others suffering from a variety of illnesses and symptoms have safe and reasonable access to this treatment option, just like other medicines they may require. Treating dispensaries like pharmaceutical uses ensures this accommodation is provided.

Location Standards.

Base on nationwide research of other jurisdictions across the United States that have existing regulations for the sale of medical cannabis, staff recommends the following:

1. Medical cannabis dispensaries are considered a light retailing use for zoning purposes.
2. Light retailing is a permitted use in the MU and AC zoning districts, as well as the Village Center land use designation within the Southeast Sector Plan.
3. A medical cannabis dispensary shall not be established within two hundred feet (200') of a residential zoning district, or land use within the Southeast Sector Plan area.
4. A medical cannabis dispensary shall not be established within one thousand feet (1,000') from any public or private school, park, childcare center, drug or alcohol treatment facility.
5. A medical cannabis dispensary shall not be established within five thousand two hundred eighty feet (5,280') of any other medical cannabis dispensary.
6. A medical dispensary shall be permitted within hospitals (100+beds) without regard to distance separation and/or zoning regulations listed above.
7. The three dispensary locations with a Zoning Official Determination issued prior to July 25, 2016, and who subsequently submit for building permits prior to the enactment of these regulations, shall be considered "grandfathered" and thus not subject to the location requirements, with the exception of required distance from other dispensaries, of these regulations.
8. Residential uses and other dispensaries within adjacent jurisdictions will be considered when siting a new dispensary according to the above.
9. A medical cannabis dispensary proposed within one thousand feet (1,000') of Orange County or another city will be referred to the appropriate jurisdiction for consultation.

Performance Standards.

The following are the minimum development criteria and operational standards proposed for any new medical cannabis dispensary:

1. The building in which the dispensary is located shall comply with all applicable local, state and federal rules, regulations and laws including, but not limited to, building codes and accessibility requirements.
2. The dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. The applicant shall submit a security plan for review and approval by the Orlando Police Department. The Security Plan shall remain confidential.
3. The site plan, circulation, parking, lighting, facility exterior, and any signage shall be subject to appearance review and approval by the Planning Official.
4. No person shall be allowed onto the premises unless they are an employee, vendor or contractor of the dispensary, a primary caregiver, and/or a qualified patient or an employee of an agency having jurisdiction monitoring or investigating the terms of regulatory compliance. If the dispensary denies entry for monitoring and inspection to any employee of an agency having jurisdiction, the dispensary may be closed. All persons entering the site shall present photo identification and shall establish proof of doctor's recommendation except as representing a regulatory agency. The operating plan submitted as part of the use permit application shall specify how this provision will be complied with and enforced.
5. No dispensary shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on premises.
6. No cannabis shall be smoked, ingested or otherwise consumed on the premises. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings.
7. No dispensary shall house raw cannabis product on site. Likewise, cultivation of medical cannabis is prohibited within a dispensary.
8. Operating days and hours shall be limited to Monday through Saturday from 8:00 am to 7:00 pm, including deliveries, or as otherwise allowed. Operating hours may be further restricted through the Appearance Review process, where needed, to provide additional land use compatibility.
9. Medical cannabis delivery service is permitted. The delivery operation must be affiliated with and located on the same property as the permitted dispensary. Third party delivery service is prohibited.
10. Dispensaries must be properly licensed with the State of Florida and must comply with all applicable state and local laws, rules and regulations.

Number of Dispensaries.

The State of Florida conducted a thorough application and licensing process prior to approving seven dispensing organizations. Staff recommends that each of the state approved organizations be permitted to open one medical cannabis dispensary within the City limits, subject to the location and performance standards above. If the three previously approved “Charlotte’s Web” locations have submitted for permits prior to these regulations being adopted, they will be grandfathered and permitted to expand to full scale medical cannabis sales. They will be included as part of the maximum seven dispensaries. If more than seven dispensaries were permitted to operate, concerns regarding over saturation and difficulty monitoring/enforcing regulatory compliance could begin to emerge. In addition, limiting the number to seven will allow each organization equal access to the Orlando market, while ensuring the City of Orlando does not become the regional “hub” for medical cannabis dispensaries, protecting the health, safety and welfare of its residents.

Definitions.

The following terms are defined in s. 381.986 F.S. and are recommended to be included in the City’s proposed regulations.

“Dispensing organization” means an organization approved by the Florida Department of Compassionate Use to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to this section.

“Legal representative” means the qualified patient’s parent, legal guardian acting pursuant to a court’s authorization as required under s. 744.3215(4); health care surrogate acting pursuant to the qualified patient’s written consent or a court’s authorization as required under s. 765.113, or an individual who is authorized under a power of attorney to make health care decisions on behalf of the qualified patient.

“Low-THC cannabis” means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization.

“Medical cannabis” means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in s. 499.0295.

“Medical use” means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:

1. Possession, use, or administration of low-THC cannabis or medical cannabis by smoking.
2. Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient’s legal representative on behalf of the qualified patient.
3. Use or administration of low-THC cannabis or medical cannabis;
 - a. On any form of public transportation.
 - b. In any public place.
 - c. In a qualified patient’s place of employment, if restricted by his or her employer.
 - d. In a state correctional institution as defined in s. 944.02 or a correctional institution as defined in s. 944.241.
 - e. On the grounds of a preschool, primary school, or secondary school.
 - f. On a school bus or in a vehicle, aircraft, or motorboat.

“Qualified patient” means a resident of this state who has been added to the compassionate use registry by a physician licensed by the state to receive low-THC cannabis or medical cannabis from a dispensing organization.

FINDINGS

In review of the proposed LDC amendment, it is found that:

1. The proposed Land Development Code amendment is consistent with the State Comprehensive Plan (Chapter 187, Florida Statutes).
2. The proposed Land Development Code amendment is consistent with the East Central Florida Strategic Regional Policy Plan.
3. The proposed Land Development Code amendment is consistent with the provisions of Chapter 163, Part II, Florida Statutes.
4. The proposed Land Development Code amendment is consistent with the objectives and policies of the City’s adopted Growth Management Plan (GMP).

RECOMMENDATION

Staff recommends approval of the proposed amendment to the Orlando Land Development Code.