

1 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
2 ORLANDO, FLORIDA, RELATING TO MEDICAL MARIJUANA
3 DISPENSARIES; AMENDING CHAPTER 58, ORLANDO CITY
4 CODE, TO PROVIDE ZONING REGULATIONS FOR MEDICAL
5 MARIJUANA DISPENSARIES; PROVIDING A CAP ON THE
6 NUMBER OF DISPENSARIES, SPECIAL USE SEPARATION
7 REGULATIONS, AND SPECIAL OPERATIONAL
8 REGULATIONS; FURTHER PROVIDING DEFINITIONS, FOR
9 THE GRANDFATHERING OF CERTAIN EXISTING
10 NONCONFORMITIES, AND THE TERMINATION OF THE
11 TEMPORARY MORATORIUM ON MEDICAL MARIJUANA
12 DISPENSARIES; PROVIDING LEGISLATIVE FINDINGS, AND
13 FOR SEVERABILITY, CODIFICATION, CORRECTION OF
14 SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.
15

16 **WHEREAS**, section 163.3202(1), Florida Statutes, requires that the city of
17 Orlando, Florida (the "city"), adopt or amend and enforce land development regulations
18 that are consistent with and implement the city's adopted comprehensive plan; and
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20 **WHEREAS**, section 163.3203(3), Florida Statutes, encourages the use of
21 innovative land development regulations and requires that all land development
22 regulations be combined into a single land development code for the city; and
23

24 **WHEREAS**, from time to time, amendments and revisions to the city's adopted
25 comprehensive plan (the "Growth Management Plan"), progress in the field of planning
26 and zoning, or changes to state law make it necessary or desirable to amend the land
27 development regulations of the city; and
28

29 **WHEREAS**, at its regularly scheduled meeting of April 18, 2017, the Municipal
30 Planning Board recommended to the City Council of the City of Orlando, Florida (the
31 "Orlando City Council"), that the provisions of this ordinance are consistent with the
32 applicable provisions of the city's adopted Growth Management Plan, are in the best
33 interest of the public health, safety, and welfare, are in harmony with the purpose and
34 intent of the Land Development Code of the City of Orlando, Florida (the "Land
35 Development Code"), will not result in disorderly and illogical development patterns, and
36 will not result in incompatible land uses; and
37

38 **WHEREAS**, the Orlando City Council hereby finds and determines that this
39 ordinance is consistent with the applicable provisions of the city's adopted Growth
40 Management Plan, is in the best interest of the public health, safety, and welfare, is in
41 harmony with the purpose and intent of the city's Land Development Code, will not result
42 in disorderly and illogical development patterns, and will not result in incompatible land
43 uses; and
44

45 **WHEREAS**, section 381.986(8), Florida Statutes, provides that "[a] municipality
46 may determine by ordinance the criteria for the number and location of, and other

permitting requirements that do not conflict with state law or department rule for, dispensing facilities of dispensing organizations located within its municipal boundaries..."; and

WHEREAS, the Orlando City Council hereby finds that the land development regulations of this ordinance reasonably balance the needs of patients seeking medical products with the legitimate public interests in mitigating and limiting the potential negative secondary land use effects of medical marijuana dispensaries; and

WHEREAS, the Orlando City Council hereby finds and declares that this ordinance is in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AS FOLLOWS:

SECTION 1. PART 4R(2), CHAPTER 58, CREATED. Part 4R(2), Chapter 58, Code of the City of Orlando, Florida, is hereby created to read as follows:

4R(2) – MEDICAL MARIJUANA DISPENSARIES

Sec. 58.873. General Requirements.

(a) Zoning use. For purposes of the Land Development Code, including the tables of allowable, prohibited, and conditional uses (Figures 2A.LDC – 2D.LDC, Chapter 58, Orlando City Code), medical marijuana dispensaries are hereby categorized as a light retailing use as defined in section 66.200, Orlando City Code. In the Southeast Orlando Sector Plan area, medical marijuana dispensaries must comply with the land development regulations applicable to the Village Center land use category.

(b) Cultivation and processing. Medical marijuana cultivation facilities and medical marijuana processing facilities are hereby prohibited in the City.

(c) Dispensaries. Medical marijuana dispensaries are hereby prohibited in the City unless the dispensary is approved by the Florida Department of Health pursuant to applicable state laws and regulations.

(d) Cap on dispensaries. Only one medical marijuana dispensary is allowed in the City per each of the state-approved dispensing organizations.

Sec. 58.874. Special Location Regulations

(a) Use separations. In addition to complying with the land development regulations of the table of allowable, prohibited, and conditional uses, medical marijuana dispensaries are prohibited within:

1. 200' of a residential zoning district; and

- 94 2. 200' of a residential land use in the Southeast Sector Plan area;
 95 and
 96
 97 3. 1,000' of a religious institution; and
 98
 99 4. 1,000' of a school; and
 100
 101 5. 1,000' of a park; and
 102
 103 6. 1,000' of a child day care center; and
 104
 105 7. 1,000' of a treatment and recovery facility; and
 106
 107 8. 5,280' of another medical marijuana dispensary.

108
 109 (b) Hospital exception. Notwithstanding subsection 58.874(a), medical
 110 marijuana dispensaries may locate, operate, and undertake substantial improvements
 111 and enlargements if the dispensary is an accessory use to a hospital with at least 100
 112 beds. To be an "accessory use" for purposes of this subsection, the dispensary must be
 113 located within the hospital or on land owned or operated by the hospital (or a closely-
 114 related corporate entity) and within 1,320' of the parcel of land on which the hospital is
 115 located.

116
 117 (c) Neighboring jurisdictions. The use separation regulations of subsection
 118 58.874(a) apply only to such uses located in the City of Orlando, except that medical
 119 marijuana dispensaries in the City are prohibited within 200' of a residential zoning
 120 district located in unincorporated Orange County or a neighboring municipality and within
 121 5,280' of another medical marijuana dispensary located in unincorporated Orange
 122 County or a neighboring municipality. The planning official or permitting official shall,
 123 upon receipt of any application proposing a medical marijuana dispensary within 1,000'
 124 of unincorporated Orange County or a neighboring municipality, provide written notice of
 125 the application to the planning or permitting official of the applicable neighboring
 126 jurisdiction.

127
 128 **Sec. 58.875. Special Operational Regulations**

129
 130 (a) Security system. To ensure the safety and security of medical marijuana
 131 dispensaries, and to maintain adequate controls against the diversion, theft, and loss of
 132 low-THC cannabis, medical cannabis, and cannabis delivery devices, section 381.986,
 133 Florida Statutes, and Chapter 64-4, Florida Administrative Code, require dispensing
 134 organizations to implement and maintain specified security systems and techniques. The
 135 security plan approved by the Florida Department of Health for the dispensary must be
 136 filed with the police chief before the dispensary opens for business and any changes to
 137 the security plan must be filed with the police chief within seven days of approval by the
 138 Florida Department of Health. It is unlawful and a violation of this subsection to operate,
 139 own, or control a medical marijuana dispensary except in compliance with the applicable
 140 security plan approved by the Florida Department of Health.

141
 142 (b) Site plan and appearance approval. Before a certificate of occupancy or
 143 certificate of completion is issued by the permitting official (whichever is applicable, and
 144 if neither are applicable then before the dispensary opens for business) for a medical

marijuana dispensary, the dispensary must be reviewed and approved by planning official determination. The planning official determination must review and approve the proposed site for zoning use compliance, for compliance with applicable site development standards (including parking and pedestrian and automobile circulation), and for compliance with applicable appearance and architectural standards (including signs).

(c) Outdoor lighting. Medical marijuana dispensaries are hereby made exempt from Part 2M, Chapter 63, Orlando City Code, but only to the extent minimally necessary to achieve compliance with state laws and regulations relating to sufficient outdoor lighting.

(d) Hours of operation. Medical marijuana dispensaries may not dispense low-THC cannabis, medical cannabis, and cannabis delivery devices between the hours of 7:00 p.m. and 8:00 a.m.

(e) Drive-in facilities prohibited. Drive-in facilities are prohibited at medical marijuana dispensaries.

Sec. 58.876. Definitions

For the purposes of this Part, the following words, terms, and phrases (and their derivations) have the meanings provided hereinafter, except where the context clearly requires otherwise.

(a) "Cannabis delivery device" has the same meaning provided at section 381.986(1)(a), Florida Statutes.

(b) "Dispensing organization" has the same meaning provided at section 381.986(1)(b), Florida Statutes.

(c) "Low-THC cannabis" has the same meaning provided at section 381.986(1)(e), Florida Statutes.

(d) "Medical cannabis" has the same meaning provided at section 381.986(1)(f), Florida Statutes.

(e) "Medical marijuana cultivation facility" has the same meaning as "cultivation facility" as provided at Rule 64-4.001(11)(a), Florida Administrative Code.

(f) "Medical marijuana processing facility" has the same meaning as "processing facility" as provided at Rule 64-4.001(11)(b), Florida Administrative Code.

(g) "Medical marijuana dispensary" has the same meaning as "dispensing facility" as provided at Rule 64-4.001(11)(c), Florida Administrative Code.

(h) "Park" means all public and private property specifically designated as being used for principally recreational purposes.

SECTION 2. GRANDFATHERED DISPENSARIES. Notwithstanding anything in this ordinance to the contrary, medical marijuana dispensaries approved by a site-

specific zoning official determination issued before the effective date of this ordinance and the subject of a complete building permit application to construct the dispensary (pursuant to the Florida Building Code) submitted to the permitting official before the effective date of this ordinance are hereby made conforming and lawful under this ordinance. Medical marijuana dispensaries approved by a site-specific zoning official determination issued before the effective date of this ordinance but not the subject of a complete building permit application to construct the dispensary (pursuant to the Florida Building Code) submitted to the permitting official before the effective date of this ordinance are hereby made wholly subject to the provisions of this ordinance.

SECTION 3. MORATORIUM TERMINATED. The temporary moratorium on cannabis dispensaries established by City Ordinance No. 2016-58 and extended by City Ordinance No. 2016-92 is hereby terminated.

SECTION 4. CODIFICATION. The city clerk and the city attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 5. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 6. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 7. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2017.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the _____ day of _____, 2017.

DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2017.

BY THE MAYOR OF THE CITY OF
ORLANDO, FLORIDA:

ORDINANCE NO. 2017-25

Mayor

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

City Clerk

Print Name

THIS ORDINANCE DRAFTED BY AND
APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

City Attorney

Print Name

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