

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
19

20 **WHEREAS**, section 163.3202(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

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

50
51 **WHEREAS**, the Orlando City Council hereby finds that the land development
52 regulations of this ordinance reasonably balance the needs of patients seeking medical
53 products with the legitimate public interests in mitigating and limiting the potential
54 negative secondary land use effects of medical marijuana dispensaries; and

55
56 **WHEREAS**, the Orlando City Council hereby finds and declares that this
57 ordinance is in the best interest of the public health, safety, and welfare; and

58
59 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**
60 **OF ORLANDO, FLORIDA, AS FOLLOWS:**

61
62 **SECTION 1. PART 4R(2), CHAPTER 58, CREATED.** Part 4R(2), Chapter 58,
63 Code of the City of Orlando, Florida, is hereby created to read as follows:

64
65 **4R(2) – MEDICAL MARIJUANA DISPENSARIES**

66
67 **Sec. 58.873. General Requirements.**

68
69 (a) *Zoning use.* For purposes of the Land Development Code, including the
70 tables of allowable, prohibited, and conditional uses (Figures 2A.LDC – 2D.LDC,
71 Chapter 58, Orlando City Code), medical marijuana dispensaries are hereby categorized
72 as a light retailing use as defined in section 66.200, Orlando City Code. In the Southeast
73 Orlando Sector Plan area, medical marijuana dispensaries must comply with the land
74 development regulations applicable to the Village Center land use category.

75
76 (b) *Cultivation and processing.* Medical marijuana cultivation facilities and
77 medical marijuana processing facilities are hereby prohibited in the City.

78
79 (c) *Dispensaries.* Medical marijuana dispensaries are hereby prohibited in
80 the City unless the dispensary is approved by the Florida Department of Health pursuant
81 to applicable state laws and regulations.

82
83 (d) *Cap on dispensaries.* Only ~~seven~~ ~~one~~ medical marijuana dispensaries
84 are allowed in the City ~~per each of the state-approved dispensing organizations,~~
85 without regard for the number of dispensing organizations approved by the State of
86 Florida. As of the effective date of this Part, there are seven state-approved dispensing
87 organizations, and each of them may have one dispensary in the City.

88
89 **Sec. 58.874. Special Location Regulations**

90
91 (a) *Use separations.* In addition to complying with the land development
92 regulations of the table of allowable, prohibited, and conditional uses, medical marijuana
93 dispensaries are prohibited within:

- 95 1. 200' of a residential zoning district; and
96
97 2. 200' of a residential land use in the Southeast Orlando Sector
98 Plan area; and
99
100 3. 1,000' of a religious institution; and
101
102 4. 1,000' of a school; and
103
104 5. 1,000' of a park; and
105
106 6. 1,000' of a child day care center; and
107
108 7. 1,000' of a treatment and recovery facility; and
109
110 8. 5,280' of another medical marijuana dispensary.

111
112 **(b) Hospital exception.** Notwithstanding subsection 58.874(a), medical
113 marijuana dispensaries may locate, operate, and undertake substantial improvements
114 and enlargements if the dispensary is an accessory use to a hospital with at least 100
115 beds. To be an "accessory use" for purposes of this subsection, the dispensary must be
116 located within the hospital or on land owned or operated by the hospital (or a closely-
117 related corporate entity) and within 1,00320' of the parcel of land on which the hospital is
118 located.

119
120 **(c) Neighboring jurisdictions.** The use separation regulations of subsection
121 58.874(a) apply only to such uses located in the City of Orlando, except that medical
122 marijuana dispensaries in the City are prohibited within 200' of a residential zoning
123 district located in unincorporated Orange County or a neighboring municipality and within
124 5,280' of another medical marijuana dispensary located in unincorporated Orange
125 County or a neighboring municipality. The planning official or permitting official shouldaH,
126 upon receipt of any application proposing a medical marijuana dispensary within 1,000'
127 of unincorporated Orange County or a neighboring municipality, provide written notice of
128 the application to the planning or permitting official of the applicable neighboring
129 jurisdiction. This notice is a courtesy notice and failure to make such notice shall not
130 invalidate any approvals issued by the City.

131
132 **(d) Method of measuring distance.** For the purposes of this Part, distance
133 shall be measured by the shortest, straight line between property or district boundaries.

134
135 **Sec. 58.875. Special Operational Regulations**

136
137 **(a) Security system.** To ensure the safety and security of medical marijuana
138 dispensaries, and to maintain adequate controls against the diversion, theft, and loss of
139 low-THC cannabis, medical cannabis, and cannabis delivery devices, section 381.986,
140 Florida Statutes, and Chapter 64-4, Florida Administrative Code, require dispensing
141 organizations to implement and maintain specified security systems and techniques. The
142 security plan approved by the Florida Department of Health for the dispensary must be
143 filed with the police chief before the dispensary opens for business and any changes to
144 the security plan must be filed with the police chief within seven days of approval by the

145 Florida Department of Health. It is unlawful and a violation of this subsection to operate,
146 own, or control a medical marijuana dispensary except in compliance with the applicable
147 security plan approved by the Florida Department of Health.

148
149 (b) *Site plan and appearance approval.* Before a certificate of occupancy or
150 certificate of completion is issued by the permitting official (whichever is applicable, and
151 if neither are applicable then before the dispensary opens for business) for a medical
152 marijuana dispensary, the dispensary must be reviewed and approved by planning
153 official determination. The planning official determination must review and approve the
154 proposed site for zoning use compliance, for compliance with applicable site
155 development standards (including parking and pedestrian and automobile circulation),
156 and for compliance with applicable appearance and architectural standards (including
157 signs).

158
159 (c) *Outdoor lighting.* Medical marijuana dispensaries are hereby made
160 exempt from Part 2M, Chapter 63, Orlando City Code, but only to the extent minimally
161 necessary to achieve compliance with state laws and regulations relating to sufficient
162 outdoor lighting.

163
164 (d) *Hours of operation.* Medical marijuana dispensaries may not dispense
165 low-THC cannabis, medical cannabis, ~~or and~~ cannabis delivery devices between the
166 hours of 7:00 p.m. and 8:00 a.m. ~~This subsection applies only to the onsite dispensing of~~
167 ~~low-THC cannabis, medical cannabis, or cannabis delivery devices, and does not~~
168 ~~purport to regulate the delivery of low-THC cannabis, medical cannabis, or cannabis~~
169 ~~delivery devices, nor does this subsection prohibit the use of the dispensary between the~~
170 ~~hours of 7:00 p.m. and 8:00 a.m. for business purposes other than the dispensing of low-~~
171 ~~THC cannabis, medical cannabis, or cannabis delivery devices.~~

172
173 (e) *Drive-in facilities prohibited.* Drive-in facilities are prohibited at medical
174 marijuana dispensaries.

175
176 **Sec. 58.876. Definitions**

177
178 For the purposes of this Part, the following words, terms, and phrases (and their
179 derivations) have the meanings provided hereinafter, except where the context clearly
180 requires otherwise.

181
182 (a) "Cannabis delivery device" has the same meaning provided at section
183 381.986(1)(a), Florida Statutes.

184
185 (b) "Dispensing organization" has the same meaning provided at section
186 381.986(1)(b), Florida Statutes.

187
188 (c) "Low-THC cannabis" has the same meaning provided at section
189 381.986(1)(e), Florida Statutes.

190
191 (d) "Medical cannabis" has the same meaning provided at section
192 381.986(1)(f), Florida Statutes.

193

194 (e) “Medical marijuana cultivation facility” has the same meaning as
195 “cultivation facility” as provided at Rule 64-4.001(11)(a), Florida Administrative Code,
196 and includes any area approved by the Florida Department of Health for the cultivation of
197 medical cannabis.

198
199 (f) “Medical marijuana processing facility” has the same meaning as
200 “processing facility” as provided at Rule 64-4.001(11)(b), Florida Administrative Code,
201 and includes any area approved by the Florida Department of Health for the processing
202 of medical cannabis.

203
204 (g) “Medical marijuana dispensary” has the same meaning as “dispensing
205 facility” as provided at Rule 64-4.001(11)(c), Florida Administrative Code, and includes
206 any area approved by the Florida Department of Health for the dispensation of medical
207 cannabis.

208
209 (h) “Park” means all public and private property specifically designated as
210 being used for principally recreational purposes.

211
212 Secs. 58.877 – 58.879. Reserved.

213
214 **SECTION 2. GRANDFATHERED DISPENSARIES.** Notwithstanding anything in
215 this ordinance to the contrary, medical marijuana dispensaries approved by a site-
216 specific zoning official determination issued before the effective date of this ordinance
217 and the subject of a complete building permit application to construct the dispensary
218 (pursuant to the Florida Building Code) submitted to the permitting official before the
219 effective date of this ordinance are hereby made conforming and lawful under this
220 ordinance as to the locational regulations of this ordinance. Medical marijuana
221 dispensaries approved by a site-specific zoning official determination issued before the
222 effective date of this ordinance but not the subject of a complete building permit
223 application to construct the dispensary (pursuant to the Florida Building Code) submitted
224 to the permitting official before the effective date of this ordinance are hereby made
225 wholly subject to the provisions of this ordinance.

226
227 **SECTION 3. MORATORIUM TERMINATED.** The temporary moratorium on
228 cannabis dispensaries established by City Ordinance No. 2016-58 and extended by City
229 Ordinance No. 2016-92 is hereby terminated.

230
231 **SECTION 4. CODIFICATION.** The city clerk and the city attorney shall cause
232 the Code of the City of Orlando, Florida, to be amended as provided by this ordinance
233 and may renumber, re-letter, and rearrange the codified parts of this ordinance if
234 necessary to facilitate the finding of the law.

235
236 **SECTION 5. SCRIVENER’S ERROR.** The city attorney may correct scrivener’s
237 errors found in this ordinance by filing a corrected copy of this ordinance with the city
238 clerk.

239
240 **SECTION 6. SEVERABILITY.** If any provision of this ordinance or its
241 application to any person or circumstance is held invalid, the invalidity does not affect
242 other provisions or applications of this ordinance which can be given effect without the

243 invalid provision or application, and to this end the provisions of this ordinance are
244 severable.

245
246 **SECTION 7. EFFECTIVE DATE.** This ordinance takes effect upon adoption.

247
248 **DONE, THE FIRST READING,** by the City Council of the City of Orlando,
249 Florida, at a regular meeting, the _____ day of _____, 2017.

250
251 **DONE, THE PUBLIC NOTICE,** in a newspaper of general circulation in the City
252 of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the _____ day of
253 _____, 2017.

254
255 **DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON**
256 **FINAL PASSAGE,** by an affirmative vote of a majority of a quorum present of the City
257 Council of the City of Orlando, Florida, at a regular meeting, the _____ day of
258 _____, 2017.

259
260 BY THE MAYOR OF THE CITY OF
261 ORLANDO, FLORIDA:

262
263
264 _____
265 Mayor

266
267 ATTEST, BY THE CLERK OF THE
268 CITY COUNCIL OF THE CITY OF
269 ORLANDO, FLORIDA:

270
271 _____
272 City Clerk

273
274 _____
275 Print Name

276
277
278 THIS ORDINANCE DRAFTED BY AND
279 APPROVED AS TO FORM AND LEGALITY
280 FOR THE USE AND RELIANCE OF THE
281 CITY OF ORLANDO, FLORIDA:

282
283 _____
284 City Attorney

285
286 _____
287 Print Name

288
289 ****[Remainder of page intentionally left blank.]****