

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 PROHIBIT NEW MEDICAL MARIJUANA**  
5           **DISPENSARIES; FURTHER PROVIDING DEFINITIONS, FOR**  
6           **THE GRANDFATHERING OF CERTAIN EXISTING**  
7           **NONCONFORMITIES; PROVIDING LEGISLATIVE FINDINGS,**  
8           **AND FOR SEVERABILITY, CODIFICATION, CORRECTION**  
9           **OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

10  
11           **WHEREAS**, section 163.3202(1), Florida Statutes, requires that the city of  
12 Orlando, Florida (the "city"), adopt or amend and enforce land development regulations  
13 that are consistent with and implement the city's adopted comprehensive plan; and  
14

15           **WHEREAS**, section 163.3202(3), Florida Statutes, encourages the use of  
16 innovative land development regulations and requires that all land development  
17 regulations be combined into a single land development code for the city; and  
18

19           **WHEREAS**, from time to time, amendments and revisions to the city's adopted  
20 comprehensive plan (the "Growth Management Plan"), progress in the field of planning  
21 and zoning, or changes to state law make it necessary or desirable to amend the land  
22 development regulations of the city; and  
23

24           **WHEREAS**, on June 5, 2017, the City Council of the City of Orlando, Florida (the  
25 "Orlando City Council"), adopted Ordinance No. 2017-25, which amended the city's Land  
26 Development Code to provide regulations for the location and operation of medical  
27 marijuana dispensaries in the city; and  
28

29           **WHEREAS**, in general terms, Ordinance No. 2017-25 classified medical  
30 marijuana dispensaries as a "Light Retailing" use under the city's Land Development  
31 Code and required that dispensaries be separated from certain sensitive land uses such  
32 as schools, daycares, parks, places of worship, and treatment and recovery facilities;  
33 and  
34

35           **WHEREAS**, Ordinance No. 2017-25 also provided certain operational regulations  
36 for dispensaries, including rules relating to security systems, site plan and architectural  
37 approval, outdoor lighting, and hours of operation; and  
38

39           **WHEREAS**, in Ordinance No. 2017-25 the Orlando City Council found that "the  
40 land development regulations of [the] ordinance reasonably balance[d] the needs of  
41 patients seeking medical products with the legitimate public interests in mitigating the  
42 potential negative secondary land use effects of medical marijuana dispensaries..."; and  
43

44           **WHEREAS**, just days after Ordinance No. 2017-25 was adopted, the Florida  
45 Legislature adopted SB 8A during special session; and

46  
47       **WHEREAS**, SB 8A was approved by the governor on June 23, 2017 (Chapter  
48 2017-232, Laws of Florida;), and, in part, severely preempts local control over the zoning  
49 of medical marijuana dispensaries; and

50  
51       **WHEREAS**, the purpose of this ordinance is to conform the city's newly adopted  
52 land development regulations relating to medical marijuana to the newly adopted  
53 preemption at section 381.986(11), Florida Statutes; and

54  
55       **WHEREAS**, the Orlando City Council hereby finds and determines that this  
56 ordinance is consistent with the applicable provisions of the city's adopted Growth  
57 Management Plan, is in the best interest of the public health, safety, and welfare, is in  
58 harmony with the purpose and intent of the city's Land Development Code, will not result  
59 in disorderly and illogical development patterns, and will not result in incompatible land  
60 uses; and

61  
62       **WHEREAS**, given the very limited options available to local governments, the  
63 Orlando City Council hereby finds that the land development regulations of this  
64 ordinance reasonably balance the needs of patients seeking medical products with the  
65 legitimate public interests in mitigating and limiting the potential negative secondary land  
66 use effects of medical marijuana dispensaries; and

67  
68       **WHEREAS**, the Orlando City Council hereby finds and declares that this  
69 ordinance is in the best interest of the public health, safety, and welfare; and

70  
71       **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**  
72 **OF ORLANDO, FLORIDA, AS FOLLOWS:**

73  
74       **SECTION 1. PART 4R(2), CHAPTER 58, CREATED.** Part 4R(2), Chapter 58,  
75 Code of the City of Orlando, Florida, is hereby amended to read as follows:

76  
77                   **4R(2) – MEDICAL MARIJUANA DISPENSARIES**

78  
79           **Sec. 58.873. General Requirements.**

80  
81           (a)    ~~*Dispensaries banned*~~Zoning use. For purposes of the Land Development  
82 Code, including the tables of allowable, prohibited, and conditional uses (Figures  
83 2A.LDC — 2D.LDC, Chapter 58, Orlando City Code), medical marijuana dispensaries are  
84 hereby categorized as a light retailing use as defined in section 66.200, Orlando City  
85 Code. In the Southeast Orlando Sector Plan area, medical marijuana dispensaries must  
86 comply with the land development regulations applicable to the Village Center land use  
87 category. Pursuant to section 381.986(11)(b)1., Florida Statutes, medical marijuana  
88 dispensaries are hereby prohibited in the City.

89  
90           (b)    *Cultivation and processing.* Medical marijuana cultivation facilities and  
91 medical marijuana processing facilities are hereby prohibited in the City.

92  
 93 (c) *Dispensaries.* Medical marijuana dispensaries are hereby prohibited in  
 94 the City unless the dispensary is approved by the Florida Department of Health pursuant  
 95 to applicable state laws and regulations.

96  
 97 ~~(d) — *Cap on dispensaries.* Only seven medical marijuana dispensaries are~~  
 98 ~~allowed in the City, without regard for the number of dispensing organizations approved~~  
 99 ~~by the State of Florida. As of the effective date of this Part, there are seven state-~~  
 100 ~~approved dispensing organizations, and each of them may have one dispensary in the~~  
 101 ~~City.~~

102  
 103 **Sec. 58.874. Special Location Regulations Reserved**

104  
 105 (a) — *Use separations.* In addition to complying with the land development  
 106 regulations of the table of allowable, prohibited, and conditional uses, medical marijuana  
 107 dispensaries are prohibited within:

- 108  
 109 1. — 200' of a residential zoning district; and  
 110  
 111 2. — 200' of a residential land use in the Southeast Orlando Sector  
 112 Plan area; and  
 113  
 114 3. — 1,000' of a religious institution; and  
 115  
 116 4. — 1,000' of a school; and  
 117  
 118 5. — 1,000' of a park; and  
 119  
 120 6. — 1,000' of a child day care center; and  
 121  
 122 7. — 1,000' of a treatment and recovery facility; and  
 123  
 124 8. — 5,280' of another medical marijuana dispensary.

125  
 126 (b) — *Hospital exception.* Notwithstanding subsection 58.874(a), medical  
 127 marijuana dispensaries may locate, operate, and undertake substantial improvements  
 128 and enlargements if the dispensary is an accessory use to a hospital with at least 100  
 129 beds. To be an “accessory use” for purposes of this subsection, the dispensary must be  
 130 located within the hospital or on land owned or operated by the hospital (or a closely-  
 131 related corporate entity) and within 1,000' of the parcel of land on which the hospital is  
 132 located.

133  
 134 (c) — *Neighboring jurisdictions.* The use separation regulations of subsection  
 135 58.874(a) apply only to such uses located in the City of Orlando, except that medical  
 136 marijuana dispensaries in the City are prohibited within 200' of a residential zoning  
 137 district located in unincorporated Orange County or a neighboring municipality and within  
 138 5,280' of another medical marijuana dispensary located in unincorporated Orange  
 139 County or a neighboring municipality. The planning official or permitting official should,  
 140 upon receipt of any application proposing a medical marijuana dispensary within 1,000'  
 141 of unincorporated Orange County or a neighboring municipality, provide written notice of  
 142 the application to the planning or permitting official of the applicable neighboring

143 jurisdiction. This notice is a courtesy notice and failure to make such notice shall not  
144 invalidate any approvals issued by the City.

145  
146 (d) ~~Method of measuring distance.~~ For the purposes of this Part, distance  
147 shall be measured by the shortest, straight line between property or district boundaries.

148  
149 **Sec. 58.875. Special Operational Regulations**

150  
151 (a) *Security system.* To ensure the safety and security of medical marijuana  
152 dispensaries, and to maintain adequate controls against the diversion, theft, and loss of  
153 low-THC cannabis, medical cannabis, and cannabis delivery devices, section 381.986,  
154 Florida Statutes, and Chapter 64-4, Florida Administrative Code, require dispensing  
155 organizations to implement and maintain specified security systems and techniques. The  
156 security plan approved by the Florida Department of Health for the dispensary must be  
157 filed with the police chief before the dispensary opens for business and any changes to  
158 the security plan must be filed with the police chief within seven days of approval by the  
159 Florida Department of Health. It is unlawful and a violation of this subsection to operate,  
160 own, or control a medical marijuana dispensary except in compliance with the applicable  
161 security plan approved by the Florida Department of Health.

162  
163 (b) *Site plan and appearance approval.* Before a certificate of occupancy or  
164 certificate of completion is issued by the permitting official (whichever is applicable, and  
165 if neither are applicable then before the dispensary opens for business) for a medical  
166 marijuana dispensary, the dispensary must be reviewed and approved by planning  
167 official determination. The planning official determination must review and approve the  
168 proposed site for zoning use compliance, for compliance with applicable site  
169 development standards (including parking and pedestrian and automobile circulation),  
170 and for compliance with applicable appearance and architectural standards (including  
171 signs).

172  
173 (c) *Outdoor lighting.* Medical marijuana dispensaries are hereby made  
174 exempt from Part 2M, Chapter 63, Orlando City Code, but only to the extent minimally  
175 necessary to achieve compliance with state laws and regulations relating to sufficient  
176 outdoor lighting.

177  
178 (d) *Hours of operation.* Medical marijuana dispensaries may not dispense  
179 low-THC cannabis, medical cannabis, or cannabis delivery devices between the hours of  
180 79:00 p.m. and 87:00 a.m. This subsection applies only to the onsite dispensing of low-  
181 THC cannabis, medical cannabis, or cannabis delivery devices, and does not purport to  
182 regulate the delivery of low-THC cannabis, medical cannabis, or cannabis delivery  
183 devices, nor does this subsection prohibit the use of the dispensary between the hours  
184 of 79:00 p.m. and 87:00 a.m. for business purposes other than the dispensing of low-  
185 THC cannabis, medical cannabis, or cannabis delivery devices.

186  
187 (e) *Drive-in facilities prohibited.* Drive-in facilities are prohibited at medical  
188 marijuana dispensaries.

189  
190 **Sec. 58.876. Definitions**

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

195  
196 (a) "Cannabis delivery device" has the same meaning provided at section  
197 381.986(1)(a), Florida Statutes.

198  
199 (b) "Dispensing organization" has the same meaning provided at section  
200 381.986(1)(b), Florida Statutes.

201  
202 (c) "Low-THC cannabis" has the same meaning provided at section  
203 381.986(1)(e), Florida Statutes.

204  
205 (d) "Medical cannabis" has the same meaning provided at section  
206 381.986(1)(f), Florida Statutes.

207  
208 (e) "Medical marijuana cultivation facility" has the same meaning as  
209 "cultivation facility" as provided at Rule 64-4.001(11)(a), Florida Administrative Code,  
210 and includes any area approved by the Florida Department of Health for the cultivation of  
211 medical cannabis.

212  
213 (f) "Medical marijuana processing facility" has the same meaning as  
214 "processing facility" as provided at Rule 64-4.001(11)(b), Florida Administrative Code,  
215 and includes any area approved by the Florida Department of Health for the processing  
216 of medical cannabis.

217  
218 (g) "Medical marijuana dispensary" has the same meaning as "dispensing  
219 facility" as provided at Rule 64-4.001(11)(c), Florida Administrative Code, and includes  
220 any area approved by the Florida Department of Health for the dispensation of medical  
221 cannabis.

222  
223 (h) "Park" means all public and private property specifically designated as  
224 being used for principally recreational purposes.

225  
226 **SECTION 2. GRANDFATHERED DISPENSARIES.** Notwithstanding anything in  
227 this ordinance to the contrary, medical marijuana dispensaries approved by a site-  
228 specific zoning official determination issued before the effective date of this ordinance  
229 and the subject of a complete building permit application to construct the dispensary  
230 (pursuant to the Florida Building Code) submitted to the permitting official before the  
231 effective date of this ordinance are hereby made conforming and lawful under this  
232 ordinance as to the locational regulations of this ordinance. Medical marijuana  
233 dispensaries approved by a site-specific zoning official determination issued before the  
234 effective date of this ordinance but not the subject of a complete building permit  
235 application to construct the dispensary (pursuant to the Florida Building Code) submitted  
236 to the permitting official before the effective date of this ordinance are hereby made  
237 wholly subject to the provisions of this ordinance.

238  
239 **SECTION 3. CODIFICATION.** The city clerk and the city attorney shall cause  
240 the Code of the City of Orlando, Florida, to be amended as provided by this ordinance

241 and may renumber, re-letter, and rearrange the codified parts of this ordinance if  
242 necessary to facilitate the finding of the law.

243  
244 **SECTION 4. SCRIVENER'S ERROR.** The city attorney may correct scrivener's  
245 errors found in this ordinance by filing a corrected copy of this ordinance with the city  
246 clerk.

247  
248 **SECTION 5. SEVERABILITY.** If any provision of this ordinance or its  
249 application to any person or circumstance is held invalid, the invalidity does not affect  
250 other provisions or applications of this ordinance which can be given effect without the  
251 invalid provision or application, and to this end the provisions of this ordinance are  
252 severable.

253  
254 **SECTION 6. EFFECTIVE DATE.** This ordinance takes effect upon adoption.

255  
256 **DONE, THE FIRST READING,** by the City Council of the City of Orlando,  
257 Florida, at a regular meeting, the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

258  
259 **DONE, THE PUBLIC NOTICE,** in a newspaper of general circulation in the City  
260 of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the \_\_\_\_\_ day of  
261 \_\_\_\_\_, 2017.

262  
263 **DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON**  
264 **FINAL PASSAGE,** by an affirmative vote of a majority of a quorum present of the City  
265 Council of the City of Orlando, Florida, at a regular meeting, the \_\_\_\_\_ day of  
266 \_\_\_\_\_, 2017.

267  
268 BY THE MAYOR OF THE CITY OF  
269 ORLANDO, FLORIDA:

270  
271  
272  
273 \_\_\_\_\_  
274 Mayor

275 ATTEST, BY THE CLERK OF THE  
276 CITY COUNCIL OF THE CITY OF  
277 ORLANDO, FLORIDA:

278  
279 \_\_\_\_\_  
280 City Clerk

281  
282 \_\_\_\_\_  
283 Print Name

284  
285  
286 THIS ORDINANCE DRAFTED BY AND  
287 APPROVED AS TO FORM AND LEGALITY  
288 FOR THE USE AND RELIANCE OF THE  
289 CITY OF ORLANDO, FLORIDA:

ORDINANCE NO. 2017-46

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294  
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297

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City Attorney

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Print Name

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