

ORDINANCE NO. 190-04-105

AN ORDINANCE OF THE CITY OF LAUDERHILL, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR) ARTICLE III, ZONING DISTRICTS, PART 5.0, SPECIAL REQUIREMENTS FOR SPECIFIC LAND USE CLASSIFICATIONS, SECTION 5.51, MEDICAL MARIJUANA DISPENSING CENTERS, TO CORRECT DISTANCE PROVISIONS CONSISTENT WITH FLORIDA STATUTES AND TO CORRECT TYPOGRAPHICAL ERRORS; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, CHARLES FARANDA)

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

SECTION 1. Subsection 5.51 amended. Land Development Regulations Article III, Zoning Districts, Part 5.0., Special Regulations for Specific Land Use Classifications, Section 5.51, Medical Marijuana dispensing centers, is amended to read as follows:

**Sec. 5.51. - Medical marijuana dispensing centers.**

The following regulations shall apply to the location, operation of medical marijuana dispensing centers, and shall be in addition to other requirements or limitations of these Land Development Regulations.

5.51.1. *Definitions.*

*Cannabis delivery device.* A device utilized for the consumption of prescribed medical marijuana. Such devices can only be sold to a qualified patient that has been prescribed medical marijuana or low-THC cannabis or someone authorized by the qualified patient or the qualified patient's legal representative authorized to receive the device on the qualified patient's behalf.

*Hospice.* A free-standing separate building or stand-alone facility that operates a program designed to provide care and emotional support to the terminally ill patient residing on premise only in their final phase of life to enable them to be comfortable and pain free in a homelike setting, allowing for a quality of life to be maintained and family members to be active participants in their care. This specifically excludes any residential in-home hospice.

*Medical marijuana dispensing center.* The building or structure where medical cannabis, as well as cannabis delivery devices, is dispensed.

5.51.2. *In general.* All medical marijuana dispensing centers shall be subject to the following general standards and requirements.

- A. If the sale of medical marijuana/cannabis is subsequently permitted under Federal law and/or State law, it shall be unlawful for any person to operate a medical marijuana dispensing centers within the corporate limits of the city without the approval as set forth within this Article.
- B. It is hereby specifically and expressly provided that an application for a Medical Marijuana Dispensing Center is presumed to be incompatible with adjacent zoning, land uses and development unless an applicant can clearly

establish otherwise to the satisfaction of the city commission, and further provide that the applicant can demonstrate a need or community benefit which need is not adequately met by another similar facility within a one (1) mile radius, unless otherwise provided.

- C. Conditional use approval required. No medical marijuana dispensing center shall be permitted to operate in the (IL) Light Industrial zoning districts, the (CW) Commercial Warehouse zoning districts, or the (CG) General Commercial zoning districts unless such facility has been approved as a conditional use pursuant to the criteria set forth in Schedule B of this Code and the requirements set forth below.
- D. Application. In addition to meeting the general and conditional use application requirements, an application for conditional use for a medical marijuana dispensing centers shall:
  - 1. Be a joint application by the property owner and the tenant, if the medical marijuana dispensing center and the property are not owned by the same person or entity;
  - 2. The business operating name and all applicant and owner information. If the applicant or owner is:
    - a. An individual, his/her legal name, aliases, home address and business address, date of birth, copy of driver's license or state or federally issued identification card;
    - b. A partnership, the full and complete name of all general and limited partners, dates of birth, copy of driver's license or state or federally issued identification card of all general and limited partners, and all aliases used by all of the partners, whether the partnership is general or limited, a statement as to whether or not the partnership is authorized to do business in the State of Florida and, if in existence, a copy of the partnership agreement (if the general partner is a corporation, then the applicant shall submit the required information for corporate applicant in addition to the information concerning the partnership); or
    - c. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, copy of the driver's licenses or state or federally issued identification cards of all officers, and directors, and all aliases used, the capacity of all officers, and directors, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or not the corporation is authorized to do business in the State of Florida.
  - d. The addresses required by this section shall be physical locations, and not post office boxes.

3. A copy of the lease identifying the specific use, if the medical marijuana dispensing centers and the property are not owned by the same person or entity;
4. Include a full copy of the State of Florida licensing application and all related exhibits, appendices, and backup materials;
5. Copies of any and all state and other licenses issued to the applicant to engage in the marijuana business;
6. A statement as to whether the applicant or any owner or employee has previously received a medical marijuana conditional use;
7. A statement as to whether the applicant or any owner holds other permits or license under this Chapter and, if so, the names and locations of such medical marijuana dispensing centers granted a conditional use by the City;
8. A statement as to whether the applicant or any owner has been a partner in a partnership or an officer/director of a corporation whose conditional use issued under this Chapter has previously been revoked, including the name and location of the establishment for which the conditional use was revoked as well as the date of revocation;
9. A statement as to whether or not the applicant or any owner has lost any privilege or had any permit or license to do business suspended or revoked by any local, state or federal government and, if so, the nature of such privilege, permit, license and the reason for such suspension or revocation;
10. A statement as to whether or not the applicant or any owner or employee has been found guilty of or has pleaded guilty or nolo contendere to a felony relating to any business in this State or in any other State or Federal court regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases;
11. A statement as to whether or not the applicant or any owner or employee has been found guilty of, or has pleaded guilty or nolo contendere to, a felony relating to a battery or physical violence on any person in this State or in any other State or Federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases;
12. A statement as to whether or not the applicant or any owner has filed a petition to have his/her respective debts discharged by a bankruptcy court having jurisdiction of such cases;
13. Written documentation, acceptable to the Chief of Police or his/her designee, that the applicant, every owner, and each employee has successfully completed level 2 background screening within the year;
14. A passport style photograph of the applicant and every owner;

15. A survey sealed by a Florida registered land surveyor who is licensed by the State of Florida. The survey shall indicate the distance between the proposed medical marijuana dispensing centers and any other protected use as set forth in Section 109A.02[sic] above; and
  16. A notarized, signed, and sworn statement that the information provided within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued photo identification cards are currently valid and are true and correct copies of the originals.
- E. Inspection and search of licensed premises. Any medical marijuana dispensing center may be inspected and searched without search warrants by business licensing, code enforcement, police officers of the City during business hours.
  - F. Use of licensed premises for immoral or criminal purposes. Medical marijuana dispensing center to be used for any immoral, improper or criminal purposes; neither shall they permit persons of known immoral, improper or criminal habits to frequent, loiter or assemble on the premises or in the entrance thereto.
  - G. Advertising. Medical marijuana dispensing centers may not display any sign advertising any brand of medical marijuana on the outside of their licensed premises or on any lot or ground on which such premises are located or on any building of which such premises is a part.
  - H. Approval. If two (2) special exception applications for medical marijuana dispensing centers propose locations within a distance of ~~five thousand two hundred eighty (5,280) feet (one (1) mile)~~ one-half (1/2) mile and are approved at the same ~~Planning and Zoning Board~~ City Commission hearing, then the first application that has been deemed complete pursuant to Article IV, Development Review, Section 1.3.2, Completeness of Application will be granted the Special Exception Use Permit as to meeting the distance separation requirements of Section 5.51.4. The applicant will have eighteen (18) months from the issuance of the special exception use permit to apply for any necessary permits and twenty-four (24) months to obtain said permits, otherwise the special exception use permit shall be considered null and void.

5.51.3. *Penalties.* Any medical marijuana dispensing center, person, association, agent, servant or employee of any licensee violating any provision of this section shall, upon conviction, be punished by any of the following, or any combination of the following at the discretion of the court:

- A. A fine not exceeding five hundred dollars (\$500.00);
- B. Imprisonment of up to sixty (60) days;
- C. Revocation of the applicable development order, certificate of use, local business tax receipt or any combination of the above

5.51.4. *Separation requirements.* Medical marijuana dispensing centers shall be subject to the following location limitations and requirements:

A. *Distance between establishments.* The following separation or distance standards shall apply:

1. One-half (4-1/2) mile from another medical marijuana dispensing center dispensing facility.
2. Five hundred (500) feet from a public or private elementary school, middle school, secondary school or charter school.
3. The location adjacent to residentially zoned property must either have a depth of property in excess of two hundred fifty (250) feet or have a separation between the location and residentially zoned property by a road, eight-foot wall, or other intervening property.
4. This separation will include those uses listed above in adjacent municipalities and unincorporated areas of the county.
5. *Effect of future uses on spacing.* Where a medical marijuana dispensing center is located in conformity with the provisions of this section, the subsequent locating of one (1) of the uses listed above within the specified distance of an existing medical marijuana dispensing center shall not cause a violation of this Section. Whenever a conditional use approval for a medical marijuana dispensing center has been lawfully procured and thereafter a public school or charter school is established within a distance otherwise prohibited, the establishment of such use shall not be cause for the revocation of the conditional use approval.

5.51.5. *Revocation of license.* Any establishment medical marijuana dispensing center, to the extent that on three (3) or more occasions within one (1) calendar year, any customer or customers shall cause a public disturbance or shall cause personal injury or property damage may have its development order, certificate of use, local business tax receipt or any combination of the above revoked under the following circumstances:

- A. A public hearing shall be held before the City Commission after giving reasonable notice to the medical marijuana dispensing centers of the time, date and place of the hearing. The establishment shall be given an opportunity to be heard when the matter is considered by the City Commission.
- B. All testimony and evidence shall be given under oath, and after considering all evidence, the City Commission may, by a majority vote, revoke the medical marijuana dispensing centers occupational development order, certificate of use, local business tax receipt or any combination of the above.
- C. After each violation by the establishment prior to the third violation, the medical marijuana dispensing centers shall be given written notice of the violation and shall further be advised that upon three (3) violations within a period of one (1) calendar year, the City Commission shall have the right to consider revocation of the medical marijuana dispensing centers development order, certificate of use, local business tax receipt or any combination of the above.

5.51.6. *Hours of Operation.* The hours of operation of the medical marijuana dispensing center shall be allowed between 8:00 a.m. and 7:00 p.m. and 12:00 p.m. (noon) on Saturdays and Sundays.

5.51.7. *Exception for hospice.*

1. Any location operating as a hospice, may operate a medical marijuana dispensing center for on premises consumption solely for the benefit of their terminal residents.
2. Physicians employed by a hospice may also prescribe, within the facility, medical marijuana solely for this on premise consumption for their terminal residents.
3. Irrespective of any provision to the contrary for operating, a hospice may be operated on a property where an adult congregate living facility is located, as long as it is placed within a separate free-standing building on the premises and no distance separate requirements or hours of operation are applicable.
4. Special exception approve is required for a hospice to operate both as a medical ~~mairjuana~~ marijuana ~~marijuana~~ health care ~~establishment~~ establishment ~~and~~ and medical marijuana dispensing center.

Commented [ST1]: marijuana

Commented [ST2]: establishment

5.51.8. *Zoning requirements.*

1. Separation measurement. The separation standard between and among medical marijuana dispensing centers shall be measured by the shortest airline distance between and among the nearest points on the property line.
2. This separation will include medical marijuana dispensing centers listed above in adjacent municipalities and unincorporated areas of the County.
3. No more than one (1) medical marijuana dispensing center shall be permitted for every twenty-five thousand (25,000) residents as determined by population figures published by the United States Census Bureau or period demographic study conducted by the University of Florida.
4. Parking shall be parked at one (1) parking space for each one hundred fifty (150) square feet of gross floor area.
5. Drive-through medical marijuana dispensing centers associate with the use are prohibited.
6. Queuing of vehicles. Medical marijuana dispensing centers shall ensure that there is no queuing of vehicles in the adjacent rights-of-way, the drive aisles of the dispensing center's parking lot, or on any adjacent properties.
7. Loitering. Medical marijuana dispensing centers shall provide adequate seating for its patients and business invitees and shall not allow patients or business invitees to stand, sit (including in a parked car), or gather or loiter outside of the building where the dispensing center operates, including any parking areas, sidewalks, right of way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart.

8. Alcohol prohibited. No sale or consumption of alcoholic beverages shall be allowed in or from the dispensing center, including the parking areas, sidewalks, or adjacent right of way.
9. Live plant materials. No living Cannabis plants are permitted on the site of a medical marijuana dispensing center.
10. Maintenance of premises. A medical marijuana dispensing center shall actively remove litter from the property at least twice each day of operation, including the area in front of the property and from any parking lot used by its patrons.
11. Products, and paraphernalia (and depictions thereof) shall not be visible from a public sidewalk or public right-of-way.
12. Odor and air quality. The applicant shall ensure that there are adequate air filtration systems in place to ensure that dust, smoke, or odors will not go beyond the confines of the occupied space.
13. Nothing in this section shall prohibit a state-approved dispensing organization, or another entity licensed under state law to dispense cannabis, from making deliveries of cannabis or derivative products to the residence or business of an authorized individual, or to a health care facility, as permitted by other relevant ordinances and state law.
14. All other uses related to medical marijuana not listed as permitted in this section, including but not limited to medical marijuana cultivation uses, shall be considered prohibited within the City.
15. The applicant shall furnish a certified survey from a registered engineer or surveyor, indicating the distance between the proposed medical marijuana dispensing centers and any existing medical cannabis dispensing facility, public or private elementary school, middle school or secondary school, child day care facility, or library within the applicable radius to ensure the required separation distances have been met.

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**SECTION 2. Conflict.** All ordinances or parts of ordinances, all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

**SECTION 3. Codification.** The provisions of this Ordinance shall become and be made a part of the City of Lauderhill, Florida Land Development Regulations; sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "ordinance" may be changed to "article," "part," "section," or other appropriate word.

**SECTION 4. Effective Date.** This Ordinance shall take effect immediately upon its adoption.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

PASSED on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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PRESIDING OFFICER

ATTEST:

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CITY CLERK

FIRST READING

SECOND READING

MOTION  
SECOND

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M. BATES  
H. BERGER  
R. CAMPBELL  
D. GRANT  
K. THURSTON

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