

P.C. 8/22/2017

**LDCT-17-04/ORDINANCE 17-47 - LAND DEVELOPMENT CODE TEXT AMENDMENT /  
MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS MANATEE COUNTY, FLORIDA AMENDING THE MANATEE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FINDINGS; AMENDING THE LAND DEVELOPMENT CODE TO REGULATE MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES; AMENDING CHAPTER 2, DEFINITIONS; TO PROVIDE FOR DEFINITIONS CONSISTENT WITH APPLICABLE STATE LAW; AMENDING CHAPTER 4, ZONING; SECTION 401.2, SCHEDULE OF USES; TABLE 4-2, USES IN NON-RESIDENTIAL DISTRICTS; AMENDING TABLE 4-9, SCHEDULE OF USES FOR PLANNED DEVELOPMENT (PD) DISTRICTS; PROVIDING FOR A PERMITTING PROCESS FOR MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES IN SPECIFIED ZONING DISTRICTS; AMENDING CHAPTER 5, STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES; PART IV; SECTION 531, STANDARDS FOR SPECIFIC USES; SECTIONS 531.1 – AGRICULTURAL USES TO PROVIDE STANDARDS FOR CULTIVATING AND PROCESSING FACILITIES CONSISTENT WITH STATE LAW AND 531.49, RETAIL USES; TO PROVIDE STANDARDS FOR MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES CONSISTENT WITH STATE LAW; AMENDING CHAPTER 10, TRANSPORTATION MANAGEMENT; SECTION 1005, OFF-STREET PARKING; SECTION 1005.3, NUMBER OF VEHICULAR PARKING SPACES REQUIRED; TABLE 10-2, PARKING RATIOS, TO ADDRESS MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES; PROVIDING FOR OTHER AMENDMENTS AS MAY BE NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

P.C.: 8/10/2017

B.O.C.C.: 8/22/2017 and 9/07/2017

**No action necessary; this is the first of two required public hearings. The second public hearing is scheduled for September 7, 2017.**

**PLANNING COMMISSION ACTION:**

On August 10, 2017, by a vote of 4 – 1, the Planning Commission recommended approval. The recommendation was for the distance separation required to be measured from the real property line of the medical treatment center dispensing facility to the real property line of the public or private elementary, middle, or high school facility. Mr. DeLesline voted nay stating he would like the distance separation measured consistent with bars. Mr. Rahn was absent.

**PUBLIC COMMENT AND CORRESPONDENCE:**

**The following people spoke at the August 10, 2017 Planning Commission public hearing:  
Glen Gibelina, discussed grow houses, dispensaries and zoning. Patricia Petruff discussed distances and zoning.**

## **SUMMARY/BACKGROUND:**

On November 8, 2016, Florida voters approved an amendment to the Florida Constitution, titled “Use of Marijuana for Debilitating Medical Conditions” (“Amendment 2”). Amendment 2 fully legalizes the medical use of marijuana throughout the State of Florida for those individuals with specified “debilitating” conditions, and authorizes the cultivation, processing, distribution and sale of marijuana and related activities by licensed “Medical Marijuana Treatment Centers”.

On December 13, 2016, the Board adopted findings in Ordinance No. 16-49 providing that a temporary moratorium on the acceptance, processing and issuance of development permits, development orders or any other official action of Manatee County permitting or having the effect of permitting new Medical Marijuana Treatment Facilities and Dispensing Organizations will allow time to review, study, hold public hearings and prepare and adopt amendments to the Code of Ordinances.

On June 6, 2017, the Board adopted Ordinance 17-31 extending the temporary moratorium until and through September 16, 2017.

In June 2017, the Florida Legislature amended Section 381.986, Florida Statutes, by Florida Senate Bill 8-A (2017). The amendment provides for the options that a county or municipality may not enact ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under Chapter 465, Florida Statutes, except that a medical marijuana treatment center dispensing facility may not be located within 500-feet of the real property that comprises a public or private elementary school, middle school, or secondary school. Additionally, the legislation also included the separation requirement for cultivating and processing facilities from elementary, middle, and secondary schools.

The Zoning standards necessary to implement the Medical Marijuana Treatment Center Dispensing Facility and the Medical Marijuana Treatment Center Cultivating and Processing Facility are the subject of this LDC Text Amendment.

## **CHAPTER 2 – DEFINITIONS**

1. Amend LDC Section 200 – Definitions to include the following definition:

*Medical Marijuana Treatment Center* shall have the meaning provided in Article X, Section 29, Florida Constitution. *Medical Marijuana Treatment Center Dispensing Facilities* shall be a component of said definition. Said *Medical Marijuana Treatment Center Dispensing Facilities* are subject to licensure by the Florida Department of Health, pursuant to Section 381.986, Fla. Stat. (2017) and implementing regulations.

## **PROPOSED REVISIONS TO CHAPTER 4 – ZONING**

### *DISCUSSION*

According to Florida Senate Bill 8-A (2017), a county that does not ban medical marijuana treatment center dispensing facilities may not place specific limits, by ordinance, on the number of dispensing facilities that may be located within the County. Additionally, a county may not enact ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies except that

a dispensing facility may not be located within 500-feet of the real property that comprises a public or private elementary school, middle school, or secondary school.

Manatee County’s LDC defines “pharmacy” (drug store) as follows:

*Retail Sales, Neighborhood Convenience* shall mean any establishment, or groupings thereof which generally serve the day-to-day retail needs of a residential neighborhood which shall include but shall not be limited to food stores, convenience stores, **drug stores** (*emphasis added*), liquor stores, newsstands, bakeries, delicatessens, dairy product stores, meat and seafood shops, and produce markets.

Existing LDC Section 401.2 – Schedule of Uses - Table 4-2: Uses in Non-Residential Districts and LDC Section 401.5 – Schedule of Uses for PD Districts - Table 4-9: Schedule of Uses for PD Districts, for *Retail Sales, Neighborhood Convenience* allows pharmacies (drug stores) as a permitted use (subject to the criteria in LDC Section 531.49) as shown below:

Land Use	See Sec #	PR	NC	GC	HC	RVP	LM	HM	EX	MP-1
Retail Sales, Neighborhood Convenience	531.49	X	P	P	P	P	X	X	X	P

“X” = prohibited; “P” = permitted (meeting LDC Section 531.49)

Land Use	See Sec#	PD R	PD O	PD C	PD RP	PD I	PD PI	PD W	PDM U	PD RV	PD MH	PD GC	PDA	PD EZ
Retail Sales, Neighborhood Convenience	531.49	X	P	P	P	P	X	P	P	P	P	X	P	X

“X” = prohibited; “P” = permitted (meeting LDC Section 531.49)

**LDC REVISIONS**

*Medical Marijuana Treatment Center Dispensing Facility* will be added as a use under *Retail Sales, Neighborhood Convenience* in accordance with Florida Senate Bill 8-A (2017) which requires that dispensing facilities be treated the same as pharmacies except that a dispensing facility may not be located within 500-feet of the real property that comprises a public or private elementary school, middle school, or secondary school. Staff recommends that dispensing facilities be designated as an Administrative Permit (AP) which will provide a review process for the State-mandated distance requirement from public and private schools. The Specific Use requirements for the dispensing facility use are included in the “Proposed Revisions to Chapter 5” portion of this Staff Report.

Table 4-2: Uses in Non-Residential Districts											
Land Use	See Sec.#	PR	NC	GC	HC	RVP	LM	HM	EX	MP-1	
Retail Sales, Neighborhood Convenience	531.49	X	P	P	P	P	X	X	X	P	
• <u>Medical Marijuana Treatment Center Dispensing Facility</u>	<u>531.49</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	

"X" = Not Permitted

"P" = Permitted (meeting LDC Section 531.49)

'AP" = Administrative Permit (meeting LDC Section 531.49)

Table 4-9: Schedule of Uses for PD Districts															
Land Use	See Sec.#	PDR	PD O	PD C	PDR P	PD I	PDP I	PD W	PDM U	PD RV	PDM H	PDG C	PD A	PDE Z	
Retail Sales, Neighborhood Convenience	531.49	X	P	P	P	P	X	P	P	P	P	X	P	X	
• <u>Medical Marijuana Treatment Center Dispensing Facility</u>	<u>531.49</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>P</u>	<u>X</u>	

"X" = Not Permitted

"P" = Permitted (meeting LDC Section 531.49)

'AP" = Administrative Permit (meeting LDC Section 531.49)

## PROPOSED REVISIONS TO CHAPTER 5 – STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES

### DISCUSSION

Florida Senate Bill 8-A (2017) prohibits the location of a Medical Marijuana Treatment Center Dispensing Facility or a cultivating or processing facility as a component of a medical marijuana treatment center within 500-feet of the real property that comprises a public or private elementary school, middle school, or secondary school. In order to include the 500-foot distance requirement, Specific Use criteria need to be established and will be included as part of Agricultural Uses or Retail Sales in LDC Sections 531.1 and 531.49.

## *LDC REVISIONS*

Amend LDC Section 531.1 – Agricultural Uses shall be revised to read as follows:

### **531.1. Agricultural Uses**

- B. All applications for a cultivating or processing facility as a component of a medical marijuana treatment center shall meet the following standards.
1. The minimum distance from the proposed medical marijuana treatment center cultivating or processing facility to the real property that comprises a public or private elementary school, middle school, or secondary school shall be 500 feet.
  2. The applicant shall furnish a certified specific use survey from a Florida registered engineer or surveyor. The survey shall be performed within 30 days prior to application submittal. The survey shall indicate the distance between the proposed medical marijuana treatment center cultivating or processing facility and the real property comprising any public or private elementary, middle, or secondary school facility within a 500-foot radius.
  3. The distance separation requirement shall be measured from the real property line of the medical marijuana treatment center cultivating or processing facility to the real property line of the public or private elementary, middle, or secondary school.

Amend LDC Section 531.49 – Retail Sales to include Medical Marijuana Treatment Center Dispensing Facility as letter “G.” to read as follows:

### **531.49. Retail Sales**

#### **G. Medical Marijuana Treatment Center Dispensing Facility**

1. The minimum distance from the proposed medical marijuana treatment center dispensing facility to the real property that comprises a public or private elementary school, middle school, or secondary school shall be 500-feet.
2. The applicant shall furnish a certified specific use survey from a Florida registered engineer or surveyor. The survey shall be performed within 30-days prior to application submittal. The survey shall indicate the distance between the proposed medical marijuana treatment center dispensing facility and the real property comprising any public or private elementary, middle, or secondary school facility within a 500-foot radius.
3. The distance separation requirement shall be measured from the public entrance door of the medical marijuana treatment center dispensing facility to the real property line of the public or private elementary, middle or secondary school facility. This measurement shall be “as the crow flies” along the most direct route without regard to roads or pedestrian travel routes, measured from the public entrance door of the medical

marijuana treatment center dispensing facility to the real property line of the public or private elementary, middle, or high school facility.

- or -

3. *The distance separation requirement shall be measured from the real property line of the medical marijuana treatment center dispensing facility to the real property line of the public or private elementary, middle, or secondary school.*
4. The uses permitted on the premises of the medical marijuana treatment center dispensing facility shall be limited to the retail dispensing of medical marijuana, in accordance with Florida law.
5. Signage. The signage of the medical marijuana treatment center dispensing facility shall be in accordance with Section 381.986, Florida Statutes (2017). The size of the signage is limited to that provided for in Chapter 6 of the LDC.

## PROPOSED REVISIONS TO CHAPTER 10 – TRANSPORTATION MANAGEMENT

### LDC REVISIONS

Amend LDC Section 1005 – Off-Street Parking – Table 10-9: Parking Ratios to include Medical Marijuana Treatment Center Dispensing Facility to read as follows:

Table 10-2: Parking Ratios		
Use	Spaces/Sq. Ft or Unit of Measure	Notes
<b>Commercial Uses:</b>		
Retail Sail, Neighborhood Convenience Uses (excluding grocery and convenience stores)	1/300 GFA	16
<u>Medical Marijuana Treatment Center Dispensing Facility</u>	<u>1/300 GFA</u>	<u>16</u>

<sup>16</sup>All freestanding buildings or shopping centers containing Retail Sales, Neighborhood Convenience uses or Medical Marijuana Treatment Center Dispensing Facilities shall provide a bicycle rack containing a minimum of one (1) bicycle space per one thousand (1,000) square feet GFA for the first ten thousand (10,000) square feet and one (1) per ten thousand (10,000) square feet GFA thereafter.

### CONSISTENCY WITH THE MANATEE COUNTY COMPREHENSIVE PLAN:

The Land Development Code is enacted pursuant to Section 163.3202 of the Florida Statutes and its purpose is to implement the Comprehensive Plan of the County by establishing regulations, procedures, and standards for review and approval of all development and use of land in the unincorporated portions of the County. It is stated in Chapter 1 of the LDC that “*the Code is adopted in order to foster and preserve public health, safety, comfort, and welfare in the unincorporated areas of the County.*” Further, that it is the intent of the Code that the development process in Manatee County be efficient, in terms of time and expense, effective, in terms of addressing the natural resource and public facility implications of proposed development, and equitable, in terms of consistency with established regulations and

procedures, respect for the rights of property owners, and the consideration of the interests of the citizens of the County.

Manatee County has reviewed the proposed changes to the LDC to ensure the purpose and intent stated in the Code (and above) will continue to be met.

**ATTACHMENTS:**

- 1. Newspaper Advertising**
- 2. Ordinance No. 17-47**
- 3. Florida Statutes §381.986 – Medical Use of Marijuana**
- 4. School Report**