

ORDINANCE # 2017-2116

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE BY AMENDING SECTION 7.07.01, PERMITTED USES IN THE C-1, LIGHT GENERAL COMMERCIAL DISTRICT, TO ADD MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY CANNABIS DISPENSARIES AS A USE; AMENDING SECTION 7.08.01, PERMITTED USES IN THE C-2, GENERAL COMMERCIAL DISTRICT, TO ADD MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY CANNABIS DISPENSARIES AS A USE; AMENDING SECTION 7.09.01, PERMITTED USES IN THE HIGHWAY COMMERCIAL DISTRICT, TO ADD MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY CANNABIS DISPENSARIES AS A USE; AMENDING SECTION 7.10.01, PERMITTED USES IN THE OFFICE DISTRICT, TO ADD MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY CANNABIS DISPENSARIES AS A USE; AMENDING SECTION 7.11.01, PERMITTED USES IN THE DOWNTOWN DISTRICT, TO REMOVE DRUG STORES AS A USE; AMENDING SECTION 7.12.01, PERMITTED USES IN THE LIGHT INDUSTRIAL DISTRICT, TO ADD MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY CANNABIS DISPENSARIES AS A USE; AMENDING SECTION 2.01.00, DEFINITIONS, TO AMEND THE “RESTRICTED PERSONAL SERVICE USES” DEFINITION TO DELETE CANNABIS DISPENSING/PROCESSING/CULTIVATION ENTERPRISES AND TO ADD A DEFINITION FOR “MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY CANNABIS DISPENSARY”; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE REPEAL OF ORDINANCE #2017-2104, ESTABLISHING A MORATORIUM ON CANNABIS CULTIVATION, PROCESSING AND DISPENSING.

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulation Act, Section 163.3161, et seq., Florida Statutes, requires local governments to adopt land development regulations to implement their adopted Comprehensive Plan, and which contain all land development regulations for the City; and

WHEREAS, the City Council has heretofore adopted Ordinance #1221 establishing land development regulations in the City and several amendments thereto (Land Development Code); and

WHEREAS, the City Council has adopted Ordinance #2016-2072 in 2016, which amended the Land Development Code to define and regulate restricted personal service uses, which included by definition “cannabis dispensing/processing/cultivation enterprises”; and

WHEREAS, the City Council desires to amend the land development regulations to distinguish medical cannabis dispensaries from restricted personal service uses; and

WHEREAS, the City Council desires to accommodate the legalization of medical cannabis as a result

of the passing of Amendment 2, Use of Marijuana for Debilitating Medical Conditions, of 2016; and

WHEREAS, the State Legislature adopted Senate Bill 8-A which regulates medical cannabis dispensaries and pharmacies; and

WHEREAS, the City Council desires to allow and regulate medical marijuana treatment center dispensing facility ~~cannabis dispensaries~~ as a permitted use in the City's commercial and industrial zoning districts.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA:

SECTION I. That Section 7.07.01, Permitted uses in the C-1, Light General Commercial District, of the New Port Richey Land Development Code is hereby amended to read as follows:

7.07.01 Permitted uses:

1. Retail sales for local and neighborhood needs;
 - a. The sale of baked goods and pastries, candies and similar products, dairy and ice cream products, meats, produce, fruit, and similar food stuffs;
 - b. The sale of books, magazines, newspapers, tobacco, gifts, etc.;
2. Eating establishments, including lunchrooms, restaurants, and cafeterias, and places for the sale and consumption of soft drinks and juices, but excluding fast food establishments as defined in the glossary of this code and places that provide on-site consumption of all hard liquor as defined in the glossary of this code and places that provide entertainment and/or dancing.
3. Service establishments, including barber and beauty shops, laundry and tailor shops, self-service laundry, shoe repair, dry-cleaning and florist shops, and other service and retail establishments as approved by the development review committee (DRC).
4. ACLF's and residential care facilities; with the number of beds not to exceed twenty (20) per acre;
5. Public services such as police and fire substations;
6. Churches, synagogues, temples or similar places of worship and their accessory uses.
7. Telecommunications towers; provided that such towers have not been abandoned (see Chapter 17 of the Land Development Code).
8. All permitted uses in the office zoning district.
9. Urban agriculture (indoor crop production prohibited).
10. Medical marijuana treatment center dispensing facility ~~cannabis dispensaries~~.

SECTION II. That Section 7.08.01, Permitted uses in the C-2, General Commercial District, of the New Port Richey Land Development Code is hereby amended to read as follows:

7.08.01 Permitted uses

1. All uses in the C-1 light general commercial zoning district to the maximum density.
2. Restaurants that provide dancing and live entertainment.
3. Establishments that provide sales of on-site and off-site consumption of alcoholic beverages.
4. Bowling alleys within a building. These bowling alleys shall not be within five hundred (500) feet of a residentially zoned district, unless such building can be constructed as to prevent the emission of sounds and vibrations that are emitted from such uses.
5. Garages and/or mechanical services.
6. Gas stations;
7. Restricted personal services;

8. Regional and community shopping centers and malls;
9. Music, radio and television stores and repair shops;
10. Swimming pools (commercial and private);
11. Churches, synagogues, temples or similar places of worship and their accessory uses;
12. Telecommunications towers; provided that such towers have not been abandoned (see Chapter 17 of the Land Development Code);
13. Other uses that are consistent and compatible with the intentions of this district, as approved by the development review committee.
14. All permitted uses in the office zoning district.
15. Urban agriculture (indoor crop production prohibited).
16. Medical marijuana treatment center dispensing facility ~~cannabis dispensaries~~.

SECTION III. That Section 7.09.01, Permitted uses in the Highway Commercial District, of the New Port Richey Land Development Code is hereby amended to read as follows:

7.09.01 Permitted uses

In the Highway Commercial District, the following land uses are permitted:

1. Hotels, theaters, businesses and professional offices, private or public schools, auto sales, repair and service establishments.
2. Any retail or wholesale business not specifically restricted or prohibited under this code.
3. Manufacturing and/or industrial business operations which are not prohibited under the provisions of this section.
4. Churches, synagogues, temples or similar places of worship and their accessory uses;
5. Restricted personal service uses.
6. Urban agriculture (indoor crop production prohibited).
7. Medical marijuana treatment center dispensing facility ~~cannabis dispensaries~~.
8. All uses which further the adopted Comprehensive Plan, upon approval by the Development Review Committee. The applicant shall demonstrate that the use is consistent with the Comprehensive Plan.

SECTION IV. That Section 7.10.01, Permitted uses in the Office District, of the New Port Richey Land Development Code is hereby amended to read as follows:

7.10.01 Permitted uses

1. Offices directly related to medical services:
 - a. All doctor's offices;
 - b. Pharmaceutical stores;
 - c. Retail establishments that specialize in medical related supplies;
 - d. Walk-in clinics;
 - e. Medical marijuana treatment center dispensing facility ~~cannabis dispensaries~~; and
 - f. All other uses as approved by the development review committee (DRC).
2. Legal offices;
3. Architectural and engineering, drafting and related services/supplies;
4. Consultant services;
5. Real estate offices;
6. Title and abstract services;
7. Banks, investment and financial services, stockbroker and all other services as approved by the development review committee;

8. Churches, synagogues, temples or similar places of worship and their accessory uses;
9. Business and professional offices that are primarily engaged in general administration, overall management, general supervisory functions, such as executive, personnel, finance, legal and sales activities. Business offices carrying on no retail trade with the general public and have no stock of goods maintained for sale to customers, except such as are incidental or accessory to the principal permitted use;
10. Accessory buildings and uses customarily incidental to the above listed uses;
11. Schools (as defined in section 13-224 of the New Port Richey Code of Ordinances) and daycare facilities, with submittal of a controlled student drop-off and pick-up plan, with dismissal and arrival times and implementation oversight by the school principal/operations director;
12. Personal services.
13. Urban agriculture (indoor crop production prohibited; on-site wholesale and retail sales prohibited).

SECTION V. That Section 7.11.01, Permitted uses in the Downtown District, of the New Port Richey Land Development Code is hereby amended to read as follows:

7.11.01 Permitted uses

A building or premises shall be used only for the following purposes:

- (1) Apparel stores, including consignment;
- (2) Antique shops;
- (3) Art studios and galleries;
- (4) Bakeries;
- (5) Banks and financial institutions;
- (6) Barber and beauty shops;
- (7) Bed and breakfast operation as regulated under Section 7.23.00 et seq. of this Code. Such use may be allowed only upon approval for a special exception by the city council in accordance with this Code;
- (8) Bookstore/stationery stores/newsstand;
- (9) Business and professional offices;
- (10) Card shops;
- (11) Copying services;
- (12) Convention and conference centers;
- (13) Dance studios;
- (14) Dental labs;
- (15) Dental office;
- ~~(16) Drug stores;~~
- ~~(16)~~⁽¹⁶⁾ Florist shops;
- ~~(17)~~⁽¹⁷⁾ Fruit and vegetable markets;
- ~~(18)~~⁽¹⁸⁾ Gift shops;
- ~~(19)~~⁽¹⁹⁾ Governmental offices;
- ~~(20)~~⁽²⁰⁾ Grocery stores;
- ~~(21)~~⁽²¹⁾ Hardware stores;
- ~~(22)~~⁽²²⁾ Health clubs;
- ~~(23)~~⁽²³⁾ Hobby and collectable shops;
- ~~(24)~~⁽²⁴⁾ Home furnishing stores (new merchandise only);
- ~~(25)~~⁽²⁵⁾ Hotels;
- ~~(26)~~⁽²⁶⁾ Hypnotherapy (by a state licensed health care professional or supervised by same);
- ~~(27)~~⁽²⁷⁾ Ice cream/confectionary;
- ~~(28)~~⁽²⁸⁾ Jewelry stores and repair;
- ~~(29)~~⁽²⁹⁾ Laundry and dry cleaning shops;

- ~~(3034)~~ Locksmith shops;
- ~~(3132)~~ Massage therapy (state licensed);
- ~~(3233)~~ Medical office;
- ~~(3334)~~ Medical supply stores (includes repair of electric-powered equipment sold on site);
- ~~(3435)~~ Mobile vendors. Such vendors must be permitted uses under the Downtown District and must comply with section 7.11.07;
- ~~(3536)~~ Museums;
- ~~(3637)~~ Musical instrument sales;
- ~~(3738)~~ News publishers;
- ~~(3839)~~ Office supply stores;
- ~~(3940)~~ Package sales of wine and malt beverages;
- ~~(4044)~~ Parking garages and lots;
- ~~(4142)~~ Parks and recreation facilities;
- ~~(4243)~~ Pet stores;
- ~~(4344)~~ Performing arts and cultural center;
- ~~(4445)~~ Photography stores and studios;
- ~~(4546)~~ Places of worship;
- ~~(4647)~~ Repair shop (other than motor vehicles, motorized watercraft and other motorized equipment);
- ~~(4748)~~ Residential uses. Such residential use must follow the requirements of the MF-14 zoning district. The maximum residential density permitted in this district shall be consistent with the applicable future land use category;
- ~~(4849)~~ Restaurants, grills, cafes, taverns and similar eating and drinking establishments, but excluding drive-in restaurants;
- ~~(4950)~~ Shoe stores and repair shops;
- ~~(5054)~~ Single-family dwellings with customary accessory uses as regulated in the city's R-1, R-2 and R-3 zoning classifications;
- ~~(5152)~~ Spa;
- ~~(5253)~~ Sporting goods and rental/repair stores;
- ~~(5354)~~ Tailor shops;
- ~~(5455)~~ Theaters; and
- ~~(5556)~~ Travel agencies.
- ~~(5657)~~ Urban agriculture (indoor crop production prohibited).

SECTION VI. That Section 7.12.01, Permitted uses in the Light Industrial District, of the New Port Richey Land Development Code is hereby amended to read as follows:

7.12.01 Permitted uses

1. Manufacturing;
2. Research and development;
3. Wholesaling/distributing;
4. Indoor storage and/or warehousing;
5. Indoor retail sales;
6. Restaurants to serve businesses located in and around the light industrial zoning district;
7. Accessory uses as permitted in chapter 12.00.00 of this land development code.
8. Adult use establishments, as defined, in section 1.4, Definitions of the Adult Use Ordinance Number 1335 [Chapter 13, Article X, Section 13-224], provided that said adult use establishment meets the following or minimum requirements:
 - a. The establishment as measured from its property line, must be a minimum of five hundred (500) feet from any school, church, house of worship or public recreational area whether within or outside the incorporated limits of the city and must be a minimum of five hundred (500) feet from

the property line of any residentially zoned property bearing the city's zoning classification of R-1, R-2, R-3, MF-10, MF-14, MF-30, RO, ROR, RPDD or MHP or bearing the county's zoning classification of ER, ER-2, RMH, R-1MH, R-2MH, R-1, R-2, R-3, R-4, MF-1, MF-2, MF-3. A property bearing a planned unit development classification which includes residential shall also be considered residentially zoned property only as to those properties within the planned unit which are actually to be used as residential. These restrictions apply only to uses or zoning classifications in existence at the time of application for adult use permit.

- b. Said adult use establishment will acquire an adult use license from the City of New Port Richey, provided, however, a locational permit or zoning approval is not contingent upon obtaining an adult use license.
 - c. Said adult use establishment will be located at least two hundred (200) feet from any other existing adult use establishment as measured from each property line.
 - d. When measuring an adult use establishment's property lines for purposes of determining the existence of other incompatible uses, if an adult use is part of a multiple tenancy structure, the lines shall be measured from the premises of the adult use establishment.
 - e. For purposes of this subsection of the land development code which allows for adult use establishments in Light Industrial Zones, the words found herein shall have the same meaning as defined in the Adult Use Ordinance Number 1335 [Chapter 13, Article X], as amended.
9. Telecommunications towers; provided that such towers have not been abandoned (see Chapter 17 of the Land Development Code).
10. Urban agriculture.
11. Medical marijuana treatment center dispensing facility ~~cannabis dispensaries.~~
12. All other uses as determined by the development review committee which further the intent of the adopted comprehensive plan.

SECTION VII. That Section 2.01.00, Definitions, of the New Port Richey Land Development Code is hereby amended to read as follows:

2.01.00 Definitions

~~Medical cannabis dispensary: an entity that sells, distributes, dispenses, or administers medical cannabis, products containing cannabis, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department of Health. This does not include the cultivation or processing of medical cannabis.~~

Medical marijuana treatment center: A licensed treatment center authorized to cultivate, process and dispense medical marijuana. These are the only businesses in Florida authorized to dispense medical marijuana to qualified patients and legal representatives.

Medical marijuana treatment center dispensing facility: an entity that sells, distributes, dispenses, or administers medical cannabis, products containing cannabis, related supplies, or educational materials to qualifying patients or their caregivers and is ~~registered~~ **licensed** by the Department of Health, ~~of the State of Florida.~~ This does not include the cultivation or processing of medical cannabis.

Restricted personal service uses: Commercial retail and service uses, including, blood plasma centers, body piercing establishments, check cashing stores, day labor establishments, pawn shops, ~~and~~ tattoo parlors ~~and cannabis dispensing/processing/cultivation enterprises which may tend to have a blighting and/or deteriorating effect upon surrounding areas and that may need to be dispersed from other similar uses to minimize their adverse impacts.~~

SECTION VIII. If any phrase or portion of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

SECTION IX. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall be codified and made a part of the New Port Richey City Code, and that the sections of this Ordinance may be renumbered to accomplish such codification, and that the word Ordinance may be changed to “section” to accomplish such codification.

SECTION X. This Ordinance shall become effective immediately upon its adoption. The above and foregoing Ordinance was read and approved on first reading at duly convened meeting of the City Council of the City of New Port Richey, Florida this _____ day of _____, 2017.

The above and foregoing Ordinance was read and approved on second reading at duly convened meeting of the City Council of the City of New Port Richey, Florida this _____ day of _____, 2017.

SECTION XI. Ordinance #2017-2104, establishing a moratorium on cannabis cultivation, processing and dispensing, is hereby repealed.

ATTEST:

Judy Meyers, City Clerk

Rob Marlowe, Mayor-Council Member

(Seal)

APPROVED AS TO FORM
for the sole reliance of the City of New Port Richey

By: _____
Timothy P. Driscoll, City Attorney