

ORDINANCE # 2018-2125

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE BY ESTABLISHING SECTION 7.07.07, TO PROVIDE MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY AND PHARMACY DEVELOPMENT STANDARDS IN THE C-1 LIGHT GENERAL COMMERCIAL ZONING DISTRICT; ESTABLISHING SECTION 7.08.07, TO PROVIDE MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY AND PHARMACY DEVELOPMENT STANDARDS IN THE C-2 GENERAL COMMERCIAL ZONING DISTRICT; ESTABLISHING SECTION 7.09.08, TO PROVIDE MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY AND PHARMACY DEVELOPMENT STANDARDS IN THE HIGHWAY COMMERCIAL ZONING DISTRICT; ESTABLISHING SECTION 7.10.09, TO PROVIDE MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY AND PHARMACY DEVELOPMENT STANDARDS IN THE OFFICE ZONING DISTRICT; AMENDING SECTION 7.11.02, TO ADD MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES, PHARMACIES AND RESTRICTED PERSONAL SERVICE USES AS PROHIBITED USES IN THE DOWNTOWN ZONING DISTRICT; ESTABLISHING SECTION 7.12.09, TO PROVIDE MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY AND PHARMACY DEVELOPMENT STANDARDS IN THE LIGHT INDUSTRIAL ZONING DISTRICT; AMENDING SECTION 2.01.00, DEFINITIONS, TO AMEND THE DEFINITION FOR “CONVENIENCE STORE” AND ADD DEFINITIONS FOR “GROCERY STORE” AND “PHARMACY”; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council desires to provide medical marijuana dispensing facility and pharmacy development standards in order to improve the City’s appearance and to improve commercial property values; and

WHEREAS, F.S. 381.986(11)(b)(2) provides that a municipality may not enact ordinances for permitting or for determining the location of medical marijuana treatment center dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies; and

WHEREAS, the regulations provided here are necessary and will prevent deleterious effects of blight and the resultant downgrading of real property values; and

WHEREAS, the regulations provided here are necessary and will promote the orderly planning, development and utilization of neighborhood and business premises.

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

SECTION I. That Section 7.07.07, Dispensary and Pharmacy Development Standards in the C-1 District, of the New Port Richey Land Development Code is hereby amended to read as follows:

**7.07.07 Medical Marijuana Treatment Center Dispensing Facility and Pharmacy Development Standards**

<u>Front setback</u>	<u>30 feet</u>
<u>Side setbacks</u>	<u>10 feet or required buffer</u>
<u>Rear setback</u>	<u>20 feet or required buffer</u>
<u>Minimum lot area</u>	<u>10,000 square feet</u>
<u>Width requirement</u>	<u>100 feet</u>
<u>Height maximum</u>	<u>n/a</u>
<u>Off-street parking</u>	<u>1 space per 200 square feet of gross floor area; 75/25 ratio of full size to compact; and 0.10 required bicycle spaces per required parking space</u>
<u>Design criteria</u>	<ul style="list-style-type: none"> <li>• <u>The building in which the use is located is painted or otherwise finished in materials and colors which are muted;</u></li> <li>• <u>There are no security bars on the outside of doors or windows;</u></li> <li>• <u>No outdoor seating, outdoor display, sales or promotions shall be allowed on the site;</u></li> <li>• <u>No consumption of products shall be allowed on the site; and</u></li> <li>• <u>No prescribed/non-prescribed medicines or drugs, or graphics of plants from which they are derived, shall be visible from five feet of the building</u></li> </ul>
<u>Minimum separation distance</u>	<ul style="list-style-type: none"> <li>• <u>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 unless the City Council approves the location at a special exception public hearing, as provided in Section 5.02.00 of this Code, at which the City Council determines that the location promotes the public health, safety and general welfare of the City.</u></li> </ul>

SECTION II. That Section 7.08.07, Dispensary and Pharmacy Development Standards in the C-2 District, of the New Port Richey Land Development Code is hereby amended to read as follows:

**7.08.07 Medical Marijuana Treatment Center Dispensing Facility and Pharmacy Development Standards**

<u>Front setback</u>	<u>30 feet</u>
<u>Side setbacks</u>	<u>10 feet or required buffer</u>
<u>Rear setback</u>	<u>20 feet or required buffer</u>
<u>Minimum lot area</u>	<u>10,000 square feet</u>
<u>Width requirement</u>	<u>100 feet</u>
<u>Height maximum</u>	<u>n/a</u>
<u>Off-street parking</u>	<u>1 space per 200 square feet of gross floor area; 75/25 ratio of full size to compact; and 0.10 required bicycle spaces per required parking space</u>
<u>Design criteria</u>	<ul style="list-style-type: none"> <li>• <u>The building in which the use is located is painted or otherwise finished in materials and colors which are muted;</u></li> <li>• <u>There are no security bars on the outside of doors or windows;</u></li> <li>• <u>No outdoor seating, outdoor display, sales or promotions shall be allowed on the site;</u></li> <li>• <u>No consumption of products shall be allowed on the site; and</u></li> </ul>

	<ul style="list-style-type: none"> <li>• <u>No prescribed/non-prescribed medicines or drugs, or graphics of plants from which they are derived, shall be visible from five feet of the building</u></li> </ul>
<u>Minimum separation distance</u>	<ul style="list-style-type: none"> <li>• <u>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 unless the City Council approves the location at a special exception public hearing, as provided in Section 5.02.00 of this Code, at which the City Council determines that the location promotes the public health, safety and general welfare of the City.</u></li> </ul>

**SECTION III.** That Section 7.09.08, Dispensary and Pharmacy Development Standards in the Highway Commercial District, of the New Port Richey Land Development Code is hereby amended to read as follows:

**7.09.08 Medical Marijuana Treatment Center Dispensing Facility and Pharmacy Development Standards**

<u>Front setback</u>	<u>35 feet</u>
<u>Side setbacks</u>	<u>10 feet or required buffer</u>
<u>Rear setback</u>	<u>20 feet or required buffer</u>
<u>Minimum lot area</u>	<u>10,000 square feet</u>
<u>Width requirement</u>	<u>100 feet</u>
<u>Height maximum</u>	<u>n/a</u>
<u>Off-street parking</u>	<u>1 space per 200 square feet of gross floor area; 75/25 ratio of full size to compact; and 0.10 required bicycle spaces per required parking space</u>
<u>Design criteria</u>	<ul style="list-style-type: none"> <li>• <u>The building in which the use is located is painted or otherwise finished in materials and colors which are muted;</u></li> <li>• <u>There are no security bars on the outside of doors or windows;</u></li> <li>• <u>No outdoor seating, outdoor display, sales or promotions shall be allowed on the site;</u></li> <li>• <u>No consumption of products shall be allowed on the site; and</u></li> <li>• <u>No prescribed/non-prescribed medicines or drugs, or graphics of plants from which they are derived, shall be visible from five feet of the building</u></li> </ul>
<u>Minimum separation distance</u>	<ul style="list-style-type: none"> <li>• <u>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 unless the City Council approves the location at a special exception public hearing, as provided in Section 5.02.00 of this Code, at which the City Council determines that the location promotes the public health, safety and general welfare of the City.</u></li> </ul>

**SECTION IV.** That Section 7.10.09, Dispensary and Pharmacy Development Standards in the Office District, of the New Port Richey Land Development Code is hereby amended to read as follows:

**7.10.09 Medical Marijuana Treatment Center Dispensing Facility and Pharmacy Development Standards**

<u>Front setback</u>	<u>30 feet</u>
<u>Side setbacks</u>	<u>10 feet or required buffer</u>
<u>Rear setback</u>	<u>20 feet or required buffer</u>
<u>Minimum lot area</u>	<u>10,000 square feet</u>

<u>Width requirement</u>	<u>50 feet</u>
<u>Height maximum</u>	<u>n/a</u>
<u>Off-street parking</u>	<u>1 space per 200 square feet of gross floor area; 75/25 ratio of full size to compact; and 0.10 required bicycle spaces per required parking space</u>
<u>Design criteria</u>	<ul style="list-style-type: none"> <li>• <u>The building in which the use is located is painted or otherwise finished in materials and colors which are muted;</u></li> <li>• <u>There are no security bars on the outside of doors or windows;</u></li> <li>• <u>No outdoor seating, outdoor display, sales or promotions shall be allowed on the site;</u></li> <li>• <u>No consumption of products shall be allowed on the site; and</u></li> <li>• <u>No prescribed/non-prescribed medicines or drugs, or graphics of plants from which they are derived, shall be visible from five feet of the building</u></li> </ul>
<u>Minimum separation distance</u>	<ul style="list-style-type: none"> <li>• <u>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 unless the City Council approves the location at a special exception public hearing, as provided in Section 5.02.00 of this Code, at which the City Council determines that the location promotes the public health, safety and general welfare of the City.</u></li> </ul>

SECTION V. That Section 7.11.02, Prohibited uses in the Downtown District, of the New Port Richey Land Development Code is hereby amended to read as follows:

7.11.02 Prohibited uses

A building or premises shall not be used for any of the following purposes, without limitations:

- (1) Adult entertainment establishments;
- (2) Bail bond businesses;
- (3) Billiard parlors and pool halls;
- (4) Boarding houses and rooming houses (excluding bed and breakfast facilities);
- (5) Bottle clubs;
- ~~(6) Check cashing services other than banks and licensed financial establishments;~~
- ~~(67) Commercial communications facilities and devices;~~
- (7) Convenience stores;
- (8) Drive-in restaurants;
- (9) Drug paraphernalia sold in any type of establishment;
- (10) Flea markets;
- (11) Hypnotists;
- ~~(12) Labor pools;~~
- (1213) Light manufacturing or fabricating;
- (1314) Massage parlors;
- (14) Medical Marijuana Treatment Center Dispensing Facilities;
- (15) Modeling agencies;
- (16) Motor vehicle sales, storage or repair;
- (17) Palm readers and astrologers;
- ~~(18) Pawn shops;~~

- (18) Pharmacies.
- (19) Repair shops of motorized equipment;
- (20) Restricted personal service uses;
- (~~21~~20) Storage facilities (indoor or outdoor);
- (~~21~~) ~~Tattoo parlors~~;
- (22) Thrift stores;
- (23) Video game parlors; and
- (24) Warehouses.
- (~~25~~) ~~Convenience stores~~;

SECTION VI. That Section 7.12.09, Dispensary and Pharmacy Development Standards in the Light Industrial District, of the New Port Richey Land Development Code is hereby amended to read as follows:

**7.12.09 Medical Marijuana Treatment Center Dispensing Facility and Pharmacy Development Standards**

<u>Front setback</u>	<u>30 feet</u>
<u>Side setbacks</u>	<u>10 feet or required buffer</u>
<u>Rear setback</u>	<u>20 feet or required buffer</u>
<u>Minimum lot area</u>	<u>10,000 square feet</u>
<u>Width requirement</u>	<u>100 feet</u>
<u>Height maximum</u>	<u>n/a</u>
<u>Off-street parking</u>	<u>1 space per 200 square feet of gross floor area; 75/25 ratio of full size to compact; and 0.10 required bicycle spaces per required parking space</u>
<u>Design criteria</u>	<ul style="list-style-type: none"> <li>• <u>The building in which the use is located is painted or otherwise finished in materials and colors which are muted;</u></li> <li>• <u>There are no security bars on the outside of doors or windows;</u></li> <li>• <u>No outdoor seating, outdoor display, sales or promotions shall be allowed on the site;</u></li> <li>• <u>No consumption of products shall be allowed on the site; and</u></li> <li>• <u>No prescribed/non-prescribed medicines or drugs, or graphics of plants from which they are derived, shall be visible from five feet of the building</u></li> </ul>
<u>Minimum separation distance</u>	<ul style="list-style-type: none"> <li>• <u>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 unless the City Council approves the location at a special exception public hearing, as provided in Section 5.02.00 of this Code, at which the City Council determines that the location promotes the public health, safety and general welfare of the City.</u></li> </ul>

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

Convenience store: A retail establishment characterized by, but not limited to: small product selection, convenient accessibility with parking in close proximity to the entry, limited product container size, longer hours of operation (up to and including 24-hour operations), often including fuel sales, with primary source

of revenue from snack, beverage and lottery sales (or fuel, if sold) and where price of products sold is typically higher than from a grocery store/supermarket.

. A business establishment that:

- (1) Offers a limited quantity and variety of food, household and sundry items;
- (2) Operates at any time during the hours of 10:30 p.m. and 4:00 a.m.;
- (3) Does not sell or have for sale prescription drug items;
- (4) Operates in a building of less than ten thousand (10,000) square feet; and
- (5) Sales of groceries/food products shall be at least fifty-one (51) percent of the gross revenue.

Grocery store or supermarket: A retail establishment that offers a broad variety of fresh and packaged food, household and sundry items; may specialize in foods of a certain nationality or quality; typically sells fresh bakery items, meat, seafood, and produce in separate areas of the store; operates at any time during the hours of 7:00 a.m. and 10:00 pm; may sell or have for sale prescription drug items; occupies an area greater than 10,000 square feet; and is not a convenience store. A supermarket generally has a greater selection of products than a grocery store.

Pharmacy: A retail establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics and related merchandise.

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 IX. 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.

ATTEST:

\_\_\_\_\_  
Judy Meyers, City Clerk

\_\_\_\_\_  
Rob Marlowe, Mayor-Council Member

APPROVED AS TO FORM

By: \_\_\_\_\_  
Timothy P. Driscoll, City Attorney