

ORDINANCE NO. 1281

AN ORDINANCE OF THE CITY OF OKEECHOBEE, FLORIDA, PROHIBITING MEDICAL MARIJUANA DISPENSARIES WITHIN THE CITY OF OKEECHOBEE AS SUBMITTED IN LAND DEVELOPMENT REGULATION (LDR) TEXT AMENDMENT APPLICATION NO. 23-004-TA; AMENDING THE CODE OF ORDINANCES CHAPTER 66 GENERAL PROVISIONS, SECTION 66-1 DEFINITIONS; AMENDING CHAPTER 90 ZONING, ARTICLE III DISTRICTS AND DISTRICT REGULATIONS, DIVISION 7 LIGHT COMMERCIAL (CLT) DISTRICT SECTION 90-252 PERMITTED USES, DIVISION 8 HEAVY COMMERCIAL (CHV) DISTRICT SECTION 90-282 PERMITTED USES, DIVISION 9 CENTRAL BUSINESS (CBD) DISTRICT SECTION 90-312 PERMITTED USES, AND DIVISION 10 INDUSTRIAL (IND) DISTRICT SECTION 90-342 PERMITTED USES; PROVIDING FOR EXISTING MEDICAL MARIJUANA DISPENSARIES NONCONFORMING; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Okeechobee, Florida, has adopted Ordinance Number (No.) 716, as amended, known as the LDRs; and

WHEREAS, the City of Okeechobee, Florida, has a legitimate interest in periodic review of its Ordinances and LDRs in order to address certain inconsistencies or outdated regulations contained in the Codes; to make amendments to meet changing community standards, or to accommodate new development; and to create new ordinance or regulation to better serve the public and to make the Code a more consistent and easier to understand document; and

WHEREAS, the Planning Board for the City of Okeechobee, Florida, acting as the Local Planning Agency, reviewed and discussed the proposed amendments, also known as LDR Text Amendment Application No. 23-004-TA, at a duly advertised Public Hearing held on September 21, 2023, and based on findings of fact by the Planning Staff, hereby recommends certain changes, amendments, or modifications to the Code of Ordinances, to present to the City Council for ordinance adoption and codification; and

WHEREAS, the City Council for the City of Okeechobee, Florida, considered the recommendations by the Planning Board and concludes that enacting such amendments to be in the best interest of its citizens of said City, that said amendments are necessary and appropriate to make the LDRs more consistent and responsive to the needs of the City and its citizens; and

WHEREAS, on June 16, 2014, Florida's Compassionate Medical Cannabis Act of 2014 became law. This act legalized the cultivation, production, and dispensing of a low-THC derivative product of marijuana for "qualified patients"; and

WHEREAS, on December 19, 2017, the City Council adopted Ordinance No. 1163 which amended the City's LDRs to identify Medical Marijuana Dispensaries as a use permitted within certain zoning districts in the City; and

WHEREAS, the City Council desires to prohibit Medical Marijuana Dispensaries in all zoning districts of the City of Okeechobee, Florida pursuant to Florida Statutes (F.S.) Section 381.986(11)(b)(1) as amended and succeeded; and

WHEREAS, for the purposes of this Ordinance, underlined type shall denote additions to and ~~strike through~~ shall denote deletions from the original text.

NOW, THEREFORE, be it ordained before the City Council of the City of Okeechobee, Florida; presented at a duly advertised public meeting; and passed by majority vote of the City Council; and properly executed by the Mayor or designee, as Chief Presiding Officer for the City; that:

SECTION 1: RECITALS.

The foregoing “whereas” clauses are incorporated herein as legislative findings by this reference and made a part hereof for all intents and purposes.

SECTION 2: AMENDMENT TO CODE CHAPTER 66.

That Part II of the Code of Ordinances, Subpart B-LDRs, Chapter 66 General Provisions, Section 66-1. Definitions, is hereby amended to add the following:

Medical marijuana dispensary means a facility licensed or registered by the Florida Department of Health that dispenses medical marijuana or products containing marijuana and related supplies, to qualifying patients or their caregivers, pursuant to statute. A medical marijuana dispensing facility does not cultivate process, transfer, or prepare any form of marijuana or marijuana product.

SECTION 3: AMENDMENT TO CODE CHAPTER 90, ARTICLE III.

That Part II of the Code of Ordinances, Subpart B-LDRs, Chapter 90 Zoning, Article III Districts and District Regulations, is hereby amended to read as follows:

DIVISION 7. CLT DISTRICT

Section 90-252. Permitted uses.

The following principal uses and structures are permitted in the CLT district:

- (1) Professional office, business office, medical office.
- (2) Retail store, retail service.
- (3) Personal service.
- (4) Craft studio.
- (5) Storefront church located in a unit in a multi-use building or shopping center.
- (6) Pet grooming.
- (7) Convenience store.
- (8) ~~Medical marijuana dispensary as defined and regulated in F.S. § 381.986.~~

DIVISION 8. CHV DISTRICT

Section 90-282. Permitted uses.

The following principal uses and structures are permitted in the CHV district:

- (1) Professional office, business office, medical office.
- (2) Retail service, retail store including outdoor display of merchandise.
- (3) Restaurant, take-out restaurant, cafe.
- (4) Personal service.
- (5) Dry cleaner/laundry, laundromat.
- (6) Funeral home.
- (7) Hotel, motel.
- (8) Private club, nightclub and bar.
- (9) Craft studio.
- (10) Business school.
- (11) Commercial indoor recreation.
- (12) Commercial parking garage or lot, taxi stand, bus terminal.
- (13) Storefront church located in a unit in a multi-use building or shopping center.
- (14) Taxidermist.
- (15) Pet grooming.
- (16) Convenience store.
- (17) Indoor auction house.
- (18) ~~Medical marijuana dispensary as defined and regulated in F.S. § 381.986.~~
- (19) (18) Pawnshop.

DIVISION 9. CBD DISTRICT

Section 90-312. Permitted uses.

The following principal uses and structures are permitted in the CBD district:

- (1) Professional office, business office, medical office.
- (2) Retail service, retail store including outdoor display of merchandise.
- (3) Restaurant, take-out restaurant, cafe.
- (4) Personal service.
- (5) Dry cleaner, laundry.
- (6) Private club, nightclub, bar.
- (7) Craft studio.
- (8) Business school.
- (9) Commercial indoor recreation.

- (10) Commercial parking garage or lot.
- (11) Storefront church located in a unit in a multi-use building or shopping center.
- ~~(12) Medical marijuana dispensary as defined and regulated in F.S., § 381.986.~~

DIVISION 10. IND DISTRICT

Section 90-342. Permitted uses.

The following principal uses and structures are permitted in the IND district:

- (1) Business office.
- (2) Business school.
- (3) Retail service, retail store including outdoor display of merchandise.
- (4) Research laboratory.
- (5) Manufacturing, processing, except those which produce explosives.
- (6) Mechanical and repair services.
- (7) Bulk storage of nonhazardous material.
- (8) Off-site sign.
- (9) Outdoor sales and storage, building contractor.
- (10) Wholesale sales and distribution.
- (11) Enclosed warehouse and storage.
- (12) Commercial laundry, dry cleaner.
- (13) Printing.
- (14) Auto service station, car wash.
- (15) Drive-through service.
- (16) Parking garage, parking lot.
- (17) Radio, television or cable reception, transmission or operational facilities.
- (18) Veterinary service.
- (19) Railroad facilities.
- (20) Public utility.
- (21) Public facility.
- (22) Storefront church located in a unit in a multi-use building or shopping center.
- (23) Restaurant, take-out restaurant, cafe.
- (24) Barbershop, beauty shop.
- (25) Dry cleaner/laundry.
- (26) Nail care.
- (27) Shoe repair.
- (28) Tailor.
- (29) Limited agriculture of a commercial nature on properties on which there is an active agricultural exemption, which was granted by the Okeechobee Property Appraiser not later than September 19, 2013.
- (30) Retail pool supplies and equipment, (including storage of chemicals for use and/or retail sale).
- (31) Water treatment services, (including storage of chemicals for use and/or retail sale).
- (32) Pest control (including storage of chemicals for use and/or retail sale).
- ~~(33) Medical marijuana dispensary as defined and regulated in F.S., § 381.986.~~
- ~~(34)~~ (33) Pawnshop.
- ~~(35)~~ (34) Bar.

SECTION 4: EXISTING MEDICAL MARIJUANA DISPENSARIES NONCONFORMING.

Existing medical marijuana dispensary facilities shall be considered nonconforming uses as of the effective date of this Ordinance.

SECTION 5: CONFLICT.

All ordinances or parts or ordinances in conflict herewith are hereby repealed.

SECTION 6: INCLUSION IN THE CODE OF ORDINANCES.

The provisions of this Ordinance shall become and made a part of the City of Okeechobee Code of Ordinances, that the Sections may be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other appropriate word.

SECTION 7: SEVERABILITY.

If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

SECTION 8: EFFECTIVE DATE.

This Ordinance shall be effective upon final adoption on second reading.

INTRODUCED at a Public Hearing for First Reading and set for Final Public Hearing on this 7th day of November 2023. Roll Call Vote:

	Yes	No	Abstained	Absent
Council Member Chandler:				
Council Member/Vice Mayor Clark:				
Council Member Jarriel:				
Council Member McAuley:				
Mayor Watford:				

Dowling R. Watford, Jr.
Mayor

ATTEST:

Lane Gamiotea, CMC
City Clerk

PASSED AND ADOPTED after Second Reading and Final Public Hearing this 5th day of December 2023. Roll Call Vote:

	Yes	No	Abstained	Absent
Council Member Chandler:				
Council Member/Vice Mayor Clark:				
Council Member Jarriel:				
Council Member McAuley:				
Mayor Watford:				

Dowling R. Watford, Jr.
Mayor

ATTEST:

Lane Gamiotea, CMC
City Clerk

REVIEWED FOR LEGAL SUFFICIENCY:

John J. Fumero, City Attorney
Nason Yeager Gerson Harris & Fumero, P.A.



CITY OF OKEECHOBEE, FLORIDA
PLANNING BOARD MEETING
SEPTEMBER 21, 2023
SUMMARY OF BOARD ACTION

I. CALL TO ORDER

Chairperson Hoover called the regular meeting of the Planning Board for the City of Okeechobee to order on Thursday, September 21, 2023, at 6:07 P.M. in the City Council Chambers, located at 55 Southeast (SE) Third Avenue, Room 200, Okeechobee, Florida.

II. ATTENDANCE

Roll was taken by Board Secretary Patty Burnette. Chairperson Dawn Hoover, Board Members Phil Baughman, Carl Berlin, Jr., Karyne Brass, and Alternate Board Members Jon Folbrecht and Jim Shaw were present. Vice Chairperson Doug McCoy, and Board Member Mac Jonassaint were absent without consent. Chairperson Hoover moved Alternate Board Members Folbrecht and Shaw to voting position.

III. AGENDA

- A. There were no items added, deferred, or withdrawn from the agenda.
- B. Motion by Member Folbrecht, seconded by Member Shaw to approve the agenda as presented. **Motion Carried Unanimously.**
- C. There were no comment cards submitted for public participation.

IV. MINUTES

- A. Motion by Member Baughman, seconded by Member Folbrecht to dispense with the reading and approve the June 15, 2023, Regular Meeting minutes. **Motion Carried Unanimously.**

V. CHAIRPERSON HOOVER OPENED THE PUBLIC HEARING AT 6:09 P.M.

- A. Consider Land Development Regulations (LDR) Text Amendment Application No. 23-002-TA, which proposes to amend Chapter 78, Land Development Standards, Article IV, Stormwater Management, to reflect required changes adopted by the State on stormwater management regulations.
 - 1. City Attorney Stephen Conteaguero with Nason, Yeager, Gerson, Harris & Fumero, briefly reviewed the proposed ordinance stating this is to bring the existing City LDR into conformance with the Florida Department of Environmental Protection. This ordinance is to help protect the City's resources from the harmful effects of unmanaged stormwater runoff. It also addresses illicit discharges and post construction run off.
 - 2. No public comments were offered.
 - 3. No Ex-Parte disclosures were offered.
 - 4. Motion by Member Folbrecht, seconded by Member Berlin to recommend approval to the City Council for LDR Text Amendment Application No. 23-002-TA, as presented in [Exhibit 1]. The recommendation will be forwarded to the City Council for consideration at Public Hearings, tentatively scheduled for October 17, 2023, and November 21, 2023. **Motion Carried Unanimously.**
- B. Consider LDR Text Amendment Application No. 23-004-TA, which proposes to amend Section 66-1, adding a definition for Medical Marijuana Dispensaries and Zoning Districts Permitted Uses Section's 90-252 for Light Commercial, 90-282 for Heavy Commercial, 90-312 for Central Business District, and 90-342 for Industrial, to prohibit Medical Marijuana Dispensaries in the City.
 - 1. City Attorney Conteaguero briefly reviewed the proposed ordinance stating this proposed language would prohibit Medical Marijuana dispensaries in all zoning districts in the City and any existing ones would be considered non-conforming uses. Should an existing facility be sold, then the use would not be permitted.
 - 2. No public comments were offered.
 - 3. No Ex-Parte disclosures were offered.
 - 4. Motion by Member Berlin, seconded by Member Shaw to recommend approval to the City Council for LDR Text Amendment Application No. 23-004-TA, as presented in [Exhibit 2]. The recommendation will be forwarded to the City Council for consideration at Public Hearings, tentatively scheduled for November 7, 2023, and December 5, 2023. **Motion Carried Unanimously.**

CHAIRPERSON HOOVER CLOSED THE PUBLIC HEARING AT 6:24 P.M.

City of Okeechobee General Services Department 55 S.E. 3rd Avenue, Room 101 Okeechobee, Florida 39974-2903 Phone: (863) 763-3372, ext. 218 Fax: (863) 763-1686		Date: <u>8-11-23</u>	Petition No. <u>23-004-TH</u>
		Fee Paid: <u>N/A</u>	Jurisdiction: <u>PB & CC</u>
		1 st Hearing: <u>9-21-23</u>	2 nd Hearing: <u>11-7-23 / 12-5-23</u>
		Publication Dates:	
		Notices Mailed: <u>N/A</u>	
APPLICATION FOR TEXT AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS			
APPLICANT INFORMATION			
1	Name of Applicant: <u>City of Okeechobee</u>		
2	Mailing address: <u>55 SE 3rd Avenue</u>		
3	E-mail address:		
4	Daytime phone(s):		
5	Do you own residential property within the City? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide address(es)		
6	Do you own nonresidential property within the City? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide address(es)		
REQUEST INFORMATION			
7	Request is for: <input type="checkbox"/> Text change to an existing section of the LDRs <input type="checkbox"/> Addition of a permitted use <input type="checkbox"/> Deletion of a permitted use <input type="checkbox"/> Addition of a special exception use <input type="checkbox"/> Deletion of a special exception use <input type="checkbox"/> Addition of an accessory use <input type="checkbox"/> Deletion of an accessory use		
8	Provide a detailed description of text changes to existing section(s) showing deletions in strikeout and additions in <u>underline</u> format. (This description may be provided on separate sheets if necessary.) <u>See attached proposed amendment wording.</u>		

9	<p>Provide a detailed listing of use(s) to be added or deleted and the zoning district(s) and section(s) to be changed. (This description may be provided on separate sheets if necessary.)</p> <p><i>See attached proposed amendment wording.</i></p>
	REQUIRED ATTACHMENTS
10	<p>Non-refundable application fee of \$500</p> <p>Note: Resolution No. 98-11 Schedule of Land Development Regulation Fees and Charges – When the cost for advertising publishing and mailing notices of public hearings exceeds the established fee, or when a professional consultant is hired to advise the city on the application, the applicant shall pay the actual costs.</p>

Confirmation of Information Accuracy

I hereby certify that the information in this application is correct. The information included in this application is for use by the City of Okeechobee in processing my request. False or misleading information may be punishable by a fine of up to \$500.00 and imprisonment of up to 30 days and may result in the denial of this application.

Signature

Printed Name

Date

For questions relating to this application packet, call General Services Dept. at (863)-763-3372, Ext. 218

The City Council for the City of Okeechobee, Florida, amends herein Part II of the Code of Ordinances, Subpart B-Land Development Regulations, providing for amendments to Chapter 66- General Provisions, Section 66-1. – Definitions, to add the following:

Medical marijuana dispensary means a facility licensed or registered by the Florida Department of Health that dispenses medical marijuana or products containing marijuana and related supplies, to qualifying patients or their caregivers, pursuant to statute. A medical marijuana dispensing facility does not cultivate process, transfer, or prepare any form of marijuana or marijuana product.

The City Council for the City of Okeechobee, Florida, amends herein Part II of the Code of Ordinances, Subpart B-Land Development Regulations, providing for amendments to Chapter 90-Zoning, Article III - Districts and District Regulations, Division 7 – Light Commercial (CLT) District as follows:

Sec. 90-252. - Permitted uses.

The following principal uses and structures are permitted in the CLT district:

- (1) Professional office, business office, medical office.
- (2) Retail store, retail service.
- (3) Personal service.
- (4) Craft studio.
- (5) Storefront church located in a unit in a multi-use building or shopping center.
- (6) Pet grooming.
- (7) Convenience store.
- ~~(8) Medical marijuana dispensary as defined and regulated in F.S., § 381.986.~~

The City Council for the City of Okeechobee, Florida, amends herein Part II of the Code of Ordinances, Subpart B-Land Development Regulations, providing for amendments to Chapter 90-Zoning, Article III - Districts and District Regulations, Division 8 – Heavy Commercial (CHV) District as follows:

Sec. 90-282. - Permitted uses.

The following principal uses and structures are permitted in the CHV district:

- (1) Professional office, business office, medical office.
- (2) Retail service, retail store including outdoor display of merchandise.
- (3) Restaurant, take-out restaurant, cafe.
- (4) Personal service.
- (5) Dry cleaner/laundry, laundromat.
- (6) Funeral home.
- (7) Hotel, motel.
- (8) Private club, nightclub and bar.
- (9) Craft studio.
- (10) Business school.
- (11) Commercial indoor recreation.
- (12) Commercial parking garage or lot, taxistand, bus terminal.
- (13) Storefront church located in a unit in a multi-use building or shopping center.
- (14) Taxidermist.
- (15) Pet grooming.
- (16) Convenience store.
- (17) Indoor auction house.
- ~~(18) Medical marijuana dispensary as defined and regulated in F.S., § 381.986.~~
- ~~(19)~~ (18) Pawnshop.

The City Council for the City of Okeechobee, Florida, amends herein Part II of the Code of Ordinances, Subpart B-Land Development Regulations, providing for amendments to Chapter 90-Zoning, Article III - Districts and District Regulations, Division 9 – Central Business (CBD) District as follows:

Sec. 90-312. - Permitted uses.

The following principal uses and structures are permitted in the CBD district:

- (1) Professional office, business office, medical office.
- (2) Retail service, retail store including outdoor display of merchandise.
- (3) Restaurant, take-out restaurant, cafe.
- (4) Personal service.
- (5) Dry cleaner, laundry.
- (6) Private club, nightclub, bar.
- (7) Craft studio.
- (8) Business school.
- (9) Commercial indoor recreation.
- (10) Commercial parking garage or lot.
- (11) Storefront church located in a unit in a multi-use building or shopping center.
- (12) ~~Medical marijuana dispensary as defined and regulated in F.S., § 381.986.~~

The City Council for the City of Okeechobee, Florida, amends herein Part II of the Code of Ordinances, Subpart B-Land Development Regulations, providing for amendments to Chapter 90-Zoning, Article III - Districts and District Regulations, Division 10 – Industrial (IND) District as follows:

Sec. 90-342. - Permitted uses.

The following principal uses and structures are permitted in the IND district:

- (1) Business office.
- (2) Business school.
- (3) Retail service, retail store including outdoor display of merchandise.
- (4) Research laboratory.
- (5) Manufacturing, processing, except those which produce explosives.
- (6) Mechanical and repair services.
- (7) Bulk storage of nonhazardous material.
- (8) Off-site sign.
- (9) Outdoor sales and storage, building contractor.
- (10) Wholesale sales and distribution.
- (11) Enclosed warehouse and storage.
- (12) Commercial laundry, dry cleaner.
- (13) Printing.
- (14) Auto service station, car wash.
- (15) Drive-through service.
- (16) Parking garage, parking lot.
- (17) Radio, television or cable reception, transmission or operational facilities.
- (18) Veterinary service.
- (19) Railroad facilities.
- (20) Public utility.
- (21) Public facility.
- (22) Storefront church located in a unit in a multi-use building or shopping center.
- (23) Restaurant, take-out restaurant, cafe.
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- (26) Nail care.
- (27) Shoe repair.
- (28) Tailor.

- (29) Limited agriculture of a commercial nature on properties on which there is an active agricultural exemption, which was granted by the Okeechobee Property Appraiser not later than September 19, 2013.
- (30) Retail pool supplies and equipment, (including storage of chemicals for use and/or retail sale).
- (31) Water treatment services, (including storage of chemicals for use and/or retail sale).
- (32) Pest control (including storage of chemicals for use and/or retail sale).
- ~~(33) Medical marijuana dispensary as defined and regulated in F.S., § 381.986.~~
- ~~(34)~~ (33) Pawnshop.
- ~~(35)~~ (34) Bar.

Existing medical marijuana dispensary facilities shall be considered non-conforming uses.