



City of North Port

ORDINANCE NO. 2017-11

(Updating code language related to cannabis dispensing facilities and medical marijuana treatment centers to be consistent with Florida Constitution Article X, Section 29 and 2017 Senate Bill 8-A by amending Unified Land Development Code Section 25-17 off-street parking regulations, Unified Land Development Code Section 53-254 special exception provisions, and Administrative Code Section 34-40 relating to business tax receipts)

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, UPDATING CODE LANGUAGE RELATED TO CANNABIS DISPENSING FACILITIES AND MEDICAL MARIJUANA TREATMENT CENTERS TO BE CONSISTENT WITH FLORIDA CONSTITUTION ARTICLE X, SECTION 29 AND 2017 SENATE BILL 8-A BY AMENDING UNIFIED LAND DEVELOPMENT CODE CHAPTER 25 PARKING AND LOADING REGULATIONS, ARTICLE II OFF-STREET PARKING, SECTION 25-17.B MINIMUM OFF-STREET PARKING REQUIREMENTS; AMENDING UNIFIED LAND DEVELOPMENT CODE CHAPTER 53 ZONING REGULATIONS, ARTICLE XXII SPECIAL EXCEPTIONS, SECTION 53-254 GENERAL PROVISIONS, SUBSECTION A(1)(g) DISPENSING FACILITIES; AMENDING ADMINISTRATIVE CODE OF THE CITY OF NORTH PORT CHAPTER 34 LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS, ARTICLE II BUSINESS TAX RECEIPTS SECTION 34-40 DISPENSING FACILITIES; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODING OF AMENDMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 8, 2016, Florida voters approved Amendment 2, which amended the Florida Constitution to add Article X, Section 29 related to medical marijuana production, possession, and use, including medical marijuana treatment centers; and

WHEREAS, on November 22, 2016, the City Commission of the City of North Port adopted Ordinance 2016-33, amending the City of North Port Unified Land Development Code (ULDC) to include regulations related to low-THC and medical cannabis dispensing facilities; and

WHEREAS, on January 3, 2017, Article X, Section 29 became effective and provided the Department of Health six months to promulgate applicable regulations;

WHEREAS, on April 4, 2017, the City Commission of the City of North Port directed staff to remove the 800-foot residential buffer, reduce the 1500-foot buffer from schools, daycares, and churches, and remove the number limits and landlord responsibility for cannabis dispensing facilities; and

WHEREAS, in the interim while staff was preparing these amendments, the State legislature adopted Senate Bill 8-A, which preempts local governments from regulating medical marijuana treatment centers differently than a retail pharmacy unless an outright ban is adopted; and

WHEREAS, City staff finds that it is prudent to amend the definitions and code language presented herein to ensure that the ordinance is inclusive to all potential types of cannabis or marijuana dispensing facilities looking to locate within the City; and

WHEREAS, the City of North Port Planning and Zoning Advisory Board designated as the Local Planning Agency (LPA) held a public hearing on August 17, 2017, with due public notice to receive public comments on the revision of the Unified Land Development Code; and

WHEREAS, the City Commission of the City of North Port has held public hearings on September 26, 2017 and October 10, 2017, with due public notice to review the recommendations of the North Port Planning and Zoning Advisory Board, and to receive public comments on the revision of the Unified Land Development Code; and

WHEREAS, the City Commission of the City of North Port finds that this ordinance promotes the general health, welfare, and safety of the citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, AS FOLLOWS:

SECTION 1 – FINDINGS:

The City Commission hereby makes the following findings:

1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

1.02. The Commission has held public hearings on the proposed amendments described herein in accordance with the requirements of the City of North Port Unified Land Development Code and has considered the information received at said public hearings.

1.03. The Commission has reviewed the proposed amendments provided herein and has found that the amendments are consistent with the City of North Port Comprehensive Plan.

SECTION 2 – ADOPTION:

2.01 The City Commission of the City of North Port hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

“Chapter 25 – PARKING AND LOADING REGULATIONS

...

Sec. 25-17- Minimum off-street parking requirements.

...

B. The following minimum off-street parking requirements are applicable to all zoning districts:

Use	Number of Spaces
<p>...</p> <p>Dispensing facility</p> <p>...</p>	<p>1 for each 250 square feet of floor area.</p>

* * *

Chapter 53 – ZONING REGULATIONS

...

Sec. 53-254. – General provisions.

A. A special exception is a use that would not be appropriate generally or without restriction throughout a zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or the general welfare.

(1) The following uses shall be considered special exceptions in all zoning districts and shall require a special exception permit unless specifically permitted.

...

~~(g) — Dispensing facilities.~~

~~i. — Except as otherwise specified in this section, dispensing facilities shall be permitted in all Activity Centers with Commercial General (CG) or Planned Community Development (PCD) zoning, only after the issuance of a special exception in accordance with Chapter 53, Article XXII and in accordance with the following standards. In a Community Development (PCD) Zoning District, dispensing facilities shall only be allowed where the established use is Commercial General (CG) and where no residential use exists on the property. Dispensing facilities shall not be permitted in Activity Center 6 unless and until the Urban Service Boundary is moved to include that location.~~

~~ii. *Number.* The number of dispensing facilities shall be limited to two (2) throughout the whole of the City of North Port. One (1) dispensing facility may be located east of Sumter Boulevard and one (1) dispensing facility may be located west of Sumter Boulevard. No more than one (1) dispensing facility may be located in any one Activity Center.~~

~~iii. *Distance.* Dispensing facilities shall comply with the following separation requirements:~~

~~a. — No dispensing facility shall be located within one thousand five hundred (1,500) feet of any church, daycare, preschool,~~

~~elementary school, middle school, high school, or any property owned by the School Board of Sarasota County.~~

- ~~b. No dispensing facility shall operate within one thousand five hundred (1,500) feet of any existing dispensing facility.~~
- ~~c. No dispensing facility shall operate within eight hundred (800) feet of any property with a residential use.~~
- ~~d. The distance shall be measured by using a buffer starting on the perimeter of the parcel on which the existing use described in subsections (a) and (b) above is located. If the outside edge of the buffer crosses through a parcel, the use shall not be permitted on any part of said parcel.~~
- ~~e. In case of dispute, City staff may require that the applicant furnish a certified survey from a registered engineer or surveyor licensed by the State of Florida. The map shall indicate the distance between the proposed dispensing facility to an existing dispensing facility, daycare, preschool, elementary school, middle school, or high school within the applicable radius. The measurement as determined by the Director of Neighborhood Development Services shall govern.~~
- ~~iv. *Petition.* In addition to the other materials required by this Article, as part of its written petition for a special exception, each applicant shall include a security plan exhibiting compliance with all provisions set forth in Florida Statutes Section 381.986(6)(d).~~
- ~~v. *Conditions and safeguards.* In addition to any other conditions and safeguards made a part of the terms under which a special exception is granted, all special exceptions granted for a dispensing facility shall include conditions that require ongoing compliance with the provisions set forth in Florida Statutes Section 381.986(6)(d).~~
- ~~vi. *Landlord responsibility.* Landlords who lease space to a dispensing facility must expressly incorporate language into the lease or rental agreement stating that failure to comply with the North Port Unified Land Development Code is a material non-curable breach of the lease and shall constitute~~

~~grounds for termination of the lease and immediate eviction
by the landlord.~~

2.02 The City Commission of the City of North Port hereby approves and adopts the following amendments to the Administrative Code of the City of North Port:

**“Chapter 34 – LICENSES, PERMITS AND MISCELLANEOUS BUSINESS
REGULATIONS**

...

Sec. 34-40 – Medical marijuana treatment centers and ~~Dispensing facilities.~~

The applicant for a business tax receipt who wishes to operate a medical marijuana treatment center or dispensing facility, as defined by Florida Statutes Section 381.986 and Article X, Section 29 of the Florida Constitution, must produce current written notification from the Florida Department of Health authorizing the ~~dispensing facility applicant to~~ dispense medical marijuana, low-THC cannabis, and/or medical cannabis.”

SECTION 3 – CONFLICTS:

3.01 In the event of any conflict between the provisions of this Ordinance and any other Ordinance or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 4 – SEVERABILITY:

4.01 If any section, subsection, sentence, clause, phase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5 – CODING OF AMENDMENTS:

5.01 In this Ordinance, additions are shown as underlined and deletions as strikethrough. These editorial notations shall not appear in the codified text.

SECTION 6 – EFFECTIVE DATE:

6.01 This Ordinance shall take effect immediately after adoption by the City Commission of the City of North Port. No development order or development permits dependent on this Ordinance may be issued before it has become effective.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session this _____ day of _____, 2017.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, on the second and final reading in public session this _____ day of _____, 2017.

CITY OF NORTH PORT, FLORIDA

LINDA M. YATES
MAYOR

ATTEST:

PATSY C. ADKINS, MMC
CITY CLERK

APPROVED AS TO FORM AND
CORRECTNESS:

AMBER L. SLAYTON
CITY ATTORNEY