



OVERVIEW REPORT

ORDINANCE 2017-09 **MEDICAL MARIJUANA TREATMENT CENTER** **DISPENSING FACILITIES** November 14, 2017

SUBJECT: City-initiated text amendment to the City of Bowling Green Land Development Code to address Medical Cannabis Dispensing Facilities by amending:

- **Article 2**, Section 2.04.01, Zoning District Summary Tables, Table 2.04.01(A) to remove Medical Cannabis Dispensing Facilities and add a footnote banning Medical Marijuana Treatment Center Dispensing Facilities;
- **Article 2**, Section 2.04.01, Zoning District Summary Tables, Table 2.04.01(A) to add Pharmacies;
- **Article 3**, Development Design and Improvement Standards, by removing Section 3.09.01 Medical Cannabis Dispensing Facilities; and
- **Article 9**, Definitions adding the definition of Medical Marijuana Treatment Center Dispensing Facilities.

AGENDA & HEARING DATES:

- City Commission (First Reading, Public Hearing): October 10, 2017
- City Commission (Second Reading, Public Hearing): **November 14, 2017**

The City Commission unanimously approved Ordinance 2017-09 on first reading on October 10, 2017.

ATTACHMENTS:

- Staff Report
- Ordinance No. 2017-09

MOTION OPTIONS:

- Move to adopt Ordinance 2017-09 on second reading.
- Move to adopt Ordinance 2017-09 with changes on second reading.
- Move to deny Ordinance 2017-09.

SUMMARY:

The Governor recently signed into law Senate Bill 8-A, which addresses medical marijuana dispensing facilities. It provides jurisdictions the right to ban medical marijuana dispensing facilities. If jurisdictions do not ban them, they must treat them in the same manner as pharmacies. The law also provides specific requirements for medical marijuana dispensing facilities relating to distance requirements from schools, safety requirements such as alarm systems and video monitoring. The Department of Health is currently writing regulations to implement the new law.

On July 11, 2017, the Bowling Green City Commission provided direction to amend the City's Land Development Code to ban medical marijuana treatment center dispensing facilities.

STAFF REPORT

BACKGROUND OF MEDICAL MARIJUANA DISPENSARIES:

On June 16, 2014, the Governor signed the "Compassionate Medical Cannabis Act of 2014" into state law, which serves as an outline for its medical marijuana industry. It allows limited access to cannabidiol, or CBD, based medical marijuana for treatment of chronic epileptic seizures and some other severe illnesses. The requirements are included in Florida Statutes Section 381.986. Part of this law authorizes the establishment of five dispensing organizations, one in each of the following regions: northwest Florida, northeast Florida, central Florida, southeast Florida, and southwest Florida, to ensure reasonable statewide accessibility and availability as necessary for patients registered in the compassionate use registry and who are prescribed low-THC cannabis under the requirements of the law.

On March 25, 2016, the Governor signed the "Compassionate Use of Low-THC and Medical Cannabis" into State law. It amended the statute and legalized the cultivation, production, and dispensing of "Medical Cannabis" as defined in the statute, and derivative products, by a licensed dispensing organization to "Eligible Patients," as defined in Section 499.0295, Florida Statutes

On November 8, 2016, Florida voters approved a ballot initiative to amend the Florida Constitution creating Article X, section 29, Medical Marijuana Production, Possession, and Use, to allow broader sale and use of marijuana to treat debilitating medical conditions for eligible patients. It also requires the Department of Health to register and regulate marijuana production and distribution centers.

On June 9, 2017, the Florida Legislature passed a medical marijuana bill (Senate Bill 8-A) to implement Article X, section 29 of the Florida Constitution, which allows the use of marijuana by patients with debilitating medical conditions.

On June 23, 2017, the Florida Governor signed the medical marijuana bill into law. The law went into effect on July 1, 2017.

MEDICAL MARIJUANA BILL (SENATE BILL 8-A) OVERVIEW:

1. Medical Marijuana Treatment Centers (MMTCs)

- Requires the Department of Health (DOH) to license MMTCs as vertically integrated entities to cultivate, process, transport, and dispense low-THC marijuana, medical marijuana, and medical marijuana delivery devices. The DOH is further required to license the existing Dispensing Organizations (DOs) created under the Compassionate Medical Cannabis Act as MMTCs as soon as practicable, no later than July 3, 2017.
- The DOH is required to award ten additional MMTC licenses as soon as practicable, but no later than October 3, 2017.

ORDINANCE NO. 2017-09

AN ORDINANCE OF THE CITY OF BOWLING GREEN FLORIDA, RELATING TO ADDING PHARMACIES AND BANNING MEDICAL MARIJUANA DISPENSING FACILITIES BY AMENDING THE BOWLING GREEN UNIFIED LAND DEVELOPMENT CODE, ARTICLE 2, SECTION 2.04.01, ZONING DISTRICT SUMMARY TABLES, TABLE 2.04.01(A) ADDING PHARMACIES AND REMOVING MEDICAL CANNABIS DISPENSING FACILITIES; ARTICLE 3, DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS, REMOVING SECTION 3.09.01 MEDICAL CANNABIS DISPENSING FACILITIES TO BAN MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES; AND ARTICLE 9, DEFINITIONS, TO INCLUDE RELATED DEFINITIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bowling Green has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida; Chapters 163 and 166, *Florida Statutes*; and Section 381.986, *Florida Statutes*; and

WHEREAS, on June 16, 2014, Governor Scott signed the "Compassionate Medical Cannabis Act of 2014" into State law, which serves as an outline for its medical marijuana industry; and

WHEREAS, on March 25, 2016, Governor Scott signed the "Compassionate Use of Low-THC and Medical Cannabis" into State law; and

WHEREAS, on November 8, 2016, Florida voters approved a ballot initiative to amend the Florida Constitution creating Article X, section 29, Medical Marijuana Production, Possession, and Use, to allow broader sale and use of marijuana to treat debilitating medical conditions for eligible patients; and

WHEREAS, on June 9, 2017, the Florida Legislature passed a medical marijuana bill (Senate Bill 8-A) to implement Article X, section 29 of the Florida Constitution, which allows the use of marijuana by patients with debilitating medical conditions; and

WHEREAS, on June 23, 2017, the Florida Governor signed the medical marijuana bill into law. The law went into effect on July 1, 2017; and

WHEREAS, Section 381.986(11), *Florida Statutes*, authorizes a county or municipality to "ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality"; and

WHEREAS, Section 381.986(11), *Florida Statutes*, further provides that "a county or municipality that does not ban dispensing facilities under this subparagraph may not place specific limits, by ordinance, on the number of dispensing facilities that may locate within that county or municipality," and that except as provided in paragraph (c), 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*; and

WHEREAS, given the rapidly evolving landscape of medical marijuana in the State of Florida and that the legislature has allowed local jurisdictions only two options: 1) allow medical marijuana treatment center dispensaries within their jurisdictional boundaries and regulate same no more stringently than they regulate pharmacies; or 2) ban medical marijuana treatment center dispensaries within their jurisdictional boundaries altogether; the City Commission finds it to be in the best interest of the health, safety, and welfare of residents, businesses, and visitors

of the City of Bowling Green to prohibit medical marijuana treatment center dispensaries within the jurisdictional boundaries of the City at this time; and

WHEREAS, given the rapidly evolving landscape of medical marijuana within the State of Florida and that the State legislative action was the result of an amendment to the State Constitution, the City Commission believes there is a high likelihood of future State legislation regarding medical marijuana and potential for legal challenges to the State legislation already adopted; and

WHEREAS, the City Commission desires to ensure that, in the event of any change, whether legislative, judicial, or administrative, to the City's authority to prohibit medical marijuana treatment center dispensaries within its jurisdictional boundaries, the City has sufficient time to consider and adopt any standards or regulations regarding medical marijuana and medical marijuana treatment center dispensaries that are consistent with Florida law at that time to protect the health, safety, and welfare of the citizens, businesses, and visitors of the City of Bowling Green; and

WHEREAS, accordingly, the City Commission has found it necessary to include in this Ordinance a moratorium on the acceptance, processing and approval of medical marijuana treatment center dispensaries (including by way of acceptance, processing and approval of applications for development orders and permits) within the City limits that would last one year from the effective date of any legislative change or final court order striking or otherwise altering the City of Bowling Green's ability to ban or prohibit medical marijuana treatment center dispensaries within the City limits; and

WHEREAS, the City Commission of the City of Bowling Green finds that this ordinance promotes the general welfare; and

WHEREAS, the City Commission (which serves as the Local Planning Agency) has reviewed the proposed revisions and amendments at a public hearing on October 10, 2017, and November 14, 2017, and has recommended approval; and

WHEREAS, the City Commission, after taking into consideration the recommendations of the City Staff, and the comments received during the public hearing process, finds that the proposed revisions and amendments are appropriate, desirable, and in the best interests of the City.

NOW, THEREFORE BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF BOWLING GREEN, FLORIDA as follows:

SECTION 1. RECITALS. The provisions set forth in the recitals to this Ordinance (whereas clauses) are hereby adopted by the Commission as the legislative findings and intent pertaining to this Ordinance.

SECTION 2. UNIFIED LAND DEVELOPMENT CODE. The Unified Land Development Code (ULDC) of the City of Bowling Green is hereby amended as shown in Exhibit "A", which is attached and made a part hereof.

SECTION 3. CONFLICTS. All ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect, provided however, that nothing herein shall be interpreted so as to repeal any existing ordinance or resolution relating to means

of securing compliance with the City's Unified Land Development Code (ULDC), unless such repeal is explicitly set forth herein.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City of Bowling Green, Florida, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 5. CODIFICATION. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Bowling Green; and that sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code of Ordinances of the City of Bowling Green is accomplished, sections of this Ordinance may be renumbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or his or her designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon passage after second reading/public hearing

INTRODUCED AND PASSED on First Reading this 10 day of October 2017.

PASSED AND DULY ADOPTED, on Second Reading with a quorum present and voting, by the City Commission of Bowling Green, Florida, this 14 day of November 2017.

CITY OF BOWLING GREEN



Robert Samuel Fite, Mayor

Attest:



Carmen Silva, City Clerk

Approved as to Form:



Gerald Buhr, City Attorney

ORDINANCE 2017-09
EXHIBIT "A"

DELETIONS AND ADDITIONS TO THE UNIFIED LAND DEVELOPMENT CODE ARE
SHOWN IN STRIKETHROUGH - UNDERLINE FORMAT

UNIFIED LAND DEVELOPMENT CODE

ARTICLE 2: REGULATIONS FOR SPECIFIC DISTRICTS

2.04.00 Establishment of Districts

2.04.01 Zoning District Summary Tables

The tables on the following pages present, in a quick-reference form, information regarding permitted and special exception land uses, and development standards for all zoning districts. These tables must be read in conjunction with the regulations for specific zoning districts in Section 2.04.02. The key to the table is as follows:

- P = Permitted Use – Use is permitted by right subject to all other applicable standards
- S = Special Exception - Use is permitted if it meets the conditions in Section 3.09.00, subject to all other applicable standards, and only after review and approval by the Planning Board and the City Commission.
- D = Site Development Plan – Use is permitted if it meets standards in Section 3.08.00, and all other applicable standards.

Table 2.04.01(A), Table of Land Uses											
Category/Use	AG	R-1	R-2	R-3	C-1	C-2	I	PI	PR	C-P	
Office/Financial/Medical Facilities/Club											
Bank/financial institution					P	P					D
Clinic					P	P		P			D
Hospital					P	P		P			S
Medical laboratory						P		P			S
Medical Cannabis Dispensing Facilities						S					
<u>Pharmacies*</u>					<u>P</u>	<u>P</u>					
Private club					P	P	P	P	P		
Professional office					P	P					D
Real estate/business office					P	P					D
P = Permitted Use; D = Site Development Plan; S = Special Exception											

* Medical Marijuana Treatment Center Dispensing Facilities are prohibited and shall not be located within the boundaries of the City. The City shall not accept, process or approve any request or application for a development order, building permit or other approval associated with a proposed Medical Marijuana Treatment Center Dispensing Facility.

ARTICLE 3: DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

3.09.00 Development Standards for Uses Permitted by Special Exception

The purpose of this Section is to create an approval process for Special Exception uses, those that are permitted only through special application and public review. Its intent is to ensure that such uses, if approved, are compatible with surrounding properties, and are developed in suitable locations with those design features that are necessary to safeguard the public health, safety, and welfare.

Special Exceptions shall be granted in accordance with the provisions of Section 7.06.00. Special standards and requirements presented in this Section are conditions for approval of the Special Exception and shall be binding on all development authorized under the Special Exception.

The following standards apply to uses listed as "S" Special Exceptions in Section 2.04.01, Table 2.04.01 (A), and approved under the provisions of Article 7, Section 7.06.00. Where standards provided herein exceed and/or create greater restrictions than those of the underlying zoning district, this Section shall supersede any other provision of this Code. Where no standard is established in this Section, that of the relevant zoning district shall apply.

~~3.09.01 ——— Medical Cannabis Dispensing Facilities~~

- (A) ~~Medical Cannabis Dispensing Facilities Licensing and Compliance with Other Laws.~~

~~Medical cannabis dispensing facilities must be licensed by the state as required in Florida Statutes 381.986(6). All medical cannabis dispensing facilities shall at all times be in compliance with all federal and state regulations, and the City of Bowling Green Land Development Code, as may be applicable and amended from time to time.~~

- (B) ~~Zoning Restrictions.~~

~~Medical cannabis dispensing facilities shall be permitted as special exceptions in only the C-2 zoning district throughout the City only through the special exception approval process required through Section 7.06.00.~~

- (C) ~~Limitation on Number of Facilities:~~

~~In accordance with Florida Statutes 381.986(8)(b), the City of Bowling Green limits the number of medical cannabis dispensing facilities within the City limits to one facility. This facility must meet the location criteria separation distances included in Section 3.09.01(G).~~

~~(D) — *Single Addresses.*~~

~~No other business, aside or separate from the dispensing of medical cannabis shall be permitted to be conducted from the same address where the medical cannabis dispensing facilities is located.~~

~~(E) — *Controlled Substances.*~~

~~The onsite sale, provision, or dispensing of cannabis is prohibited except as specifically authorized by either federal or state law. The onsite cultivating and processing of cannabis shall be prohibited within the City limits.~~

~~(F) — *Definitions.*~~

~~The City adopts by reference the definitions established in Florida Statutes 381.986 and Florida Administrative Code 64-4.001, as they may, from time to time, be amended and those definitions included in Article 9 of the Bowling Green Land Development Code.~~

~~(G) — *Separation Distances.*~~

~~Medical cannabis dispensing facilities and all business signage shall meet the following separation distance requirements:~~

- ~~(1) — No medical cannabis dispensing facilities shall be located within 500 feet of any property zoned Residential or Agricultural;~~
- ~~(2) — No medical cannabis dispensing facilities shall be located within 1,000 feet of another medical cannabis dispensing facilities.~~
- ~~(3) — No medical cannabis dispensing facilities shall be located within 2,000 feet of any day care center or public recreation facility;~~
- ~~(4) — No medical cannabis dispensing facilities shall be located within 2,500 feet of any church or school.~~

~~This distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the nearest point of the licensee's place of business or proposed place of business to the nearest point of the property in use as part of the school, day care center, public recreation facility, or medical cannabis dispensing facilities or to the edge of the property zoned residential or agriculture.~~

~~(H) — *Hours of Operation for On-site Dispensing.*~~

~~Medical cannabis dispensing facilities shall not dispense from its premises low-THC cannabis, medical cannabis, or a cannabis delivery device between the hours of 9:00 P.M. and 7:00 A.M., but may perform all other operations and~~

~~deliver low-THC cannabis and medical cannabis to qualified patients 24 hours each day.~~

~~(I) — *No Drive-Thru Service.*~~

~~No medical cannabis dispensing facilities shall have a drive-thru or drive-in service aisle. All dispensing, payment for and receipt of said cannabis shall occur from within or inside the medical cannabis dispensing facilities.~~

~~(J) — *Parking.*~~

~~Any parking demand created by a medical cannabis dispensing facilities shall not exceed the parking spaces located or allocated on site, as required by the City's parking regulations. An applicant shall be required to demonstrate that on-site traffic and parking attributable to the medical cannabis dispensing facilities will be sufficient to accommodate traffic and parking demands generated by the medical cannabis dispensing facilities, based upon a current traffic and parking study prepared by a certified professional.~~

~~(K) — *Queuing of Vehicles.*~~

~~The medical cannabis dispensing facilities shall ensure that there is no queuing of vehicles in the rights of way. The medical cannabis dispensing facilities shall take all necessary and immediate steps to ensure compliance with this paragraph.~~

~~(L) — *No On-Site Consumption of Cannabis and/or Intoxicating Beverages.*~~

~~No consumption of cannabis or intoxicating beverages shall be allowed on the premises, including in the parking areas, sidewalks, or rights of way. The medical cannabis dispensing facilities shall take all necessary and immediate steps to ensure compliance with this paragraph.~~

~~(M) — *No Loitering.*~~

~~A medical cannabis dispensing facilities shall provide adequate seating for its patients and business invitees. The medical cannabis dispensing facilities shall not direct or encourage any patient or business to stand, sit (including in a parked car), or gather or loiter outside of the building where the dispensary/treatment center operates, including in any parking areas, sidewalks, rights of way, or neighboring properties for any period of time longer than reasonably required for patients to conduct their official business and depart. The medical cannabis dispensing facilities shall post conspicuous signs on at least three (3) sides of the building stating that no loitering is allowed on the property.~~

~~(N) — Safety and Security Measures.~~

~~In addition and support of the safety and security requirements of Florida Statutes 381.986(6), the following safety and security measures are required.~~

- ~~(1) — Storage. — During non-business hours, all stock must be kept in a locked, one-half (1/2) ton or greater safe, with a minimum TL-15 rating, which is bolted to the floor. During business hours, all stock not on display, will be kept in the same locked safe.~~
- ~~(2) — Alarm and Video Monitoring System. — Medical cannabis dispensing facilities shall be equipped with, and the operators of such dispensaries/treatment centers shall maintain in working order at all times, a security alarm system and a 24-hour video monitoring system as required by Florida Statutes 381.986(6).~~
- ~~(3) — Lighting. — All lights shall be shielded to focus and direct light onto the uses established, and away from adjacent property, but may be of sufficient intensity to discourage vandalism and theft.~~
- ~~(4) — Manager on Premises. — All operations shall have a responsible person who shall be at least twenty-one (21) years of age and shall be on the premises to act as manager at all times during which any dispensary/treatment center is open to the public or any portion thereof.~~
- ~~(5) — Two Employees on Premises: — As required by Florida Statutes 381.986, two employees or two employees of a contracted security firm must be on premises at all times.~~

~~(O) — Minors.~~

~~It shall be unlawful for any permittee, operator, or other person in charge of any medical cannabis dispensing facilities to employ any person who is not at least eighteen (18) years of age. Persons under the age of eighteen (18) shall not be allowed on the premises of a dispensary/treatment center unless they are a qualified patient or they are in the presence of their parent, legal guardian, legal representative as defined in Florida Statutes 381.986, or a primary caregiver. The entrance to a medical cannabis dispensing facilities shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.~~

ARTICLE 9: DEFINITIONS

Cannabis Delivery Device: An object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing low-THC cannabis or medical cannabis into the human body.

Dispensing Organization: An organization approved by the Department of Health to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to Florida Statutes Section 381.986.

Low-THC Cannabis: A plant of the genus Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization.

Medical Cannabis: All parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in s. 499.0295.

~~**Medical Cannabis Dispensing Facility:** A facility that is operated by an approved dispensing organization holding all necessary licenses and permits from which medical cannabis, cannabis based products, or cannabis plants as permitted through Florida Statutes 381.986 are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal, and state laws. Per Florida Administrative Code Rule 64-4.001(11)(c) "any area designated in the application where Derivative Product is dispensed at retail." Medical cannabis dispensing facilities do not include cultivation facilities or processing facilities as defined in Florida Administrative Code Rule 64-4.001(11)(c).~~

Medical Marijuana Dispensing Facility: Any property where medical cannabis or low-THC cannabis or Marijuana Delivery Devices are sold, purchased, delivered, or dispensed for medical use by a Medical Marijuana Treatment Center as defined by Section 29, Article X of the State Constitution and as authorized by State law.

Medical Marijuana Treatment Center (MMTC): An entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department. (Term as defined by Section 29, Article X of the State Constitution.)