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City of Hollywood Code of Ordinances

CHAPTER 109A: MEDICAL MARIJUANA BUSINESSES

Section

- 109A.01 Definitions
- 109A.02 Location of medical marijuana retail centers
- 109A.03 Supplemental requirements
- 109A.04 Revocation of special exception
- 109A.05 Public consumption of marijuana

§ 109A.01 DEFINITIONS.

For the purpose of this Chapter, the following definition(s) shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. An individual or business entity desiring to operate a Medical Marijuana Retail Center within the City limits.

BUSINESS OPERATING NAME. The legal or fictitious name under which a Medical Marijuana Retail Center conducts its business with the public.

CANNABIS. See Marijuana definition below.

CAREGIVER. A person; who is at least 21 years old, a permanent resident of the State and registered with the Department to assist with a qualified patient's use of medical cannabis.

DEPARTMENT. Florida Department of Health.

IDENTIFICATION TAG. A tamperproof card issued by the Medical Marijuana Retail Center to the persons involved with a Medical Marijuana Retail Center as evidence that they have passed the background checks and other requirements of this Chapter and are authorized to be present on the Premises.

MARIJUANA. All part of any plant(s) of the genus Cannabis, whether growing or not, the seeds thereof; the resin extracted from any part of the plant(s); and every compound, manufacture, salt derivative, mixture, or preparation of the plant(s) or seed or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in § 499.0295, Florida Statutes. Marijuana includes any strain of Marijuana or Cannabis, in any form that is authorized by State law to be dispensed or sold in the State of Florida. Also referred to as "medical marijuana".

MEDICAL MARIJUANA RETAIL CENTER. A retail establishment, licensed by the Florida Department of Health as a "medical marijuana treatment facility," "medical marijuana treatment center," "dispensing organization," "dispensing organization facility." or similar use, that sells and dispenses medical Marijuana, but does not engage in any other activity related to the preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of Marijuana or Marijuana product, and does not allow on-site consumption of Marijuana. A Medical Marijuana Treatment Center shall not be construed to be a Medical Marijuana Retail Center.

MEDICAL MARIJUANA TREATMENT CENTER. Any facility licensed by the Florida Department of Health to acquire, cultivate, possess, process (including but not limited to development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, store, or administer Marijuana, products containing Marijuana, related supplies, or educational materials, as authorized by State law. A Medical Marijuana Treatment Center may include retail sales or dispensing of Marijuana. A facility which provides only retail sales or dispensing of Marijuana shall not be classified as a Medical Marijuana Treatment Center under this Chapter. Also may be referred to as a "Medical Marijuana Treatment Facility" or "dispensing organization" or other similar term recognized by State law.

OWNER. Any person, including any individual or other legal entity, with a direct or indirect ownership interest of five percent or more in an applicant, which interest includes the possession of stock, equity in capital, or any interest in the profits of an applicant.

PREMISES. The building, within which a Medical Marijuana Retail Center is permitted to operate by the City, including the property on which the building is located, all parking areas on the property or that are utilized by the Medical Marijuana Retail Center and sidewalks and alleys within 100 feet of the property on which the Marijuana Retail Center is located.

QUALIFIED REGISTERED PATIENT/QUALIFIED PATIENT. A resident of the State of Florida who has been added to the State's compassionate use registry by a physician licensed under F.S. Chapters 458 or 459, to receive Medical Marijuana from a dispensing organization or Medical Marijuana Treatment Center or similar use as defined in Florida Statutes.

(Ord. O-2017-01, passed 2-1-17)

§ 109A.02 LOCATION OF MEDICAL MARIJUANA RETAIL CENTERS.

(A) No Medical Marijuana Retail Centers shall be permitted to operate in the below locations unless such facility has been approved as a Special Exception by the Planning and Development Board pursuant to the criteria set forth in Article 5 of the Zoning and Land Development Regulations and the supplemental requirements set forth in § 109A.03, below. An approved special exception shall not inure nor be transferred to a new owner, or possession, control, or operation of the establishment surrendered to such other person until a new special exception has been obtained by the new applicant in accordance with this Chapter and Article 5 of the Zoning and Land Development Regulations. Those Medical Marijuana Retail Centers approved as a Special Exception, shall only be permitted in the following locations:

(1) IM-1 Low Intensity Industrial and Manufacturing District, located west of Interstate-95, east of the CSX Railroad, north of Sheridan Street and south of Stirling Road; and

(2) IM-3 Medium Intensity Industrial and Manufacturing District, located west of Interstate-95, east of State Road 7, north of Griffin Road, and south of Interstate-595.

(B) *Distance requirements.* Medical Marijuana Retail Centers shall adhere to the following distance requirements which shall also be applicable from such establishments located outside the City limits:

(1) There shall be a minimum of 500 linear foot distance separation requirement. Any Medical Marijuana Retail Center, or any business selling Marijuana shall be separated from the following uses:

- (a) Pain Management Clinics;
- (b) Pharmacy \leq 9,000 square feet;
- (c) Social Service Facility;
- (d) Zoning Districts that permit residential; and
- (e) Substance Abuse and Rehabilitation Center.

(2) There shall be a 1,000 linear foot distance separation requirement between a Medical Marijuana Retail Center and the following uses:

- (a) Educational establishments;
- (b) Day cares;
- (c) Places of Worship; and
- (d) Public Parks, including recreational buildings and community facilities.

All distance separations set forth above shall be measured linearly, from closest property line to closest property line, by an actual or imaginary straight line upon the ground or in the air. Any other provision of this code or the Zoning and Land Development Regulations to the contrary notwithstanding, there shall be no variances from the above distance requirements granted for any reason.

(C) *Numerical limits on Medical Marijuana Retail Centers.* The maximum number of operating Medical Marijuana Retail Centers shall not exceed one for every 65,000 residents, as certified in the most recent census or period demographic study conducted by the University of Florida.

(Ord. O-2017-01, passed 2-1-17)

§ 109A.03 SUPPLEMENTAL REQUIREMENTS.

(A) In addition to the standard special exception application requirements and meeting all requirements for a special exception under Article 5 of the Zoning and Land Development Regulations, the application for a special exception shall also include the following:

(1) The application shall be a joint application by the property owner and the tenant if the Medical Marijuana Retail Center and the property are not owned by the same person or entity; and

(2) The business operating name and all applicant and owner information. If the applicant or owner is:

(a) An individual, his/her legal name, aliases, home address and business address, date of birth, copy of driver's license or state or federally issued identification card;

(b) A partnership, the full and complete name of all general and limited partners, dates of birth, copy of driver's license or state or federally issued identification card of all general and limited partners, and all aliases used by all of the partners, whether the partnership is general or limited, a statement as to whether or not the partnership is authorized to do business in the State of Florida and, if in existence, a copy of the partnership agreement (if the general partner is a corporation, then the applicant shall submit the required information for corporate applicant in addition to the information concerning the partnership); or

(c) A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, copy of the driver's licenses or state or federally issued identification cards of all officers, and directors, and all aliases used, the capacity of all officers, and directors, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or not the corporation is authorized to do business in the State of Florida.

(d) The addresses required by this section shall be physical locations, and not post office boxes.

(3) A copy of the lease identifying the specific use, if the Medical Marijuana Retail Center and the property are not owned by the same person or entity;

(4) A complete copy of the business' application filed with the State of Florida and all related exhibits, appendices, and back up materials for approval and licensure as a Medical Marijuana Retail Center;

(5) Copies of any and all state and other licenses issued to the applicant to engage in the Marijuana business;

(6) A statement as to whether the applicant or any owner or employee has previously received a Medical Marijuana special exception;

(7) A statement as to whether the applicant or any owner holds other permits or license under this Chapter and, if so, the names and locations of such Medical Marijuana Retail Centers granted a special exception by the City;

(8) A statement as to whether the applicant or any owner has been a partner in a partnership or an officer/director of a corporation whose special exception issued under this Chapter and pursuant to Article 5 of the Zoning and Land Development Regulations has previously been revoked, including the name and location of the establishment for which the special exception was revoked as well as the date of revocation;

(9) A statement as to whether or not the applicant or any owner has lost any privilege or had any permit or license to do business suspended or revoked by any local, state or federal government and, if so, the nature of such privilege, permit, license and the reason for such suspension or revocation;

(10) A statement as to whether or not the applicant or any owner or employee has been found guilty of or has pleaded guilty or nolo contendere to a felony relating to any business in this State or in any other State or Federal court regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases;

(11) A statement as to whether or not the applicant or any owner or employee has been found guilty of, or has pleaded guilty or nolo contendere to, a felony relating to a battery or physical violence on any person in this State or in any other State or Federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases;

(12) Written documentation, acceptable to the Chief of Police or his/her designee, that the applicant, every owner, and each employee has successfully completed level 2 background screening within the year;

(13) A passport photograph of the applicant and every owner;

(14) A survey sealed by a Florida registered land surveyor who is licensed by the State of Florida. The survey shall indicate the distance between the proposed Medical Marijuana Retail Center and any other protected use as set forth in § 109A.02 above; and

(15) A notarized, signed, and sworn statement that the information provided within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued photo identification cards are currently valid and are true and correct copies of the originals.

(B) In addition to the special exception criteria set forth in Article 5 of the Zoning and Land Development Regulations, an applicant seeking a special exception must show by competent substantial evidence, that it has the ability to comply with the conditions set forth below:

(1) *Loitering.* Adequate seating for its patients and business invitees shall be provided at all times and the Medical Marijuana Retail Center shall not allow patients or business invitees to stand, sit (including in a parked vehicle or on a bicycle), gather, or loiter outside of the building where the Medical Marijuana Retail Center operates, including; in any parking areas, sidewalks, rights-of-way, or neighboring properties for any period of time longer than reasonably required to arrive and depart. Signs shall be posted in a conspicuous location on all sides of that portion of a building occupied by the Medical Marijuana Retail Center that no loitering is allowed on the property.

(2) *Parking.* Any parking demand created shall not exceed the supply of parking spaces legally available within the parking areas allocated on the site plan as required by the Zoning and Land Development Regulations. An applicant may be required to demonstrate that on-site traffic flow and parking will be sufficient to accommodate parking demands generated based on a current traffic and parking study prepared and certified by a licensed Traffic Engineer, if requested by the City.

(3) *Queuing of vehicles.* The Medical Marijuana Retail Center shall ensure that there is no queuing of vehicles in the rights-of-way. The Medical Marijuana Retail Center shall take all necessary and immediate steps to ensure compliance.

(4) *No drive-thru service or take-out.* No Medical Marijuana Retail Center shall have a drive-thru, drive-in, curbside pickup, take-out window or the like. All dispensing, payment for and receipt of products shall occur inside the business premises.

(5) *Delivery service.* All deliveries to the Medical Marijuana Retail Center shall be made while on-site security personnel are present.

(6) *No vending machines.* No Medical Marijuana Retail Center shall utilize any type of vending machines for the dispensing of Marijuana and/or marijuana paraphernalia on-site or off-site.

(7) *On-premises consumption of Marijuana.* No consumption of Marijuana is allowed on the premises on which a Medical Marijuana Retail Center is located, including the parking areas, sidewalks, buildings, and rights-of-way.

(8) *Alcoholic beverages.* There shall be no sale or consumption of alcoholic beverages allowed on the premises on which a Medical Marijuana Retail Center is located, including the parking areas, sidewalks, buildings, and rights-of-way.

(9) *Display.* There shall be no outdoor display of any products, wares, merchandise, or paraphernalia. The Medical Marijuana Retail Center's site plan shall clearly show that Marijuana, and paraphernalia including related products or facsimile of products, are not visible from the rights-of-way. No Marijuana or product of any kind shall be visible from any window or exterior glass door. No living Marijuana plants are permitted on the site of a Medical Marijuana Retail Center.

(10) *Security.* Every Medical Marijuana Retail Center shall incorporate safety measures to protect its property, employees and invitees during and outside of the dispensary's business hours, which measures, at a minimum shall include installation of a security system and/or security personnel as approved and verifiable at all times, as appropriate, by the City's Chief of Police or his/her designee. The applicant shall submit at the time of application for the special exception, a security plan demonstrating compliance with F.S. § 381.986, and all other applicable statutes and State administrative rules.

(a) In addition to proving compliance with all State requirements, the security plan shall, at minimum, provide the following:

1. Full operational lighting and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft, both in the premises and in surrounding rights-of-way, including:

A. A silent security alarm that notifies the Police Department that a crime is taking place;

B. A vault, drop safe or cash management device that provides minimum access to the cash receipts; and

C. A security camera system capable of recording and retrieving, for at least 30 days, an image, which shall be operational at all times during and after business hours. The security cameras shall be located:

i. At every ingress and egress to the dispensary, including doors and windows;

ii. On the interior where any monetary transaction shall occur; and

iii. At the ingress and egress to any area where medical Marijuana is stored.

2. Traffic management and loitering controls.

3. Cash and inventory controls for all stages of operation on the premises, and during transitions and delivery.

4. On-site armed security personnel from one hour before the business opens to the public until one hour after the business closes to the public.

(b) The Chief of Police, or his/her designee, shall review the applicant's operational and security plan using Crime Prevention through Environmental Design (CPTED) principles. The Chief may, or his/her designee may, impose site and operational revisions as are deemed reasonably necessary to ensure the safety of the applicant, owner(s), employees, customers, adjacent property owners and residents, which may include items such as methods and security of display and storage of Marijuana and cash, limitations on window and glass door signage, illumination standards, revisions to landscaping, and any other requirement designed to enhance the safety and security of the premises.

(c) Any instance of breaking and entering at a Medical Marijuana Retail Center, regardless of whether Marijuana or Marijuana-based products are stolen, shall constitute a violation of this Chapter if the security alarm shall fail to activate simultaneously with the breaking and entering.

(d) Each applicant, owner, employee, and manager shall, as soon as reasonably practicable, report all felonies and any theft, suspected theft or loss of Marijuana or Marijuana-based products that occurs at the business to the Police Department and any other entity that requires them to report such incidents.

(11) *Hours of operation and delivery services.* A Medical Marijuana Retail Center shall only be allowed to operate between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and 7:00 a.m. and 12:00 p.m. on Saturdays and Sundays. All deliveries to the Medical Marijuana Retail Center shall be made during regular operating hours while on-site security personnel are present.

(12) *Other activities.* Other than dispensing of Marijuana as permitted herein, no Medical Marijuana Retail Center shall sell, market, dispense, provide, exchange, or otherwise vend any other services, product, or drug paraphernalia as defined by federal or state law. In addition, no Medical Marijuana Retail Center Medical Director or doctors, physicians, agents, employees, representatives, contractors or the like, shall provide any other medical, social or psychological counseling, diagnosis or advice to any patient or business invitee. No Medical Marijuana Retail Center may be associated with a Medical Office, Pain Management Clinic, Social Service Facility, or Substance Abuse or Rehabilitation Center.

The preparation, wholesale storage, cultivation, or processing of any form of Marijuana or Marijuana-based product, and on-site consumption of any Marijuana or Marijuana-based product is specifically prohibited at a Medical Marijuana Retail Center. On-site storage of any form of Marijuana or Marijuana-based product is prohibited, except to the extent reasonably necessary for the conduct of the on-site retail business.

(13) *Odor and air quality.* A complete air filtration and odor elimination filter and scrubber system shall be provided ensuring the use will not cause or result in the dissemination of dust, smoke, or odors beyond the confines of the building, or in the case of a tenant in a multi-tenant building, beyond the confines of the occupied space. A double door system shall be provided at all entrances to mitigate odor intrusion into the air outside the Medical Marijuana Retail Center.

(14) *Signage.* Medical Marijuana Retail Center shall post, at each entrance to the Medical Marijuana Retail Center the following language:

ONLY INDIVIDUALS WITH
LEGALLY RECOGNIZED
MARIJUANA OR CANNABIS
QUALIFYING PATIENT OR
LEGAL REPRESENTATIVE
IDENTIFICATION CARDS OR A
QUALIFYING PATIENT'S LEGAL
GUARDIAN MAY OBTAIN
MARIJUANA FROM A MEDICAL
MARIJUANA RETAIL CENTER.

The required text shall be in letters one-half inch in height.

(15) *On-site community relations contact.* The Medical Marijuana Retail Center shall provide the City Manager or his/her designee, and all property owners and tenants located within 100 feet of the entrance to its building, with the name, phone number, and e-mail or facsimile number of an on-site community relations staff person to whom they can provide notice during business hours, and after business hours, to report operating problems. The Medical Marijuana Retail Center shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police Department or other City Officials.

(16) *Employment restrictions.* It shall be unlawful for a Medical Marijuana Retail Center to employ any person who (a) is not at least 21 years of age: or (b) has not passed a level 2 background screening.

(17) *Persons allowed to enter the premises.*

(a) *Underage entry.* It shall be unlawful for any Medical Marijuana Retail Center to allow any person who is not at least 18 years of age on the premises during hours of operation, unless that person is authorized by State law to purchase Medical Marijuana, whether as a qualified patient with a valid identification card or caregiver of a qualified patient with a valid identification card.

(b) *Entry by persons authorized by State law.* It shall be unlawful for any Medical Marijuana Retail Center to allow any person on the premises during the hours of operation if that person is not authorized by State law to be there. Authorized persons, such as owners, managers, employees and qualified registered patients, and their caregivers must wear an Identification Tag, and authorized inspectors and authorized visitors must wear a visitor identifying badge and be escorted and monitored at all times by a person who wears his or her Identification Tag.

(18) *Maintenance of premises.* A Medical Marijuana Retail Center shall actively remove litter at least twice each day of operation on the premises. from the Premises, the area in front of the premises, from any parking lot used by its patrons, and if necessary, on or from public sidewalks or rights-of-way within 100 feet of the outer edge of the premises used by its patrons.

(19) *Compliance with other laws.* Each Medical Marijuana Retail Center shall at all times be in compliance with all federal, state and local laws and regulations, as may be applicable.

(a) A Medical Marijuana Retail Center shall notify the City, in writing, within five business days of receipt of any notice of violation or warning from the State or of any changes to its State licensing approvals.

(b) If a Medical Marijuana Retail Center receives a notice of violation or warning from the State, it shall, no later than 20 business days after receipt of the notice, provide a copy of the corrective action plan and timeframes and completion date to address the identified issues to the City's Planning Division.

(C) *Special exception and Identification Tag required.* In connection with the approval of a special exception for a Medical Marijuana Retail Center, the Chief of Police or his/her designee shall, upon verification of successful level 2 background screening, confirm that Identification Tags have been issued to each approved applicant for a special exception as well as for each owner and each employee. Each person employed in the conduct of a Medical Marijuana Retail Center shall be screened and approved as set forth below and required to obtain an Identification Tag before the Medical Marijuana Retail Center opens for business or, for persons who become involved with the Medical Marijuana Retail Center after it is open, before having any involvement in the Medical Marijuana Retail Center's activities. The applicant shall be required to provide the Chief of Police with an employee identification tag log at least ten days prior to the opening of the business, and the log will consist of the name of the employee, date of employment, and a copy of the required identification tag. The log shall be updated on a monthly basis and submitted to the Police Chief. The applicant/owner shall maintain a copy of the log on-site and accessible for inspection by the City. Any employees who are terminated or who no longer work at the Medical Marijuana Retail Center, shall turn in their Identification Tags at the time of termination or expiration of employment. On the face of each Identification Tag, there shall be placed the following:

- (1) A photograph of the applicant/owner/ employee;
- (2) The Planning and Development Board Resolution No. and Certificate of Use No.; and
- (3) The name and address of the Medical Marijuana Retail Center that the applicant/owner/employee represents or is employed by.

(Ord. O-2017-01, passed 2-1-17)

§ 109A.04 REVOCATION OF SPECIAL EXCEPTION.

In the event that the Medical Marijuana Retail Center is not used in accordance with the applicable regulations or provisions of an approved special exception, such special exception is subject to revocation. Revocation of the special exception shall be effected as follows:

(A) Upon finding that a property is not being used in conformance with the applicable regulations, laws or provisions of the special exception, the Director of Development Services shall notify the occupant of the property, and property owner, of such nonconformance. Upon receiving such notice, the occupant of the property and the property owner shall have 30 days in which to comply with the applicable regulations, laws or provisions of the special exception.

(B) If after 30 days, the occupant of the property and the property owner fail to comply with the applicable regulations, laws or provisions of the special exception, the Director of

Development Services shall request that the City's Planning and Development Board schedule a public hearing for purposes of determining whether the special exception should be revoked.

(C) Upon receiving a request for a public hearing, the Planning and Development Board shall set such hearing and hold a public hearing to consider revocation of the special exception. The Director of Development Services shall provide written notice to the occupant of the property and to the property owner of the scheduled public hearing. The occupant of the property and the property owner will have the opportunity to appear and be heard by the Planning and Development Board at the public hearing.

(Ord. O-2017-01, passed 2-1-17)

§ 109A.05 PUBLIC CONSUMPTION OF MARIJUANA.

Nothing in this Chapter shall be deemed to permit the public consumption of any form of Marijuana. Further, it shall be unlawful for any person to smoke, ingest or consume Marijuana, Medical Marijuana, Cannabis, or low-THC Cannabis as defined in Florida Statutes, in any form in any public building, public right-of-way, or public space within the City.

(Ord. O-2017-01, passed 2-1-17)