

ORDINANCE NO.: 2014-04

AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA RELATING TO MEDICAL MARIJUANA; AMENDING THE CODE OF ORDINANCES, CHAPTER 134, "ZONING;" PROVIDING DEFINITIONS; PROVIDING THAT MEDICAL MARIJUANA DISPENSARIES, NON-MEDICAL MARIJUANA SALES AND CANNABIS FARMS ARE PROHIBITED USES IN CERTAIN ZONING DISTRICTS; PROVIDING THAT MEDICAL MARIJUANA DISPENSARIES ARE A PERMITTED SPECIAL EXCEPTION USE IN THE INDUSTRIAL ZONING DISTRICT; PROVIDING ADDITIONAL STANDARDS AND CONSIDERATIONS FOR APPROVAL OF A SPECIAL EXCEPTION APPLICATION FOR A MEDICAL MARIJUANA DISPENSARY PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida is considering legalizing the dispensing of marijuana for medical purposes; and

WHEREAS, the City Council of the City of Edgewood has determined that it is in the best interests of the citizenry and general public to regulate the location of medical marijuana dispensaries in the event the State of Florida legalizes said dispensaries; and

WHEREAS, the City Council has the responsibility and authority to determine what uses are best suited to particular zoning categories as well as land use categories within the City; and

WHEREAS, the City Council of the City of Edgewood has determined that given the potential impact on the surrounding area, that Medical Marijuana Dispensaries should only be allowed within the Industrial zoning district, as a special exception use; and

WHEREAS, the City Council of the City of Edgewood has determined that it is advisable and in the public interest to consider certain distance and other siting standards in regard to the location of operation of medical marijuana dispensaries as a special exception use; and

WHEREAS, the Planning and Zoning Commission, sitting as the local planning agency, has found this ordinance to be consistent with the City's Comprehensive Development Plan and recommended approval; and

WHEREAS, the City Council of the City of Edgewood finds that this ordinance promotes the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD, FLORIDA THAT:

SECTION 1. Chapter 134, "Zoning," Article IV, "District Regulations," of the City of Edgewood Code of Ordinances is hereby amended as follows (note: strikethrough text indicates deletions, underline text indicates additions, ellipses (***) identify text that remains unchanged and that is not reprinted herein):

DIVISION 6. -P-O PROFESSIONAL OFFICE DISTRICT

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Sec. 134-317. - Uses prohibited.

The following uses shall be prohibited in the P-O district:

- (1) Any business, except a medical or dental clinic or pharmacy, which displays merchandise for sale at retail or wholesale, or any business requiring the physical handling of merchandise to be sold at retail or wholesale on the premises.
- (2) Any use conducted either partially or totally outside a building or structure except for parking areas.
- (3) Veterinary establishments.
- (4) Medical Marijuana Dispensaries.
- (5) Non-medical Marijuana Sales.
- (6) Cannabis Farm.
- ~~(4)~~(7) Other uses which are similar to those listed above, and which are not specifically permitted in this division and which the prohibition thereof would maintain the intent and authority and directive of the city council, which shall be determined after public notice and public hearing.

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DIVISION 7. -C-1 RETAIL COMMERCIAL DISTRICT

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Sec. 134-347. - Uses prohibited.

The following uses shall be prohibited in any C-1 retail commercial district:

- (1) Title loan stores.
- (2) Check cashing, payday advance stores, or other similar businesses.
- (3) Labor pool offices.
- (4) Bail bond offices.
- (5) Tattoo, body piercing, massage parlors and fortunetelling shops.
- (6) Soup kitchens.
- (7) Runaway and related emergency shelters; homeless shelters.
- (8) Convalescent facilities.
- (9) Residential social service facilities; welfare, food stamp, and other social service offices and institutional facilities.
- (10) Treatment and recovery facilities.
- (11) New and used automobile and boat sales.
- (12) Medical Marijuana Dispensaries.
- (13) Non-medical Marijuana Sales.
- (14) Cannabis Farm.
- ~~(11)~~(15) Other similar uses consistent with this subsection.
- ~~(12)~~—~~New and used automobile and boat sales.~~
- ~~(13)~~(16) Any use or activity which is not in full compliance with all the requirements and standards set forth in this division.
- ~~(14)~~(17) Uses listed in section 134-403, except uses listed at section 134-403(1), or section 134-404 of the C-3, wholesale commercial district (article IV, division 9 of this chapter).

DIVISION 10. –I INDUSTRIAL DISTRICT

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Sec. 134-437. – Uses Prohibited.

The following uses shall be prohibited in any “I” Industrial district:

- (1) Non-medical Marijuana Sales.
- (2) Cannabis Farm

Sec. 134-438. – Special Exception uses.

Medical Marijuana Dispensaries. Medical Marijuana Dispensaries shall be allowed as a special exception use upon application, hearing and approval as provided in this Code of Ordinances. An application for special exception use for a Medical Marijuana Dispensary may be denied, approved or approved with conditions. In considering an application for special exception pursuant to this section, planning and zoning board and the city council shall consider the following criteria:

- (1) Compatibility of the proposed facility with the surrounding uses.
- (2) The size of the lot on which the proposed facility will be located.
- (3) The maximum number of persons that can occupy the proposed facility.
- (4) The amount of traffic generated by the proposed facility.
- (5) The general health, safety and welfare of the community.
- (6) All safety measures to be implemented by the applicant to protect the property, employees and invitees during and outside of its operating hours.

In addition to all other requirements and conditions, the applicant shall comply with all the following conditions contained herein. No special exception for a Medical Marijuana Dispensary shall be approved unless the applicant has shown by competent substantial evidence its ability to comply with each of the conditions contained herein.

- (1) Loitering. A Medical Marijuana Dispensary shall provide adequate seating for its patients and business invitees and shall not allow patients or business invitee to stand, sit (including in a parked car), or gather or loiter outside of the building where the dispensary operates, including in any parking areas, sidewalks, right-of-way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart. The Medical Marijuana Dispensary shall post conspicuous signs on at least three sides of the building that no loitering is allowed on the property.
- (2) No drive through service. No Medical Marijuana Dispensary shall have a drive through or drive in service aisle. All dispensing, payment for and receipt of products shall occur from inside the Medical Marijuana Dispensary.
- (3) Alcoholic Beverages. No consumption of alcoholic beverages shall be allowed on the premises on which a Medical Marijuana Dispensary is located, including the parking areas and sidewalks.

(4) Separation Distances. No Medical Marijuana Dispensary shall operate within two thousand five hundred (2,500) feet of any pre-existing school, church, day care facility, public park or another Medical Marijuana Dispensary.

(5) No Delivery Service. No Medical Marijuana Dispensary shall conduct any form of off-site delivery service of Medical Marijuana.

(6) No vending machines. No Medical Marijuana Dispensary shall utilize any type of vending machines for the dispensing of Medical Marijuana.

(7) Maximum copy area of freestanding signs. The maximum aggregate copy area for any freestanding signs utilized by a Medical Marijuana Dispensary shall be twelve square feet.

(8) Security. Every Medical Marijuana Dispensary shall incorporate safety measures to protect its property, employees and invitees during and outside of the dispensary's business hours, which measures shall include at a minimum installation of a security system and/or security personnel.

(9) Compliance with Other Laws. All Medical Marijuana Dispensaries shall at all times be in compliance with all federal, state and local laws and regulations.

(10) Revocation of Permit. In the event any Medical Marijuana Dispensary is found to have violated the provisions of this Section or any other conditions of approval of the special exception three times within any twelve month period, the city shall as soon as reasonably practical schedule a hearing before the code enforcement special magistrate. Upon the city establishing by competent substantial evidence that the Medical Marijuana Dispensary has violated the provisions of this Section or any other conditions of approval of the special exception three times within any twelve month period, the code enforcement special magistrate shall order the special exception revoked. Any Medical Marijuana Dispensary that has its special exception revoked pursuant to this paragraph shall not be eligible to reapply for a special exception for twelve months from the date of the revocation.

Each application for a special exception shall be accompanied by a site plan incorporating the regulations established herein. The site plan shall be drawn to scale indicating property lines, rights-of-way, and the location of buildings, parking areas, curb cuts and driveways. Said site plan shall be submitted to and considered by the planning and zoning board and the city council as provided for in article II of this chapter prior to the granting of a building permit. Upon such approval, said site plan becomes a part of the building permit and may be amended only by action of the city council after recommendation by the planning and zoning board.

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SECTION 2. Chapter 134, “Zoning,” Article I, “In General,” of the City of Edgewood Code of Ordinances is hereby amended as follows (note: strikethrough text indicates deletions, underline text indicates additions, ellipses (***) identify text that remains unchanged and that is not reprinted herein):

Sec. 134-1. – Definitions.

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Cannabis. Any plant or part of a 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, salt, derivative, mixture, or preparation of the plant or its seeds or resin

Cannabis Farm. Any property used in whole or in part for the growing or cultivation of Cannabis plants, whether or not such growing or cultivation is lawful under federal or state law.

Medical Marijuana Dispensary. A facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal and state laws. Physicians authorized by State law to order low-THC cannabis, as defined in Florida Statutes, for patients’ medical use are not included in the definition of Medical Marijuana Dispensary.

Medical Use. The prescriptive use of any form of cannabis to treat a qualifying medical condition and the symptoms associated with that condition or to alleviate the side effects of a qualifying medical treatment.

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Non-Medical Marijuana Sales. The purchase, sale, transfer or delivery of marijuana, cannabis, cannabis-based products or cannabis plants when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law.

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SECTION 3. Chapter 134, “Zoning,” Article V, “Supplement District Regulations,” of the City of Edgewood Code of Ordinances is hereby amended as follows (note: strikethrough text indicates deletions, underline text indicates additions, ellipses (***) identify text that remains unchanged and that is not reprinted herein):

Sec. 134-518. –Home Occupations.

Prohibited home occupations. Notwithstanding any other provision of this section, the following uses shall be prohibited as home occupations:

Adult entertainment.

Antique shops.

Auto service and repair.

Barbershops and beauty shops.

Bed and breakfast facilities.

Cannabis Farms.

Child care centers.

Churches.

Clubs, private.

Drive-in facilities.

Eating and drinking establishments.

Food processing.

Fortunetellers.

Funeral homes.

Group instruction of more than four people.

Health spas.

Hospital and clinics.

Hotels/motels.

Kennels.

Massage establishments.

Medical Marijuana Dispensaries.

Non-medical Marijuana Sales.

Plasmapheresis facilities.

Primary offices of professionals.

Vehicle sales, rental or repair.

Whole blood facilities.

Any other similar use or activity as determined by the city clerk.

SECTION 4. CODIFICATION. It is the intent of the City Council of the City of Edgewood that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provision of this Ordinance.

SECTION 5. SEVERABILITY. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 6. CONFLICTS. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

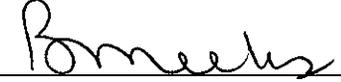
SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

ADOPTED by the City Council of the City of Edgewood, Florida, this 17th day of June, 2014.



John Dowless, Council President

ATTEST:



Bea Meeks, MMC
City Clerk