

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

UNIFIED LAND DEVELOPMENT CODE (ULDC) AMENDMENTS

TITLE: MEDICAL MARIJUANA DISPENSING FACILITIES - REQUEST FOR PERMISSION TO ADVERTISE

Staff Recommendation: Staff recommends a motion to approve the Request for Permission to Advertise for First Reading on August 24, 2017.

LDRAB/LDRC: Land Development Regulation Advisory Board (LDRAB) Recommendation and Land Development Regulations Commission (LDRC) Determination: Scheduled for July 26, 2017.

MOTION: To approve the Request for Permission to Advertise for First Reading on August 24, 2017: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 2003-067, AS AMENDED, AS FOLLOWS: **ESTABLISHING REGULATIONS RELATED TO MEDICAL MARIJUANA DISPENSING FACILITIES AND SUNSETTING THE MEDICAL MARIJUANA MORATORIUM**, AMENDING **ARTICLE 1, GENERAL PROVISIONS**; CHAPTER I, DEFINITIONS AND ACRONYMS; **ARTICLE 2, DEVELOPMENT REVIEW PROCEDURES**: CHAPTER B, PUBLIC HEARING PROCESS; **ARTICLE 4, USE REGULATIONS**: CHAPTER B, USE CLASSIFICATION; PROVIDING FOR: INTERPRETATION OF CAPTIONS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; A SAVINGS CLAUSE; INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND, AN EFFECTIVE DATE.

1 inoperative, void, or otherwise invalid, such holding shall not affect the remainder of this
2 Ordinance.

3

4 **Section 5. Savings Clause**

5 All development orders, permits, enforcement orders, ongoing enforcement actions, and
6 all other actions of the Board of County Commissioners, the Zoning Commission, the
7 Development Review Officer, Enforcement Boards, all other County decision-making and
8 advisory boards, Special Masters, Hearing Officers, and all other County officials, issued pursuant
9 to the regulations and procedures established prior to the effective date of this Ordinance shall
10 remain in full force and effect.

11

12 **Section 6. Inclusion in the Unified Land Development Code**

13 The provisions of this Ordinance shall be codified in the Unified Land Development Code
14 and may be reorganized, renumbered or re-lettered to effectuate the codification of this
15 Ordinance.

16

17 **Section 7. Providing for an Effective Date**

18 The provisions of this Ordinance shall become effective upon filing with the Department
19 of State.

20

21 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach
22 County, Florida, on this the _____ day of _____, 20____.

23

SHARON R. BOCK, CLERK &
COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Paulette Burdick, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

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25

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EFFECTIVE DATE: Filed with the Department of State on the _____ day of
_____, 20____.

EXHIBIT A

MEDICAL MARIJUANA DISPENSING FACILITY SUMMARY OF AMENDMENTS

(Updated 6/20/17)

1

BACKGROUND

In 2014, FS 381.986 (the Compassionate Medical Cannabis Act of 2014) was passed legalizing strains of a low tetrahydrocannabinol (THC) and high cannabidiol (CBD) form of cannabis (low-THC cannabis) for medical use by patients suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms. The Florida Department of Health (DOH) therefore was responsible for the implementation of the Act and sought to establish rules for Dispensing Organizations. The Dispensing Organizations and their owners, managers, and employees were not subject to licensure and regulation under Chapter 465, FS, relating to pharmacies (Florida Senate Staff Analysis Senate Bill 8-A). Florida Statute 381.986 gave local jurisdictions the authority to regulate the number, location and permitting requirements for dispensaries.

In November 2016, Constitutional Amendment 2 was passed into law and established Article X, section 29 of the State Constitution. This section of the constitution became effective on January 3, 2017 allowing for the use of Medical Marijuana for debilitating conditions.

On December 7, 2016, the Board of County Commissioners (BCC) adopted a Zoning in Progress that would temporarily suspend applications to the Zoning Division for Medical Marijuana Treatment Centers (MMTC) or Dispensing Organizations.

On February 23, 2017, the BCC adopted the Medical Marijuana Moratorium (Ord. 2017-009) that established sun setting provisions upon one-year of effective date or adoption of Code amendments. The one-year moratorium would provide staff the time to research dispensing facilities, how other jurisdictions were regulating, and prepare for implementing language adopted by the state legislature or rule-making procedures prepared by the DOH.

On March 3, 2017 the Florida Legislature began the 2017 Legislative Session. The Florida Legislature sought to enact implementing language and had proposed several house and senate bills. However, legislators could not come into agreement on several issues related to the bills and nothing was passed at the time of adjournment.

On June 6, 2017 a Legislative Special Session was convened to address pending bills which did include the Medical Marijuana topic. An implementing bill was ultimately passed by the Legislature, amending FS 381.986.

RESEARCH/ FINDINGS

Prior to the 2017 Legislative Session, Staff conducted extensive research of both local and Florida jurisdictions proposed or adopted regulations for this use that included but not limited to Hollywood, Indian River County, Miami-Dade County, Palm Springs, Royal Palm Beach, St. Lucie County and West Palm Beach. Based on staff's initial review of jurisdictions, the following types of regulations were being considered:

- Approval of the use: Public Hearing vs. Administrative
- Location standards
- Limitations on the Number
- Hours of Operation
- Safety Measures

As indicated above, FS 381.986 was amended during the Legislative Special Session. Changes related to local government authority included:

- Authority to jurisdictions to ban dispensaries;
- Prohibits jurisdictions from limiting the number of dispensaries;
- Requires cultivating or processing facilities to be located 500 feet from schools;
- Requires dispensing facilities to be located 500 feet from schools but may be reduced by the BCC;
- Prohibits jurisdictions from treating dispensaries differently than pharmacies; and,
- Dispensaries must meet Building Code and Fire Code requirements.

CONCLUSIONS

The proposed amendments will revise the existing Retail Sales use to allow for medical marijuana dispensaries in Palm Beach County based on new state legislation implementing amended FS 381.986.

Notes:

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EXHIBIT A

MEDICAL MARIJUANA DISPENSING FACILITY SUMMARY OF AMENDMENTS

(Updated 6/20/17)

1 Part 1. ULDC, Art. 1.I.2.M.30, Medical Marijuana Dispensing Organization [Related to
2 Definitions] (page 69 of 110), is hereby amended as follows:
3

Reason for amendments: [Zoning/ County Attorney] Delete Medical Marijuana Dispensing Organization definition from Article 1. The definition was added as part of the Medical Marijuana Moratorium (Ordinance 2017-009). The Moratorium language indicated sun setting provisions upon one-year of effective date or adoption of Code amendments. The deletion is a house keeping item to show the change.

4 CHAPTER I DEFINITIONS & ACRONYMS

5 Section 2 Definitions

6 M. Terms defined herein or referenced in this Article shall have the following meanings:

7 ~~30. Medical Marijuana Dispensing Organization — means an organization approved by the~~
8 ~~Florida Department of Health to cultivate, process, and dispense low-THC cannabis or medical~~
9 ~~cannabis pursuant to Fla. Stat. § 381.986.~~

10 [Renumber Accordingly]

11
12
13 Part 2. ULDC, Art. 2.B.2.G.2, Applicability [Related to Type 2 Waivers] (page 28 of 88), is hereby
14 amended as follows:
15

Reason for amendments: [Zoning/ County Attorney] Amend Table 2.B.2.G – Summary of Type II Waivers to add Medical Marijuana Dispensing Facility consistent with FS 381.986. Florida statute requires a separation distance of 500 feet from an Elementary or Secondary School but allows jurisdictions to utilize a formal mechanism to consider an alternative separation distance if within the state mandated requirement. The separation distance may be reduced by a Type 2 Waiver.

16 CHAPTER B PUBLIC HEARING PROCESS

17 Section 2 Conditional Uses, Development Order Amendments, Unique Structures and Type II 18 Waivers

19 G. Type II Waivers

20

21 2. Applicability

22 Requests for Type II Waivers shall only be permitted where expressly stated within the
23 ULDC.[Ord. 2011-016] [Ord. 2012-027]
24

Table 2.B.2.G - Summary of Type II Waivers

Type II Waiver Summary List
....
<u>Art. 4.B.2.C.32.h, Medical Marijuana Dispensing Facility</u>
[Ord. 2012-027] [Ord. 2016-016] [Ord. 2016-020] [Ord. 2017-007]

25 3. Standards

26 When considering a Development Order application for a Type II Waiver, the BCC shall
27 consider the standards indicated below and any other standards applicable to the specific Type
28 II Waiver as contained in this Code. A Type II Waiver, which fails to meet any of the standards,
29 shall be deemed adverse to the public interest and shall not be approved. [Ord. 2011-016]
30 [Ord. 2012-027]

31 a. The Waiver does not create additional conflicts with other requirements of the ULDC, and
32 is consistent with the stated purpose and intent for the Zoning district or Overlay; [Ord.
33 2010-022] [Ord. 2011-016] [Ord. 2012-027]

34 b. The Waiver will not cause a detrimental effect on the overall design and development
35 standards of the project, and will be in harmony with the general site layout and design
36 details of the development; and, [Ord. 2010-022] [Ord. 2012-027]

37 c. The alternative design option recommended as part of the Waiver approval, if granted, will
38 not adversely impact adjacent properties. [Ord. 2010-022] [Ord. 2012-027]

39 d. For the purpose of Medical Marijuana Dispensing Facility in Art. 4.B.2.C.34.h, the BCC
40 shall make the determination that the location of a medical marijuana dispensing facility
41 promotes the health, safety and welfare of the community.
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EXHIBIT A

MEDICAL MARIJUANA DISPENSING FACILITY
SUMMARY OF AMENDMENTS

(Updated 6/20/17)

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Part 3. ULDC Art. 4.B.2.C.34, Retail Sales, is hereby amended as follows:

Reason for Amendments: [Zoning/ County Attorney]
1. Clarify that medical marijuana dispensing facilities fall under the use of Retail Sales similar to pharmacies consistent with FS 381.986. Florida Statute indicates that dispensing facilities cannot be more restrictive than how pharmacies are reviewed and approved. Pharmacies in the ULDC do not have use specific regulations, therefore dispensing facilities would be limited to any state preemption if applicable.
2. Establish new medical marijuana dispensing facility definition to ensure that a dispensing facility is not confused with other MMTC functions and is following applicable dispensing guidelines consistent with FS and DOH.
3. Establish location criteria consistent with FS 381.986. Florida statute requires a medical marijuana dispensing facility be separated a distance of 500 feet from an Elementary or Secondary School but allows jurisdictions to utilize a formal mechanism to consider an alternative separation distance if within the state mandated requirement. The separation distance may be reduced by a Type 2 Waiver.

CHAPTER B SUPPLEMENTAL USE STANDARDS

Section 2 Commercial Uses

C. Definitions and Supplementary Use Standards

34. Retail Sales

a. Definition

An establishment providing general retail sales or rental of goods, but excluding those uses specifically classified as another use type.

b. Typical Uses

Retail Sales may include but are not limited to clothing stores, bookstores, business machine sales, food and grocery stores, window tinting, marine supply sales (excluding boat sales), auto accessories and parts, building supplies and home improvement products, monument sales, printing and copying, ~~and~~ pharmacies and medical marijuana dispensing facilities. Uses shall also include the sale of bulky goods such as household goods, lawn mowers, mopeds.

....

h. Medical Marijuana Dispensing Facility

1) Definition

A facility, operated by a Medical Marijuana Treatment Center (MMTC) in accordance with the Florida Department of Health as a medical marijuana dispensing facility, that dispenses medical marijuana to qualified patients or caregivers. A medical marijuana dispensing facility does not prepare, transfer, cultivate or process any form of marijuana or marijuana product.

2) Location

Medical marijuana dispensing facility shall not be located within 500 feet of an existing Elementary or Secondary School, unless approved as a Type 2 Waiver.

Part 4. ULDC Art. 4.B.2.D, Medical Marijuana Moratorium, is hereby deleted as follows:

Reason for amendments: [Zoning/ County Attorney] Delete Medical Marijuana Moratorium language from Article 4. The Moratorium language indicated sun setting provisions upon one-year of effective date or adoption of Code amendments. The deletion is a house keeping item to show the change.
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CHAPTER B SUPPLEMENTAL USE STANDARDS

Section 2 Commercial Uses

~~D. Medical Marijuana Moratorium~~

~~1. The Board of County Commissioners of Palm Beach County does hereby impose a moratorium beginning on the effective date of this ordinance, upon the acceptance of zoning applications and all applicable requests for zoning approval for Medical Marijuana Treatment Centers and Medical Marijuana Dispensing Organizations in unincorporated Palm Beach County. While the moratorium is in effect the County shall not accept, process or approve any application relating to the zoning approval of a Medical Marijuana Treatment Center or Medical Marijuana Dispensing Organization. This moratorium does not prohibit the medical use of marijuana, low~~

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EXHIBIT A

MEDICAL MARIJUANA DISPENSING FACILITY SUMMARY OF AMENDMENTS

(Updated 6/20/17)

- 1 ~~THC cannabis or medical cannabis by a qualifying patient as determined by a licensed Florida~~
2 ~~physician, pursuant to Amendment 2, Sec. 381.986, Fla. Stat., or other Florida law.~~
3 ~~2. This Ordinance shall expire upon the earlier of the following: one year from the effective date~~
4 ~~of this ordinance or upon the effective date of Unified Land Development Code amendments~~
5 ~~dealing with Medical Marijuana Treatment Centers and Medical Marijuana Dispensing~~
6 ~~Organizations.~~

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