



MEMORANDUM

TO: Paulette Burdick, Mayor, and Members of the Board of County Commissioners
THRU: Patrick W. Rutter, Executive Director, PZ&B
FROM: Jon MacGillis, ASLA, Zoning Director
DATE: February 13, 2017
RE: February 23, 2017 BCC Zoning Hearing – One Year Moratorium for Medical Marijuana Treatment Centers and Dispensing Organizations

Department of Planning, Zoning & Building
2300 North Jog Road
West Palm Beach, FL 33411-2741
(561) 233-5000
Planning Division 233-5300
Zoning Division 233-5200
Building Division 233-5100
Code Enforcement 233-5500
Contractors Certification 233-5525
Administration Office 233-5005
Executive Office 233-5228
www.pbcgov.com/pzb

This memo serves as a follow up to Commission discussion during the January 5, 2017 Request for Permission to Advertise for the Medical Marijuana Moratorium. Comments pertained to other jurisdictions proposed ordinances, and ensuring that dispensaries would be operational upon finalization of State requirements, among others.

Background and Summary

The State currently pre-empts the regulation of the growing and distribution of medical marijuana, leaving limited opportunities to local jurisdictions to regulate dispensaries. Pursuant to approval of Amendment 2, Use of Marijuana for Debilitating Medical Conditions, amendments to Florida Statutes and implementing regulations will be required. To date, amendments filed for the 2017 Session, include Senate Bills (SB) 406 and 614. On January 7, 2017, the Department of Health (DOH) posted Notice of Rule Development 64-4.012, and hosted public workshops the week of February 6-10, 2017, to solicit feedback from stakeholders and the public.

Sample Regulations

Staff has reviewed numerous examples of regulations for dispensaries from local municipalities as well as jurisdictions outside of the County. These include regulations requiring local government approval, location standards (i.e., limitations by zoning district, roadway frontage and separation distances), and limits on number (i.e., by population). Some jurisdictions also included security (i.e., no loitering or on-site consumption), employment measures, and hours of operation.

Staff also attended the Medical Marijuana Summit hosted by the Florida Association of Counties on February 4, 2017. Discussion and presentations made at the summit pertaining to dispensaries provided additional information to the research done to date.

Palm Beach County Board of County Commissioners

- Paulette Burdick, Mayor
Melissa McKinlay, Vice Mayor
Hal R. Valeche
Dave Kerner
Steven L. Abrams
Mary Lou Berger
Mack Bernard

County Administrator

Verdenia C. Baker

"An Equal Opportunity Affirmative Action Employer"



Timeline

In anticipation of potential changes to the Statutes expected by July 1, 2017, or implementing regulations, Staff has coordinated with the Intergovernmental Plan Amendment Review Committee (IPARC), and will consult with key stakeholders such as other County Departments, PBC Sheriff, Florida Department of Law Enforcement (FDLE) and other interested parties, regarding potential Unified Land Development Code (ULDC) regulations.

Staff anticipates proceeding to finalize ULDC amendments, with an estimated proposal for Fall BCC Zoning Hearing Adoption, or sooner if the Governor signs any revised laws or pending finalization of DOH rules.

If you should have any questions or require additional information, please contact me at (561) 233-5234.

JM/SR

C: Verdenia C. Baker, County Administrator
Faye Johnson, Assistant County Administrator
Todd J. Bonlarron, Assistant County Administrator
Leonard Berger, Chief Assistant County Attorney
Robert Banks, Chief Land Use Assistant County Attorney
Rebecca DeLaRosa, Director of Legislative Affairs
Lorenzo Aghemo, Planning Director
Maryann Kwok, AICP, Deputy Director, Zoning
William Cross, AICP, Principal Site Planner, Zoning
Monica Cantor, Senior Site Planner, Zoning
Scott Rodriguez, Senior Planner, Planning
Zoning Division Staff

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

TITLE: UNIFIED LAND DEVELOPMENT CODE (ULDC) AMENDMENTS - MEDICAL MARIJUANA TREATMENT CENTER AND MEDICAL MARIJUANA DISPENSING ORGANIZATION MORATORIUM: ADOPTION HEARING

Cover Sheet
Ordinance Title
Exhibit A – Medical Marijuana

Staff Recommendation: Staff recommends approval of the motion to Adopt.

BCC Public Hearings: January 5, 2017, Request for Permission to Advertise for First Reading on January 26, 2017, approved (7-0). January 26, 2017 First Reading and Request for Permission to Advertise for Adoption Hearing on February 23, 2017, approved (6-0).

MOTION: TO ADOPT AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, **ENACTING A ONE YEAR MORATORIUM UPON THE ACCEPTANCE OF ZONING APPLICATIONS AND ALL APPLICABLE REQUESTS FOR ZONING APPROVALS FOR MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA DISPENSING ORGANIZATIONS** WITHIN PALM BEACH COUNTY, BY AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 03-067, AS AMENDED, AS FOLLOWS: **ARTICLE 1 – GENERAL PROVISIONS;** CHAPTER I, DEFINITIONS AND ACRONYMS; **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.

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ORDINANCE 2017 _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ADDING DEFINITIONS OF MEDICAL MARIJUANA TREATMENT CENTER AND MEDICAL MARIJUANA DISPENSING ORGANIZATION, AND ENACTING A ONE YEAR MORATORIUM UPON THE ACCEPTANCE OF ZONING APPLICATIONS AND ALL APPLICABLE REQUESTS FOR ZONING APPROVALS FOR MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA DISPENSING ORGANIZATIONS WITHIN UNINCORPORATED PALM BEACH COUNTY, BY AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 03-067, AS AMENDED, AS FOLLOWS: **ARTICLE 1 – GENERAL PROVISIONS**; CHAPTER I, DEFINITIONS AND ACRONYMS; **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.

WHEREAS, on November 8, 2016, Florida voters approved an amendment to the Florida Constitution entitled “Use of Marijuana for Debilitating Medical Conditions” (“Amendment 2”); and

WHEREAS, Amendment 2 legalizes the medically certified use of marijuana throughout the State of Florida and authorizes the cultivation, processing, distribution, and sale of marijuana, and related activities, by licensed “Medical Marijuana Treatment Centers;” and

WHEREAS, in 2014, the Florida Legislature enacted a separate but significantly more narrow medical marijuana law, the “Compassionate Medical Cannabis Act of 2014,” codified in Section 381.986, *Florida Statutes*, which authorizes a limited number of nurseries to cultivate, process, and dispense low-THC cannabis to qualified patients and operate as “dispensing organizations;” and

WHEREAS, Chapter 64-4 “Compassionate Use” of the Florida Administrative Code has been enacted by the Florida Department of Health with regard to the requirements for dispensing organizations, including procedures for application, review, approval, inspection, and authorization of dispensing organizations; and

WHEREAS, due to the historical prohibition of marijuana, Palm Beach County does not currently have any land development regulations governing the use of real property for the purposes of cultivating, processing, distributing, or selling marijuana, or related activities, and such uses are not permissible within the unincorporated area; and

WHEREAS, in order to promote effective development regulation pursuant to Amendment 2, or if a dispensing organization, as authorized under the Compassionate Medical Cannabis Act of 2014, should seek to operate within the unincorporated area of Palm Beach County, the Board of County Commissioners (BCC) wishes to preserve the status quo while researching, studying, and analyzing the potential impact of Medical

1 Marijuana Treatment Centers and dispensing organizations upon adjacent uses and the
2 surrounding area, the effect of Medical Marijuana Treatment Centers and dispensing
3 organizations on traffic, congestion, surrounding property values, demand for county
4 services, and other aspects of the general welfare; and

5 **WHEREAS**, the BCC finds that a temporary moratorium on the operation of Medical
6 Marijuana Treatment Centers and dispensing organizations will allow Palm Beach County a
7 sufficient period of time to determine what uses are best-suited to particular zoning
8 categories and how best to formulate land development regulations that appropriately govern
9 the use of real property for purposes of cultivating, processing, distributing, or selling
10 marijuana, or related activities; and

11 **WHEREAS**, it is in the best interests of the citizens of Palm Beach County that the
12 County consider administrative rules implementing the constitutional amendment that
13 Amendment 2 directs be prepared by the Florida Department of Health and legislation that
14 may be approved by the Florida Legislature during the 2017 legislative session regulating
15 medical marijuana before adopting local development regulations; and

16 **WHEREAS**, the BCC hereby elects to conduct its public hearings on this Ordinance
17 at 9:30 a.m.; and

18 **WHEREAS**, the BCC has conducted public hearings to consider these amendments
19 to the ULDC in a manner consistent with the requirements set forth in Section 125.66, Florida
20 Statutes; and

21

22 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS**
23 **OF PALM BEACH COUNTY, FLORIDA, as follows:**

24 **Section 1. Adoption**

25 The amendments set forth in Exhibit A, attached hereto and made a part hereof, are
26 hereby adopted.

27 **Section 2. Interpretation of Captions**

28 All headings of articles, sections, paragraphs, and sub-paragraphs used in this
29 Ordinance are intended for the convenience of usage only and have no effect on
30 interpretation.

31 **Section 3. Providing for Repeal of Laws in Conflict**

32 All local laws and ordinances in conflict with any provisions of this Ordinance are
33 hereby repealed to the extent of such conflict.

1 **Section 4. Severability**

2 If any section, paragraph, sentence, clause, phrase, word, map, diagram, or any other
3 item contained in this Ordinance is for any reason held by the Court to be unconstitutional,
4 inoperative, void, or otherwise invalid, such holding shall not affect the remainder of this
5 Ordinance.

6 **Section 5. Providing for a Savings Clause**

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

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

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

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

18 The provisions of this Ordinance shall become effective upon filing with the
19 Department 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 **EFFECTIVE DATE:** Filed with the Department of State on the _____ day of
26 _____, 20____.
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Part 1. ULDC, Articles 1.I.2.M.32 [Related to Definitions] (pages 76 of 110), is hereby amended as follows:

CHAPTER I DEFINITIONS & ACRONYMS

Section 2 Definitions

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

....
32. Medical Marijuana Treatment Center – means 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 professional caregivers, and is registered by the Florida Department of Health.

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

[Renumber Accordingly]

Part 2. New ULDC Article 4.B.2.D, Medical Marijuana Moratorium, is hereby established as follows:

CHAPTER B USE CLASSIFICATION

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 THC cannabis or medical cannabis by a qualifying patient as determined by a licensed Florida physician, pursuant to Amendment 2, Sec. 381.986, Fla. Stat., or other Florida law.

2. This Ordinance shall expire upon the earlier of the following: one year from the effective date of this ordinance or upon the effective date of Unified Land Development Code amendments dealing with Medical Marijuana Treatment Centers and Medical Marijuana Dispensing Organizations.