



MEMORANDUM

Development Services

ADMINISTRATIVE MEMORANDUM NO. 17-110

DATE: March 17, 2017

TO: Planning and Zoning Board

VIA: Robin M. Bird, Director of Development Services *MS*
 Jennifer Gomez, Assistant Director of Development Services *JG*

FROM: Karen Friedman, Principal Planner *KBF*

RE: Ch. 155, Zoning Code
 Medical Marijuana Establishments: Revisions from the text amendments previously reviewed by P&Z Board at the February 22, 2017 hearing

Background

At the February 22, 2017 Planning and Zoning Board Hearing, Staff presented text amendments to Chapter 155, Zoning Code, which created regulations for Medical Marijuana Establishments (*copy of the Staff Report and draft Minutes are enclosed*). In the interim, Staff has determined that the text amendments should be slightly modified in order to require Retail establishments to be located on certain classification of roadways.

Text Amendments

As listed in the Staff Report and Recommendations, one of the concerns related to Medical Marijuana Retail Establishments is traffic. Therefore, in order to ensure the location of the retail establishment can accommodate the additional traffic and that the traffic will not impact roadways which may not be suited for the traffic levels, the specific modification to the text amendments is to require Medical Marijuana Retail Establishments to be located on a roadway which is classified as an arterial or higher per the Broward County Trafficways Plan.

The Broward County Trafficways Plan defines an Arterial Roadway as follows: "A roadway providing service which is relatively continuous and of relatively high traffic volume, long trip length, and high operating speed. In addition, every United States numbered highway is an arterial road." A copy of the Broward County Trafficways Plan Map is enclosed and shows the roadway classifications.

Please note, the modified text amendments reflect the Motion from the Board at the February 22, 2017 Planning and Zoning Board hearing and therefore the text amendments no longer include the recommendation to prohibit retail establishments from locating within the NW CRA boundary

The modified language is highlighted in yellow and described in detail in the below table.

Page	Section	Change
4	155.4702.A.3.b	Add in requirement that Medical Marijuana Retail Establishments be located on sites that have direct access to and from an arterial roadway.

Staff's Request

Staff is requesting the Board approve the recommended changes to the Zoning Code to the City Commission for adoption.

BROWARD COUNTY TRAFFICWAYS PLAN

Classification	Symbol	RW
Limited Access/ Controlled		325'
Arterial		200'
		144'
		120'
		110'
		106'
		100'



ARTICLE 3: ZONING DISTRICTS

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155.3703. ATLANTIC BOULEVARD OVERLAY DISTRICT (AOD)

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C. Modified Use Standards

2. Prohibited Uses

...

xvi. Medical Marijuana Establishments

ARTICLE 4: USE STANDARDS

PART 7 MEDICAL MARIJUANA ESTABLISHMENTS

The purpose of this part is to designate those establishments legally engaged in uses involving medical cannabis or marijuana for medical purposes allowed in each of the various zoning districts, whether as permitted by right or only after special review, and to provide use-specific standards to minimize or otherwise mitigate potential adverse impacts.

§ 155.4701. STANDARDS APPLICABLE TO ALL MEDICAL MARIJUANA ESTABLISHMENTS

In addition to the standards applicable to all uses listed in §155.4201.B, Medical Marijuana Establishments shall comply with the following standards:

A. Required Approval.

Minor Site Plan is required for all applicants for a Zoning Use Certificate, unless the applicant has previously received Special Exception or Site Plan approval for this site for use as a Medical Marijuana Establishment.

B. Security Plan.

1. A Security Plan shall be provided and approved by the City's Law Enforcement Agency. At a minimum the Security Plan shall address all of the following:

- a. Proposed security arrangements for ensuring the safety of employees and visitors;
- b. Plan to prevent theft at the premises, including robberies, burglaries, and shoplifting;
- c. Plan to prevent loitering on the property where the medical marijuana establishment is located, including in parking areas, and in abutting rights-of-way and neighboring properties.
- c. Plan to control access to the establishment and ensure that no one under the age of 21 is admitted; and
- d. Plan to ensure that marijuana products sold by your business are not consumed irresponsibly in public or in the immediate vicinity of the license premises.

2. The City's Law Enforcement Agency may impose additional site and operational safety requirements as are deemed reasonable necessary to ensure the safety of the business owner, employees, customer, adjacent property owners, adjacent businesses, and nearby residents.

C. Exterior Appearance.

Marijuana plants, products, and paraphernalia (and depictions thereof) shall not be visible from a public sidewalk or public right-of-way.

D. Garbage Control Plan.

A garbage control plan shall be approved and shall detail how access to all exterior garbage containers is secured.

E. Odor Control Plan.

An odor control plan shall be approved and shall detail how odor will not be detectable from other properties, or in the case of establishments located in a multi-tenant building or development, how the odor will not be detectable by other tenants. At a minimum, a double door system shall be provided at all entrances to mitigate odor intrusion into the outside air.

F. Planned Commercial Industrial Districts

A Medical Marijuana Establishment shall only be permitted in a PCD District provided the underlying land use is Industrial and provided the use was listed as a permitted use in the Ordinance that established the PCD.

G. Right to Appeal

1. Other than the procedures to appeal the decision of the City's Development Services Director as provided for in subsection 2 below, no variances from the standards listed in Section 155.4701 or 155.4702 shall be permitted for any reason.
2. A party aggrieved by the final decision of the Development Services Director on an application to establish a Medical Marijuana Establishment may appeal the Decision to the ZBA in accordance with the procedures and standards in Section 155.2424, Appeal.

§ 155.4702. MEDICAL MARIJUANA ESTABLISHMENTS

A. MEDICAL MARIJUANA RETAIL ESTABLISHMENT

1. Districts Where Permitted

<u>RS-1</u>	<u>RS-2</u>	<u>RS-3</u>	<u>RS-4</u>	<u>RS-L</u>	<u>RD-1</u>	<u>RM-7</u>	<u>RM-12</u>	<u>RM-20</u>	<u>RM-30</u>	<u>RM-45</u>	<u>MH-12</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>	
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<u>M-1</u>	<u>CR</u>	<u>I-1</u>	<u>I-IX</u>	<u>OIP</u>	<u>M-2</u>	<u>TO</u>	<u>PR</u>	<u>CF</u>	<u>PU</u>	<u>T</u>	<u>BP</u>	<u>RPU-D</u>	<u>PCD</u>	<u>PD-TO</u>	<u>LAC</u>	<u>PD-I</u>
		<u>S</u>		<u>S</u>									<u>P</u>			

2. Definition

A medical marijuana retail establishment is an establishment dispensing medical marijuana at retail.

3. Standards

A Medical marijuana retail establishment shall comply with the following standards:

- a. Separation for other and similar uses.**

- i. 1,000 Foot Separation:** A Medical Marijuana Retail Establishment shall be separated by 1,000 feet from the following uses: Residential Zoning Districts, Schools, Public Parks, Sexually Oriented Business, Liquor Store, Beer or Wine Store, a Medical Marijuana Health Care Establishment, and a Medical Marijuana Industrial Establishment.
- ii. 1 Mile Separation:** A Medical Marijuana Retail Establishment shall be separated by 1,000 feet from another Medical Marijuana Retail Establishment.
- b. Accessible Roadway Classification.** Medical Marijuana Retail Establishments shall be located on a site that has direct access to and from an arterial roadway.
- c. Hours of Operations.** The establishment shall not operate between the hours of 7:00 p.m. and 7:00 a.m.
- d. Multiple Uses Prohibited.**

 - i.** If located in a freestanding building the Medical Marijuana Retail Establishment shall be the only use permitted for the free-standing building.
 - ii.** If located in a bay or multi-bay space within a multi-tenant structure, the Medical Marijuana Retail Establishment shall be the only use permitted within the bay or multi-bay space it occupies.
- e. Indoor Waiting Area Required.**

 - i.** Adequate indoor seating for clients, customers, and other visitors shall be provided.
 - ii.** Queuing or loitering outside of the Medical Marijuana Retail Establishment shall be considered outdoor activity and is prohibited.
- f. Drive Through Service Prohibited.**

 - i.** Drive Through service is prohibited.
 - ii.** If a Medical Marijuana Retail Establishment locates at a facility with an existing drive through service, the drive through service must be demolished prior to the approval of the Zoning Use Certificate.

B. MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENT

1. Districts Where Permitted

<u>RS-1</u>	<u>RS-2</u>	<u>RS-3</u>	<u>RS-4</u>	<u>RS-L</u>	<u>RD-1</u>	<u>RM-7</u>	<u>RM-12</u>	<u>RM-20</u>	<u>RM-30</u>	<u>RM-45</u>	<u>MH-12</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>
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<u>M-1</u>	<u>CR</u>	<u>I-1</u>	<u>I-IX</u>	<u>OIP</u>	<u>M-2</u>	<u>TO</u>	<u>PR</u>	<u>CF</u>	<u>PU</u>	<u>T</u>	<u>BP</u>	<u>RPU-D</u>	<u>PCD</u>	<u>PD-TO</u>	<u>LAC</u>	<u>PD-I</u>
		<u>S</u>		<u>S</u>									<u>P</u>			

2. Definition

A medical marijuana health care establishment is a physician’s office where the primary medical services offered is the processing of physician certifications, treatment of qualified patients with medical cannabis, and ordering of medical marijuana for qualified patients. Exterior advertising or signage or documentation from the Florida Department of Health may be used in determining if a physician’s office will be classified as a Medical Marijuana Health Care Establishment.

3. Standards

A Medical marijuana health care establishment shall comply with the following standards:

- a. A medical marijuana health care establishment shall comply with all of the use specific standards for a Specialty Medical Facility listed in §155.4209.B.3
- b. **Separation.** A Medical Marijuana Health Care Establishment shall be separated by 1,000 feet from a Medical Marijuana Retail Establishment
- c. On-Site dispensing of medical marijuana is prohibited.

C. MEDICAL MARIJUANA INDUSTRIAL ESTABLISHMENT

1. Districts Where Permitted

<u>RS-1</u>	<u>RS-2</u>	<u>RS-3</u>	<u>RS-4</u>	<u>RS-L</u>	<u>RD-1</u>	<u>RM-7</u>	<u>RM-12</u>	<u>RM-20</u>	<u>RM-30</u>	<u>RM-45</u>	<u>MH-12</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>

<u>M-1</u>	<u>CR</u>	<u>I-1</u>	<u>I-IX</u>	<u>OIP</u>	<u>M-2</u>	<u>TO</u>	<u>PR</u>	<u>CF</u>	<u>PU</u>	<u>T</u>	<u>BP</u>	<u>RPU-D</u>	<u>PCD</u>	<u>PD-TO</u>	<u>LAC</u>	<u>PD-I</u>
		<u>S</u>	<u>S</u>	<u>S</u>									<u>P</u>			

2. Definition

A medical marijuana industrial establishment is an establishment engaged in industrial uses involving medical marijuana including: the planting, growing, harvesting, drying, cleaning, curing, packaging and extraction of active ingredients to create cannabis related products and concentrate within a fully enclosed structure; analytical and testing services for medical marijuana dispensing organizations, including laboratory functions to ensure the products are safe for use/consumption and the labeled potency is accurate; or the storage and/or wholesale distribution of medical marijuana products.

3. Standards

A Medical marijuana industrial establishment shall comply with the following standards:

- a. No retail sales shall be permitted
- b. **Separation.** A Medical Marijuana Industrial Establishment shall be separated by 1,000 feet from a Medical Marijuana Retail Establishment
- c. No outdoor uses, including but not limited to outdoor growing or outdoor storage, shall be permitted.

ARTICLE 5: DEVELOPMENT STANDARDS

§ 155.5102. OFF-STREET PARKING AND LOADING

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D. OFF-STREET PARKING SPACE REQUIREMENTS

1. Minimum Number of Off-Street Parking Spaces

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TABLE 155.5102.D.1: MINIMUM NUMBER OF OFF-STREET PARKING SPACES		
Use Category	Use Type	Minimum Number of Parking Spaces
<u>MEDICAL MARIJUANA ESTABLISHMENTS</u>		
	<u>Medical Marijuana Retail Establishment</u>	<u>1 per 150 square feet of floor area</u>
	<u>Medical Marijuana Health Care Establishment</u>	<u>1 per 200 sq ft floor area for treatment + 1 per 300 sq ft for remaining areas</u>
	<u>Medical Marijuana Industrial Establishment</u>	<u>1 per 400 sq ft of floor area used for offices + 1 per 1,000 sq ft for remaining areas</u>

ARTICLE 9: DEFINITIONS AND INTERPRETATION

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PART 5 TERMS AND USES DEFINED

The following words, terms, and phrases, when used in this Code, shall have the meaning ascribed to them in this section.

...
MEDICAL MARIJUANA ESTABLISHMENT

An establishment legally engaged in retail, health care, or industrial uses involving medical cannabis or marijuana for medical purposes.

MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENT

A physician’s office where the primary medical services offered is the processing of physician certifications, treatment of qualified patients with medical cannabis, and ordering of medical marijuana for qualified patients. Exterior advertising or signage or documentation from the Florida Department of Health may be used in determining if a physician’s office will be classified as a Medical Marijuana Health Care Establishment.

MEDICAL MARIJUANA INDUSTRIAL ESTABLISHMENT

An establishment engaged in industrial uses involving medical marijuana including: the planting, growing, harvesting, drying, cleaning, curing, packaging and extraction of active ingredients to create cannabis related products and concentrate within a fully enclosed structure; analytical and testing services for medical marijuana dispensing organizations, including laboratory functions to ensure the products are safe for use/consumption and the labeled potency is accurate; or the storage and/or wholesale distribution of medical marijuana products.

MEDICAL MARIJUANA RETAIL ESTABLISHMENT

An establishment dispensing medical marijuana at retail.

Ms. Friedman stated that signs of non-commercial nature are categorized differently than commercial signs but that the City may not treat commercial signs more favorably than non-commercial signs. She added that properties in single-family zoning districts can have 1 temporary sign (2 if they are on a corner lot).

Mr. Stacer asked if a monument sign would need to come up to code if the tenant changes.

Mr. Bird stated that this requirement is only for individual tenant signs, not multi-business signs.

Mr. Stacer commented that the Board voted to recommend approval of these amendments.

Mr. Bird asked if the Board wished to have an additional memo submitted for their review. He explained that they could request additional information that would be provided to them after the City Commission meeting, but that this request for information would be provided to the Commission.

Mr. Stacer suggested that the Board leave their previous recommendation as is.

10. Chapter 155 Text Amendments, Medical Marijuana

Mr. Bird stated that staff has been working very hard on this topic and that the moratorium will expire on May 8th. He explained that this text amendment will set certain standards for these uses, and that they will be categorized as either retail use, healthcare use, or as industrial use. He stated that there will be certain distance requirements implemented, limitations on hours of operation and where the use will be permitted in the City, and site design requirements. He stated that the City cannot simply say that this use in general cannot be allowed, and that there will be a learning process to see how regulations can be implemented.

Ms. Kovac asked if the healthcare use would mean that a person would need a prescription from a doctor before going to a facility to purchase.

Mr. Bird confirmed this.

Mr. Bird added that parking standards have been added and that the uses have been added to the Consolidated Use Table.

Ms. Friedman stated that for the retail and industrial uses there are separation requirements from residential zoning districts. She added that the healthcare use will be treated like a Specialty Medical Facility and so has certain distance requirements. She added that all the uses require a Special Exception approval unless located in a PCD that allows for them.

Mr. Hill asked why the use is not prohibited in the East CRA as it is in the NW CRA.

Ms. Friedman stated that the Atlantic Overlay District already does not allow the uses and the proposed Transit Overlay District will also prohibit it.

Mr. Stacer asked for an explanation of what 'no variances being allowed' means.

Mr. Bird responded that it means that an applicant cannot request variances from any use specific standards.

Dr. Mills asked why the Northwest CRA does not allow the use.

Mr. Bird stated that the use is not conducive to redevelopment.

Mr. Stacer clarified that the zoning in the East CRA area already prohibits the use.

Ms. Friedman stated that there are several items in the backup that describe the impact of medical marijuana and why it would not be beneficial to these CRA areas.

Dr. Mills stated that he doesn't understand why the people who need the medical marijuana must leave the area to get it.

Ms. Sarver stated that the legal reason is to make recommendations based on researched data. She stated that most jurisdictions are placing this use in commercial or industrial areas.

Mr. Evans stated that he would like to remove the prohibition of the uses in the NW CRA.

MOTION was made by Dwight Evans and seconded by Jerry Mills to recommend approval of the text amendments with the modification to remove the Northwest CRA as a prohibited location for medical marijuana establishments.

**Discussion*

Mr. Klosiewicz asked what impact the change will have.

Ms. Sarver responded that these changes will keep the distance requirements.

Mr. Bird stated that there will be no changes other than that these establishments would be able to open in the Northwest CRA.

Ms. Kovac asked if Mr. Evans concern is that the folks who live in the area would not be able to fill their prescription.

Mr. Evans stated that he thinks that property values might increase in areas where medical marijuana facilities are located.

Ms. Kovac asked if the concern is that residents in the Northwest CRA would not have access to have their prescriptions filled if there were not facilities in the area.

Mr. Evans responded that his concern is this and how it relates to a previous discussion in prohibiting other healthcare uses in the northwest area of the City. He added that he feels it unfair to approve alcohol facilities, but not marijuana facilities in the Northwest CRA.

Ms. Sarver responded that other jurisdictions are tending to treat this use similar to alcohol establishments, and that data has shown that these uses bring property values down.

**Vote*

Three voted in favor of the above motion and three against, therefore the motion failed.

Mr. Stacer asked where this proposed amendment would make a difference in the NW CRA.

Mr. Bird described the boundaries of the NW CRA, and stated that an amendment to allow the uses in this district would potentially allow for it in the industrial areas.

Ms. Friedman stated that because of the amount of sexually oriented businesses, liquor stores, and churches, and the separation requirement, it would be challenging to find an allowed area.

Mr. Bird stated that the backup provided evidence that the use would have a negative impact on the redevelopment area. He stated that it would be more difficult to implement loose restrictions and then try to tighten them compared to implementing tighter restrictions at the beginning and then loosening them.

Mr. Evans stated that if a developer is able to find a location that meets all of the criteria, he should be allowed to open his business.

Mr. Hill noted that the prohibition in the CRA is only for the retail use.

MOTION by Richard Klosiewicz and second by Joan Kovac to recommend approval of the text amendments. Two voted in favor and four against, therefore the motion failed.

MOTION by Dwight Evans and second by Jerry Mills to recommend approval of the text amendments with the modification to remove the Northwest CRA as a prohibited location for medical marijuana establishments. Four voted in favor and two against, therefore the motion passed.

11. Chapter 155 Text Amendments, Master Sign Program

Any person who decides to appeal any decision of the PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. // ME