

Ord. 21

**CITY OF POMPANO BEACH  
Broward County, Florida**

**AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.3703., "ATLANTIC BOULEVARD OVERLAY DISTRICT (AOD)," TO PROHIBIT MEDICAL MARIJUANA ESTABLISHMENTS; BY AMENDING ARTICLE 4, "USE STANDARDS," BY CREATING PART 7, "MEDICAL MARIJUANA ESTABLISHMENTS," TO SET FORTH THE PURPOSE AND ESTABLISH USE STANDARDS AND REQUIREMENTS FOR MEDICAL MARIJUANA ESTABLISHMENTS; BY AMENDING SECTION 155.5102., "OFF-STREET PARKING AND LOADING," TO PROVIDE FOR MEDICAL MARIJUANA ESTABLISHMENTS; BY AMENDING PART 5, "TERMS AND USES DEFINED," BY CREATING DEFINITIONS RELATED TO MEDICAL MARIJUANA ESTABLISHMENTS; BY AMENDING APPENDIX A: "CONSOLIDATED USE TABLE," TO REVISE SAID TABLE TO CONFORM TO AMENDMENTS MADE BY THIS ORDINANCE TO REFLECT AUTHORIZED ZONING DISTRICTS WITHIN THE CITY FOR VARIOUS MEDICAL MARIJUANA USES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, in accordance with Florida Statutes, Section 166.041(3)(c)2, advertisements in accordance with said statute have been published in a newspaper of general paid circulation in the City of Pompano Beach and of general interest and readership in the community, notifying the public of two public hearings on this proposed Ordinance; and

**WHEREAS**, two public hearings have been held pursuant to said published hearings and all persons so desiring had the opportunity to be, and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That Section 155.3703., "Atlantic Boulevard Overlay District (AOD)," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

**§ 155.3703. ATLANTIC BOULEVARD OVERLAY DISTRICT (AOD)**

...

**C. MODIFIED USE STANDARDS**

**1. Permitted Uses**

...

**2. Prohibited Uses**

**a. Prohibited Principal Uses.**

Irrespective of subsection 1 above and the use standards applicable in the underlying base zoning district, the following principal uses shall be prohibited in the Atlantic Boulevard Overlay district:

i. Auction house

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xvi. Check Cashing or Pay Day Loan Store

xvii. Medical Marijuana establishments

...

**SECTION 2.** That Article 4, Use Standards, of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

**ARTICLE 4: USE STANDARDS**

...

**PART 7 MEDICAL MARIJUANA ESTABLISHMENTS**

**§ 155.4701. PURPOSE**

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.

**§ 155.4702. 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 the 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 reasonably 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 generated from business activity will be contained within the subject business premises so as not to be detectable from adjoining 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. NO VARIANCE**

1. Other than the procedures to appeal the decision of the Zoning Board of Appeals as provided in § 155.2424.B.3., no variance from the standards listed in Section 155.4702 or 155.4703 shall be permitted for any reason.

**§ 155.4703. 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>
															<u>S</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-1</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. One Mile Separation:** A Medical marijuana retail establishment shall be separated by one mile from another Medical marijuana retail establishment.

**b. Prohibited locations**

Medical Marijuana Retail Establishments are prohibited within the NW CRA.

**c. Accessible Roadway Required Classification**

Medical Marijuana Retail Establishments shall be located on a site that has direct access to and from an arterial roadway.

**d. Hours of Operations**

The establishment shall not operate between the hours of 7:00 p.m. and 7:00 a.m.

**e. 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.

**f. 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.

**g. 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>
														<u>S</u>	<u>S</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</u> <u>D</u>	<u>PCD</u>	<u>PD-</u> <u>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</u> <u>D</u>	<u>PCD</u>	<u>PD-</u> <u>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.

**SECTION 3.** That Article 5, Development Standards, of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

**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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<b>TABLE 155.5102.D.1: MINIMUM NUMBER OF OFF-STREET PARKING</b>		
<b>Use</b>	<b>Use Type</b>	<b>Minimum Number of</b>
<b><u>MEDICAL MARIJUANA ESTABLISHMENTS</u></b>		
<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>

...

**SECTION 4.** That Article 9, Definitions and Interpretation, of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

**ARTICLE 9: DEFINITIONS AND INTERPRETATION**

**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 OR DENTAL LAB**

Consists of facilities and offices providing diagnostic analysis of medical tests (such as blood test urinalysis, CT Scan, X-ray or other medical tests related to diagnostic treatment); collecting or withdrawing human blood, organs, skin, or other human tissue; or producing such items as dentures, caps, bridges and optical prescriptions.

**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.

...

**SECTION 5.** That Appendix A, "Consolidated Use Table," of Chapter 155, "Zoning Code," of

the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

...



APPENDIX A: CONSOLIDATED USE TABLE

P = PERMITTED PRINCIPAL USE S = USE ALLOWED AS A SPECIAL EXCEPTION A = PERMITTED ACCESSORY USE

T = TEMPORARY USE ALLOWED WITH A MAJOR TEMPORARY USE PERMIT I = TEMPORARY USE ALLOWED WITH A MINOR TEMPORARY USE PERMIT √ = TEMPORARY USE ALLOWED WITHOUT TEMPORARY USE PERMIT

I = INTERIM USE ALLOWED WITH AN INTERIM USE PERMIT BLANK CELL = PROHIBITED USE

USE CATEGORY (PRINCIPAL USES) AND/OR USE TYPE	RESIDENTIAL DISTRICTS											COMMERCIAL DISTRICTS				INDUSTRIAL DISTRICTS				SPECIAL DISTRICTS					PLANNED DEVELOPMENT DISTRICTS					USE-SPECIFIC STANDARDS						
	RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4	M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD		PCD	PD-TO	LAC	PD-I		
Medical Marijuana Establishments	<a href="#"><u>Medical Marijuana Retail Establishment</u></a>															§			§		§															155.4703.A
	<a href="#"><u>Medical Marijuana Health Care Establishment</u></a>															§	§			§		§														155.4703.B
	<a href="#"><u>Medical Marijuana Industrial Establishment</u></a>																			§		§	§													155.4703.C

...

**SECTION 6.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 7.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this 11th day of April, 2017.

**PASSED SECOND READING** this 25th day of April, 2017.

  
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**LAMAR FISHER, MAYOR**

**ATTEST:**

  
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**ASCELETA HAMMOND, CITY CLERK**

jrm  
4/12/17  
L:ord/ch155/2017-158(A)