

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 115, "MISCELLANEOUS BUSINESSES," BY CREATING SECTION 115.28, "MEDICAL MARIJUANA DISPENSARIES," TO BAN DISPENSING OF MEDICAL MARIJUANA WITHIN THE CITY; BY AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING ARTICLE 4, "USE STANDARDS," BY AMENDING PART 7, "MEDICAL MARIJUANA ESTABLISHMENTS," TO DELETE THE USE STANDARDS AND REQUIREMENTS FOR MEDICAL MARIJUANA RETAIL ESTABLISHMENTS; BY AMENDING THE DEFINITION AND STANDARDS OF MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENTS AND BY AMENDING THE STANDARDS FOR MEDICAL MARIJUANA INDUSTRIAL ESTABLISHMENT; BY AMENDING SECTION 155.5102., "OFF-STREET PARKING AND LOADING," BY DELETING REFERENCE TO MEDICAL MARIJUANA RETAIL ESTABLISHMENT; BY AMENDING ARTICLE 9, PART 5, "TERMS AND USES DEFINED," BY AMENDING DEFINITIONS AND DELETING REFERENCE TO MEDICAL MARIJUANA RETAIL ESTABLISHMENT; BY AMENDING APPENDIX A: "CONSOLIDATED USE TABLE," TO DELETE REFERENCE TO MEDICAL MARIJUANA RETAIL ESTABLISHMENT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Pompano Beach on April 25, 2017, passed Ordinance No. 2017-42 establishing locations, uses and standards in various sections of the City's Code of Ordinances for Medical Marijuana Establishments; and

WHEREAS, subsequently, on June 19, 2017, the Florida Legislature approved Senate Bill 8A, and forwarded same to the Governor who signed the legislation on June 23, 2017; and

WHEREAS, the aforementioned legislation, signed into law by the Governor, contains provisions that are in conflict with the Ordinance previously passed by the City Commission,

including certain preemptive language limiting the City's ability to control locations of medical marijuana treatment centers and particularly the dispensing facilities associated therewith; and

WHEREAS, the State of Florida has legalized the dispensing of marijuana for medical purposes and is in the process of developing regulations; and

WHEREAS, Senate Bill 8A provides for the authority of cities to ban medical marijuana treatment center dispensing facilities; and

WHEREAS, the City Commission has determined that it is in the best interests of the citizenry and general public to retain its medical marijuana ordinance approved prior to the passage of the prospective state legislation governing same, but to otherwise prohibit medical marijuana dispensaries; and

WHEREAS, the City Commission has the responsibility and authority to determine what uses are best suited within the City and to prohibit unlawful conduct and nuisances within the City; and

WHEREAS, the City Commission has determined that given the potential impact on the City, that medical marijuana treatment dispensaries should be prohibited in the City; and

WHEREAS, the City Commission of the City of Pompano Beach herein finds that the enactment of this Ordinance is in the best interest of the public health, safety, morals and welfare, and that local regulation of the matters set forth in this Ordinance is necessary to complement State law regulating the subjects of this Ordinance; and

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 all of the foregoing “WHEREAS” clauses are adopted and incorporated herein.

SECTION 2. That Chapter 115, “Miscellaneous Businesses,” of the Pompano Beach Code of Ordinances is hereby amended to create Section 115.28 to read as follows:

§ 115.28 MEDICAL MARIJUANA DISPENSING.

Medical Marijuana dispensing (retail) establishments are banned from the City of Pompano Beach as defined and regulated under Florida Statutes.

SECTION 3. 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

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PART 7	MEDICAL MARIJUANA ESTABLISHMENTS
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§ 155.4703. MEDICAL MARIJUANA ESTABLISHMENTS

~~A. MEDICAL MARIJUANA RETAIL ESTABLISHMENT~~

~~1. Districts Where Permitted~~

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
															S

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RP-UD	PC-D	PD-TO	LA-C	PD-I
		S		S									P			

~~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.~~

Medical Marijuana establishments are regulated under State law (Ch. 381.986 Florida Statutes). Medical Marijuana related businesses that involve growing, processing or dispensing medical marijuana must be associated with a State licensed Medical Marijuana Treatment Center (MMTC). The licensed MMTC will be allowed to operate in Pompano excluding the operation of medical marijuana dispensaries, which are prohibited in the City of Pompano Beach per Chapter 115.28.

A B. MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENT

1. Districts Where Permitted

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
														S	S

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RP UD	PC D	PD-TO	LA C	PD-I
		S		S									P			

2. Definition

A Medical Marijuana Health Care Establishment is a physician's office where the primary medical services offered is diagnosis of a qualifying medical condition and the processing of physician certifications, (which means a qualified physician's authorization for a qualified patient to receive marijuana and related devices); ~~treatment of qualified patients with medical cannabis; patient care;~~ 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. Physicians qualified to prescribe marijuana are defined by the State (2017 SB 8-A) and are not permitted to be associated with a licensed MMTC.

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~~
- e ~~b.~~ On-Site dispensing of medical marijuana is prohibited.

€ B. MEDICAL MARIJUANA TREATMENT CENTER (MMTC) RELATED INDUSTRIAL ESTABLISHMENT

1. Districts Where Permitted

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
		S	S	S									P			

2. Definition

A Medical Marijuana Treatment Center Related Industrial Establishment must be licensed by the State as an MMTC and is an establishment engaged in indoor industrial uses involving medical marijuana including: the indoor planting, growing, harvesting, drying, cleaning, curing, packaging and extraction of active ingredients to create cannabis related products and concentrate within a fully enclosed structure; the use may include 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 Treatment Center Related Industrial Establishment shall comply with the following standards:

- a. No retail sales (dispensing) shall be permitted
- b. **Separation.** In accordance with State law (Ch. 381.986 F.S), Aa Medical Marijuana Treatment Center Related Industrial Establishment shall be separated by 1,000—500 feet from a medical marijuana retail establishment public or private elementary school, middle school or secondary school.
- c. No outdoor uses, including but not limited to outdoor growing or outdoor storage, shall be permitted.

SECTION 4. 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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TABLE 155.5102.D.1: MINIMUM NUMBER OF OFF-STREET PARKING SPACES		
Use	Use Type	Minimum Number of
MEDICAL MARIJUANA ESTABLISHMENTS		
Medical Marijuana Retail Establishment		1 per 150 square feet of floor area
Medical Marijuana Health Care Establishment		1 per 200 sq ft floor area for treatment patient care + 1 per 300 sq ft for remaining areas
Medical Marijuana <u>Treatment Center Related</u> Industrial Establishment		1 per 400 sq ft of floor area used for offices + 1 per 1,000 sq ft for remaining areas

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SECTION 5. 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.

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MEDICAL MARIJUANA ESTABLISHMENT

An establishment legally engaged in ~~retail~~, health care, or industrial uses involving medical cannabis or marijuana for medical purposes. Any establishment involved with the industrial aspect of medical marijuana including but not limited to the growing, processing and/or distribution of medical marijuana must be licensed by the State of Florida as a Medical Marijuana Treatment Center (MMTC).

MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENT

A physician's office where the primary medical services offered is the processing of physician certifications; to qualify patients for the use of medical marijuana, treatment of qualified patients with medical cannabis, patient care, 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. The State of Florida defines qualified physicians as those that hold an active, unrestricted license as an allopathic physician under Chapter 458 or as an osteopathic physician under Chapter 459 and is in compliance with the physician's education requirements of SB 8-A (2017) and is not employed by or associated with a licensed MMTC.

MEDICAL MARIJUANA TREATMENT CENTER RELATED INDUSTRIAL ESTABLISHMENT

A Medical Marijuana Treatment Center Related Industrial Establishment must be licensed by the State as an MMTC and is ~~A~~an establishment engaged in indoor industrial uses involving medical marijuana including: the indoor planting, growing, harvesting, drying, cleaning, curing, packaging and extraction of active ingredients to create cannabis related products and concentrate within a fully enclosed structure; the use may include 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.~~

MEDICAL MARIJUANA TREATMENT CENTER (MMTC) PER CH. 381.986 F.S

An establishment licensed by the State of Florida Department of Health to engage in the cultivation, preparation, wholesale storage, distribution, transfer, processing and dispensing of medical marijuana and medical marijuana products and related supplies and which does not allow on-site consumption of marijuana or marijuana products.

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SECTION 6. 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:

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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 T = 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	Medical Marijuana Retail Establishment																S			S		S								P					155.4703.A
	Medical Marijuana Health Care Establishment															S	S			S		S									P				155.4703.B A
	Medical Marijuana Treatment Center (MMTC) Related Industrial Establishment																			S	S	S									P				155.4703.C B

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SECTION 7. 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 8. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2017.

PASSED SECOND READING this _____ day of _____, 2018.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB/jrm
11/27/17
L:ord/ch115/2018-50