

## LOCAL PLANNING AGENCY (LPA) RECOMMENDATION to the BOARD OF COUNTY COMMISSIONERS



**Regarding: A Proposed Ordinance amending the Pinellas County Code providing for locations, zoning, operating conditions and number of medical marijuana dispensing facilities and treatment centers.**

**LPA Recommendation:** The LPA finds that the proposed Ordinance amendment regarding Sections 138-1, 833, 857, and 972 and adding Section 138-1378; Providing for Legislative Findings of Fact, Intent and Purpose, for Authority, for Location, Zoning, Operating Conditions, and number of Medical Marijuana Dispensing Facility and Treatment Centers; Providing for the Repeal of Pinellas County Ordinance No. 17-05; Providing for area Embraced is consistent with the Pinellas County Comprehensive Plan and recommends the amendment be adopted by the Board of County Commissioners, as revised: (The vote was 6-0, in favor)

*Section 138-1378, (5) (b) Distance between a medical marijuana dispensing facility or treatment center and a school, religious facility, or public library or day care facility shall be measured by drawing a straight line from the nearest point of the respective structure to the front door of the medical marijuana dispensing facility or treatment center.*

**LPA Report No. LDR- 6-3-17**

**LPA Public Hearing Date: March 9, 2017**

### **PLANNING STAFF RECOMMENDATION**

Staff recommends that the LPA find the proposed amendments to the Pinellas County Code consistent with the Pinellas County Comprehensive Plan.

Staff further recommended that the LPA recommend adoption of the proposed amendment to the Pinellas County Board of County Commissioners.

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### **OVERVIEW**

As a result of a constitutional amendment (Amendment 2, establishing Article X, Section 29 of the Florida Constitution), passed in November 2016, the 2017 State Legislature is currently drafting legislation greatly expanding the operation of medical marijuana treatment centers and greater availability of medical marijuana for debilitating conditions. Currently, under Florida Statutes medical marijuana is limited to low THC products (Charlotte's Web) and for those patients that are terminally ill.

Under current law, Section 381.986(8)(b), Fla. Stat., permits counties to "determine by ordinance the criteria for the number, location, and other permitting requirements that do not conflict with state law or department rule for all dispensing facilities of dispensing organizations located within the unincorporated areas of that county". While it is expected that additional changes may occur to Section 381.986 as a result of Amendment 2, the County desires to

move forward with establishing zoning and performance standards for medical marijuana facilities. The Pinellas County Board of County Commissioners passed a 180 day moratorium on applications for new medical dispensing facilities and marijuana treatment centers on January 27, 2017 to allow time to draft new zoning regulations and performance standards for this new and unique use. Upon adoption of this ordinance, the current moratorium will be removed simultaneously.

The proposed ordinance establishes new definitions related the various uses/aspects of medical marijuana, and establishes appropriate zoning districts and approval process for the associated uses. The ordinance also establishes required distance separation requirements for such uses from schools, churches, and public parks, as well as distance separation requirements from other medical marijuana uses.

## **ORDINANCE PROVISIONS:**

Two primary types of medical marijuana uses are identified and regulated through zoning and performance standards in the proposed ordinance:

- 1) 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 caregivers and is registered by the Florida Department of Health, pursuant to Article X, Section 29 of the Florida Constitution; or

Medical marijuana dispensing center means a facility that is operated by an approved dispensing organization approved by the State Department of Health to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to Section 381.986, Florida Statutes.

- 2) Stand-alone retail, dispensing component of a medical marijuana dispensing facility or treatment center which is operated from within a completely enclosed building, subject to the performance standards in sec. 138-1378.

The proposed code amendments will allow medical marijuana dispensing facilities and treatment centers which can cultivate, process and dispense as a permitted use in the M-1 and C-3 zoning districts. The retail and dispensing component is limited to an accessory use within the primary building only (no free standing dispensing/retail).

Within the C-2 zoning district, the stand-alone retail/dispensing component of a medical marijuana dispensing facility or treatment center may be permitted by Special Exception.

Additionally, the following performance standards are proposed:

- 1) *Dispensing*. Dispensing by payment for and receipt of medical marijuana shall only be allowed within the facility of a properly registered medical marijuana dispensing facility or treatment center, except that this provision shall not be

construed to prohibit delivery to a qualifying patient or caregiver registered with the State of Florida.

- 2) *No drive through service or mobile vending.* No medical marijuana dispensing facility or treatment center shall have a drive through or drive in service aisle. Medical marijuana shall not be dispensed, paid for and received via the method of mobile vending. All dispensing, payment for and receipt of products shall occur from inside the medical marijuana dispensing facility or treatment center; provided however, this provision shall not be construed to prohibit delivery of medical marijuana to a qualified patient, as permitted by state law or rule.
- 3) *On-site consumption of medical marijuana and alcoholic beverages.* The consumption of medical marijuana or alcoholic beverages is prohibited within a medical marijuana dispensing facility or treatment center, or anywhere on the premises outside of the facility, including, but not limited to the parking areas, sidewalks, or rights-of-way surrounding the facility.
- 4) *Sole use.* The sole use permitted on the premises of any medical marijuana dispensing facility or treatment center shall be limited to those uses permitted by Florida law and county regulations. No other goods or services shall be provided or sold, and no additional activities shall be conducted on the site which are not authorized by this section.
- 5) *Separation distances.* No medical marijuana dispensing facility or treatment center shall operate within Five Hundred (500) feet of any pre-existing school, religious facility, public library or public park, or One-Thousand (1000) feet between medical marijuana dispensing facilities or treatment centers, located in either unincorporated or incorporated Pinellas County.
  - a. Distance between medical marijuana dispensing facilities or treatment centers shall be measured by drawing a straight line between the front doors of the respective facilities.
  - b. Distance between a medical marijuana dispensing facility or treatment center and a school, religious facility, public library or day care facility shall be measured by drawing a straight line from the nearest point of the respective structure to the front door of the medical marijuana dispensing facility or treatment center.
  - c. Distance between a medical marijuana dispensing facility or treatment center and a public park shall be measured by drawing a straight line from the boundary of the public park to the front door of the medical marijuana dispensing facility or treatment center.
- 6) *Hours of operation.* Medical marijuana dispensing facilities or treatment centers shall be allowed to operate only between the hours of 7:00 a.m. to 9:00 p.m., daily.

- 7) *Security.* Every medical marijuana dispensing facility or treatment center shall meet the standards of and be certified as a Crime Prevention Through Environmental Design (“CPTED”) facility.
- 8) *Freestanding building.* Medical marijuana dispensing facilities or treatment centers shall be located within a freestanding building only.
- 9) *Limitation on number of facilities.* An entity approved and registered by the Florida Department of Health to operate medical marijuana dispensing facilities or treatment centers is limited to operating one medical marijuana dispensing facility or treatment center in a M-1 or C-3 zoned parcel, and one medical marijuana dispensing facility or treatment center in C-2 zoned parcel.
- 10) *Compliance with other laws.* Medical marijuana dispensing facilities or treatment centers shall at all times be in compliance with all federal, state and local laws and regulations.

**SUMMARY:** Staff finds that the proposed amendments to the Land Development Code, at a minimum, are consistent with the following goal of the Comprehensive Plan:

**FUTURE LAND USE ELEMENT:**

GOAL ONE: THE PATTERN OF LAND USE IN PINELLAS COUNTY SHALL PROVIDE A VARIETY OF URBAN ENVIRONMENTS TO MEET THE NEEDS OF A DIVERSE POPULATION AND THE LOCAL ECONOMY, CONSERVE AND LIMIT DEMANDS ON NATURAL AND ECONOMIC RESOURCES TO ENSURE SUSTAINABLE BUILT AND NATURAL ENVIRONMENTS, BE IN THE OVERALL PUBLIC INTEREST, AND EFFECTIVELY SERVE THE COMMUNITY AND ENVIRONMENTAL NEEDS OF THE POPULATION.

**ATTACHMENTS:**

- Strike-through / underline Ordinance
- Clean Ordinance
- Map showing allowable zoning districts and buffers around current schools, churches, and public parks.