



**CITY OF RIVIERA BEACH, STAFF REPORT  
MEDICAL MARIJUANA LAND DEVELOPMENT REGULATIONS  
CITY COUNCIL MEETING – APRIL 18, 2018**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 31 OF THE CITY'S CODE OF ORDINANCES ENTITLED, "ZONING", ARTICLE 1, "IN GENERAL", SECTION 31-1, "DEFINITIONS"; AND AMENDING ARTICLE VI, "SUPPLEMENTAL DISTRICT REGULATIONS"; IN ORDER TO ADD DEFINITIONS FOR AND ASSOCIATED WITH MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA TREATMENT CENTER-DISPENSING FACILITIES; AND TO PROHIBIT MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA TREATMENT CENTER-DISPENSING FACILITIES WITHIN ALL ZONING DISTRICTS AND WITHIN THE CITY'S JURISDICTIONAL BOUNDARIES; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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**A. Applicants:** City initiated process.

**B. Request:** To amend sections of the City's Land Development Regulations, Chapter 31, Article 1, Sec. 31-1 and Article VI. The proposed amendment will add *Medical Marijuana Treatment Center* and *Medical Marijuana Treatment Center – Dispensing Facility* to the list of prohibited uses and will add definitions for "Marijuana" and "Medical Marijuana Treatment Center and/or Medical Marijuana Treatment Center – Dispensing Facility." Staff is recommending approval of the Ordinance.

**C. Location:** Citywide impact as this Ordinance would impact all Zoning Districts.

**D. Property Description and Uses:** Not Applicable

**E. Adjacent Property Description and Uses:** Not Applicable

**F. Background:**

In 2014, FS 381.986 (the Compassionate Medical Cannabis Act of 2014) was passed legalizing strains of a low tetrahydrocannabinol (THC) and high cannabidiol (CBD) form of cannabis (low-THC cannabis) for medical use by patients suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms. The Florida Department of Health (DOH) therefore was responsible for the implementation of the Act and sought to establish rules for Dispensing Organizations. The Dispensing Organizations and their owners, managers, and employees were not subject to licensure and regulation under Chapter 465, FS, relating to pharmacies (Florida Senate Staff Analysis Senate Bill 8-A). Florida Statute 381.986 gave local jurisdictions the authority to regulate the number, location and permitting requirements for dispensaries.

In November 2016, Constitutional Amendment 2 was passed into law and established Article X, Section 29 of the State Constitution. This section of the constitution became effective on January 3, 2017 allowing for the use of Medical Marijuana for debilitating conditions.

On December 20, 2016, the City Council adopted the Medical Marijuana Moratorium (Ord. 4090) that established sun setting provisions upon one-year of effective date or adoption of Code amendments. The one-year moratorium would provide staff the time to research dispensing facilities, how other jurisdictions were regulating, and prepare for implementing language adopted by the state legislature or rule-making procedures prepared by the Department of Health.

On June 6, 2017 a Legislative Special Session was convened to address pending bills which did include the Medical Marijuana topic. An implementing bill was ultimately passed by the Legislature, amending FS 381.986.

On December 20, 2017, the City Council extended the Medical Marijuana Moratorium (Ord. 4105) for an additional six months, to allow staff to finalize the Code language to address the latest amendments to the Florida Statutes.

#### **G. Staff Analysis:**

Prior to the 2017 Legislative Session, Staff conducted research of jurisdictions within Florida that had proposed or adopted regulations for medical marijuana which included, but was not limited to, Orlando, Boynton, Lake Worth, Palm Beach County, Palm Beach Gardens, Royal Palm Beach, and Wellington. Based on staff's initial review of the abovementioned jurisdictions, the following types of regulations were being considered:

- Appropriate Zoning Designation and Review Process,
- Location and Separation Requirements,
- Limitations on the Number of Permits Issued,
- Hours of Operation and Safety Measures.

As indicated above, FS 381.986 was amended during the Legislative Special Session. Changes related to local government authority included:

- Authority to jurisdictions to ban dispensaries;
- Prohibits jurisdictions from limiting the total number of dispensaries;
- Requires cultivating or processing facilities to be located 500 feet from schools;
- Requires dispensing facilities to be located 500 feet from schools;
- Prohibits jurisdictions from treating dispensaries differently than pharmacies; and,
- Dispensaries must meet Building Code and Fire Code requirements.

The Riviera Beach Police Department has expressed concern that the current medical marijuana law preempts local regulatory authority and decreases the role in which local law enforcement will have on the inspection of medical marijuana treatment centers, and will have a negative impact on crime and the integrity of local neighborhoods.

#### **H. Recommendation:** Staff recommends approval of the proposed Ordinance.