

Meeting Date
08/22/2017



AGENDA	
Section	Public Hearing
Item No.	IV.B.

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	PUBLIC HEARING: RE Code Revision to Chapter 62, Article VI, Section 62-1482 (Medical Marijuana Treatment Centers and Pharmacies) (First Reading)
DEPT/OFFICE:	Planning and Development Department

Requested Action:  
 Conduct the first public hearing for Ordinance allowing Medical Marijuana Treatment Center Dispensing Facilities in the BU-1 zoning classification

Summary Explanation & Background:

On July 11, 2017, in anticipation of the Governor's approval of Senate Bill 8-A, the Board of County Commissioners expressed a desire to see medical marijuana treatment center dispensing facilities given the same status as pharmacies, which are already classified, by zoning official interpretation, as a BU-1 use. The Board directed staff to prepare the proposed ordinance which seeks to amend Section 62-1482(1)b of the Land Development Regulations for the General Retail Commercial, BU-1 Zoning classification, to include medical marijuana treatment center dispensing facilities and to specifically call out pharmacies in the list of permitted uses.

Senate Bill 8-A provides additional restrictions relating to the operation of Medical Marijuana Treatment Centers (MMTC's) and also limits County and home rule power as it relates to those facilities. The Senate Bill preempts the County from regulating most aspects of MMTC's and defers to the State legislation for that authority. The aspects the State legislation regulates are the distance criteria from schools, advertisement, security parameters, and number of licensed facilities. The County may not enact ordinances for permitting or for determining the location of dispensing facilities that are more restrictive than its ordinances permitting or determining the locations for pharmacies under chapter 465.

This is the first of two public hearings before the Board of County Commissioners. The second public hearing is scheduled for September 7, 2017.

This revision will be considered by the Local Planning Agency on August 21, 2017. The LPA recommendation will be provided at the Board meeting.

Clerk to the Board Instructions:

Exhibits Attached: Proposed ordinance (strike thru and underline), proposed ordinance (clean copy)

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager John Denninghoff	Department Director / Extension Tad Calkins, Director Director, Planning and Development
Frank Abbate	Interim Assistant County Manager Jim Liesenfelt	



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August 23, 2017

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item IV.B., Code Revision to Chapter 62, Article VI, Section 62-1482, Medical Marijuana Treatment Centers and Pharmacies

The Board of County Commissioners, in regular session on August 22, 2017, approved a moratorium with a sunset of July 1, 2018; and directed staff to come back to the Board with recommendations for separate zoning classification.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

/kp

cc: County Manager  
County Attorney

**ORDINANCE NO. 2017-**

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, SECTION 62-1482, TO ADD MEDICAL MARIJUANA TREATMENT CENTERS AND PHARMACIES IN THE BU-1 COMMERCIAL ZONING CLASSIFICATION; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES.

WHEREAS, the Florida Legislature enacted legislation legalizing marijuana for medical uses; and

WHEREAS, future constitutional amendments and legislation may further expand the legal use of marijuana in Florida; and

WHEREAS, a comprehensive State licensing and regulatory framework for the cultivation, processing, and dispensing of marijuana exists; and

WHEREAS the comprehensive State licensing and regulatory framework directs that the criteria for locations that do not conflict with State law or department rule for dispensing facilities of marijuana dispensing businesses may be determined by local ordinance; and

WHEREAS, marijuana dispensing businesses licensed pursuant to the law have begun cultivating marijuana for processing and dispensing; and

WHEREAS, the Local Planning Agency, on August 21, 2017, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the above referenced advisory body and has considered the comments of interested citizens in public hearing; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

**SECTION 1.** Chapter 62, Article VI, Section 62-1482, Code of Ordinances of Brevard County, Florida, is hereby amended to add "Medical Marijuana Treatment Centers" and "Pharmacies" to the current list of "*Permitted Uses*" as follows:

**Sec. 62-1482. General retail commercial, BU-1.**

**Sec. 62-1482(1)b.** The following uses, or other uses of a similar nature compatible with the character of the uses specifically described in this subsection, are permitted, and shall be limited to retail only:

Administrative, executive and editorial offices.

Antique shops.

Aquariums.

Art goods and bric-a-brac shops.

Artists' studios.

Auditoriums.

Automobile hire.

Automobile parts, if confined within a structure.

Automobile repairs, minor (as defined in Section 62-1102).

Automobile sales and storage, provided sales are from a permanent structure and the storage area meets the requirements of article VIII of this chapter, pertaining to site plans, and article XIII, division 2, of this chapter, pertaining to landscaping.

Automobile tires and mufflers (new), sales and service.

Automobile washing.

Bait and tackle shop.

Bakery sales, with baking permitted on the premises.

Banks and financial institutions.

Barbershops and beauty parlors.

Bed and breakfast inn.

Bicycle sales and service.

Billiard rooms and electronic game arcades (soundproofed).

Bookstores.

Bowling alleys (soundproofed).

Cafeterias.

Ceramics and pottery; finishing and sales; no production or firing except accessory to on site sales only.

Civic, philanthropic or fraternal organizations.

Coin laundromats.

Colleges and universities.

Commercial schools offering instruction in dramatic, musical or other cultural activity, including martial arts.

Confectionery and ice cream stores.

Conservatories.

Contractors' offices, with no outside storage.

Convenience stores, with or without gasoline sales.

Curio shops.

Dancing halls and academies (soundproofed).

Child or adult day care centers.

Display and sales rooms.

Dog and pet hospitals and beauty parlors, with no outside kennels or runs.

Drug and sundry stores.

Dyeing and carpet cleaning.

Electrical appliance and lighting fixtures.

Employment agencies.

Fraternities and sororities.

Florist shops.

Foster homes.

Fruit stores (packing on premises).

Funeral homes and mortuaries.

Furniture stores.

Furriers.

Gift shops.

Grocery stores.

Group homes, levels I and II.

Hardware stores.

Hat cleaning and blocking.

Hobby shops.

Hospitals.  
Interior decorating, costuming and draperies.  
Jewelry stores.  
Laboratories.  
Laundries.  
Lawn mower sales.  
Leather good stores.  
Luggage shops.  
Mail order offices.  
Meat, fish and seafood markets.  
Medical buildings and clinics, and dental clinics.  
Medical marijuana treatment center dispensing facilities.  
Messenger offices.  
Millinery stores.  
Motorcycle sales and service.  
Music, radio and television shops and repairs.  
Newsstands.  
Nursing homes.  
Optical stores.  
Paint and wallpaper stores.  
Parking lots (commercial).  
Parks and public recreational facilities.  
Pawnshops.  
Pet shops, with property enclosed to prevent any noxious odors.  
Pharmacies  
Photograph studios and galleries.  
Plant nurseries (no outside bulk storage of mulch, topsoil, etc.).  
Post offices.  
Printing services.  
Professional offices and office buildings.

Resort dwellings.  
Restaurants.  
Sale of alcoholic beverage, package only.  
Schools for business training.  
Schools, private or parochial.  
Shoe repair shops.  
Shoe stores.  
Single-family residence.  
Soft drink stands.  
Souvenir stores.  
Stationery stores and bookstores.  
Tailor shops.  
Tearooms.  
Telephone and telegraph stations and exchanges.  
Television and broadcasting stations, including studios, transmitting stations and towers and other incidental uses usually pertaining to such stations.  
Theaters, but no drive-ins.  
Ticket offices and waiting rooms for common carriers.  
Tobacco stores.  
Upholstery shops.  
Wearing apparel stores.  
Worship, places of.

**SECTION 2.** Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

**SECTION 3.** Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

**SECTION 4.** Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

**SECTION 5. Effective Date.** A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

**SECTION 6. Inclusion in Code.** It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in regular session, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Scott Ellis, Clerk of Court

By \_\_\_\_\_  
Curt Smith, Chairman  
(As approved by the Board on \_\_\_\_\_, 2017.)

Reviewed for legal form and content:

\_\_\_\_\_  
(Assistant) County Attorney



