

Meeting Date
February 20, 2018



AGENDA	
Section	Public Hearing
Item No.	<i>IV.A</i>

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	PUBLIC HEARING, RE: CODE AMENDMENT TO CHAPTER 62, ARTICLE VI, ZONING REGULATIONS (PHARMACIES & MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES) (FIRST HEARING) FISCAL IMPACT: NONE
DEPT/OFFICE:	Planning & Development

Requested Action:
It is requested that the Board of County Commissioners conduct the public hearing to allow pharmacies, drug and sundry stores, and medical marijuana treatment center dispensing facilities as a Permitted Use with Conditions in BU-1-A, BU-1, BU-2, PBP, PIP, IU, IU-1, TU-1, and TU-2 zoning classifications.

Summary Explanation & Background:
The Board of County Commissioners, in regular session on October 24, 2017, adopted Ordinance No.17-26, establishing a temporary moratorium prohibiting any and all medical marijuana dispensing activities within the unincorporated areas of Brevard County. The moratorium will sunset with the end of the 2018 Florida Legislative Session which is scheduled to be March 9, 2018. During that hearing, staff stated they would bring back an ordinance with zoning criteria for medical marijuana treatment centers.

The proposed amendment to Brevard County Code of Ordinance Sections 62-1481, 62-1482, 62-1483, 62-1511, 62-1512, 62-1541, 62-1542, 62-1543, 62-1544, and 62-1838.3 establishes pharmacies and medical marijuana treatment center dispensing facilities as a Permitted Use with Conditions. Also, the revisions eliminate drug and sundry stores as a Permitted Use from BU-1-A, BU-1, and BU-2 zoning classifications. Pharmacies, drug and sundry stores, and medical marijuana treatment center dispensing facilities will be subject to the following conditions:

- Dispensing facilities shall comply with all of the requirements set forth in Fl. Statute 381.986;
- Shall be located on parcels that have direct access to a collector or higher roadway. They shall not be permitted on a parcel that only has access to a local roadway; and
- Will be located in an area that has sanitary sewer and water utilities currently available.
- Pharmacies and dispensing facilities approved by the County prior to the effective date of this ordinance # ___ are not subject to the criteria of section 62-1838.3

This is the first of two public hearings before the Board of County Commissioners. The second public hearing is scheduled for March 6, 2018.

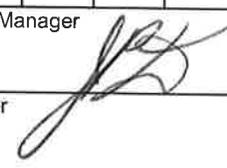
The proposed amendments will be considered by the Local Planning Agency on February 19, 2018 and their recommendation will be provided at the Board meeting.

Staff Contact: Tad Calkins, Ext 5-6363

Clerk to the Board instruction:

Exhibits Attached: Proposed ordinance & Staff report.

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	X	No	<input type="checkbox"/>	PR <input type="checkbox"/>
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County Manager	Interim Assistant County Manager Jim Liesenfelt	 Department Director / Extension Tad Calkins Planning & Development Dept. Ext. 56363
Frank Abbate 	Assistant County Manager John Denninghoff	



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February 21, 2018

MEMORANDUM

TO: Tad Calkins, Planning and Development Director

RE: Item IV.A., Public Hearing for Code Amendment to Chapter 62, Article VI, Zoning Regulations (Pharmacies & Medical Marijuana Treatment Center Dispensing Facilities)

The Board of County Commissioners, in regular session on February 20, 2018, conducted a public hearing to consider an ordinance to allow pharmacies, drug and sundry stores, and medical marijuana treatment center dispensing facilities as a Permitted Use with Conditions in BU-1-A, BU-1, BU-2, PBP, PIP, IU, IU-1, TU-1, and TU-2 Zoning Classifications; the Board denied the ordinance; and the Board approved removing the conditions to allow Medical Marijuana Dispensaries as a Permitted Use upon the temporary moratorium sunseting on March 9, 2018.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

ORDINANCE NO. 2018-

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, DIVISION 4, SUBDIVISION VI, "COMMERCIAL," SPECIFICALLY AMENDING SECTIONS: 62-1481 RESTRICTED NEIGHBORHOOD RETAIL COMMERCIAL, BU-1-A; 62-1482 GENERAL RETAIL COMMERCIAL, BU-1; 62-1483 RETAIL, WAREHOUSING AND WHOLESALE COMMERCIAL, BU-2 TO REMOVE "DRUG AND SUNDRY STORES" FROM THE LIST OF PERMITTED USES, TO ADD "PHARMACY, DRUG AND SUNDRY STORE, AND/OR MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY" AS A PERMITTED USE WITH CONDITIONS WITHIN THE AFOREMENTIONED COMMERCIAL ZONING CLASSIFICATIONS; AMENDING ARTICLE VI, DIVISION 4, SUBDIVISION VII, "TOURIST COMMERCIAL AND TRANSIENT TOURIST USE," SPECIFICALLY AMENDING SECTIONS: 62-1511 GENERAL TOURIST COMMERCIAL, TU-1 AND 62-1512 TRANSIENT TOURIST COMMERCIAL, TU-2, TO ADD "PHARMACY, DRUG AND SUNDRY STORE, AND/OR MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY" AS A PERMITTED USE WITH CONDITIONS WITHIN THE AFOREMENTIONED TOURISM ZONING CLASSIFICATIONS; AMENDING ARTICLE VI, DIVISION 4, SUBDIVISION VIII, "INDUSTRIAL," SPECIFICALLY AMENDING SECTIONS: 62-1541 PLANNED BUSINESS PARK, PBP; 62-1542 PLANNED INDUSTRIAL PARK PIP; 62-1543 LIGHT INDUSTRIAL, IU; AND 62-1544 HEAVY INDUSTRIAL, IU-1, TO ADD "PHARMACY, DRUG AND SUNDRY STORE, AND/OR MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY" AS A PERMITTED USE WITH CONDITIONS WITHIN THE AFOREMENTIONED INDUSTRIAL ZONING CLASSIFICATIONS; AMENDING ARTICLE VI, DIVISION 5, SUBDIVISION II, "PERMITTED USES WITH CONDITIONS," SPECIFICALLY CREATING SECTION 62-1838.3 TITLED "PHARMACY, DRUG AND SUNDRY STORE AND/OR MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY" AND ESTABLISHING CONDITIONS FOR SAID USE; 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 February 19, 2018, 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:

Underline indicates additions.

~~Strike-through indicates deletions.~~

SECTION 1. Section 62-1481 (1) a and b, General retail commercial, BU-1-A Code of Ordinances of Brevard County, Florida, is hereby amended to remove "Drug and Sundry Stores" from the listing of permitted uses, and to add Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility as a permitted use with conditions.

Sec. 62-1481. Restricted neighborhood retail commercial, BU-1-A.

(1) Permitted uses.

- a. The following uses, or other uses of similar nature that are compatible with the character of the uses specifically set forth in this subsection, are permitted. All business uses and all materials and products shall be confined within substantial buildings completely enclosed with walls and a roof.

Administrative, executive and editorial offices.

Antique shops.

Art goods and bric-a-brac shops.

Artists' studios.

Bakery sales, with baking permitted on the premises.

Banks and financial institutions.

Barbershops and beauty parlors.

Bookstores.

Ceramics and pottery; finishing and sales only; no production or firing.

Child care center.

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

Computer sales, service and repair.

Confectionery and ice cream stores.

Contractor's offices; general contractor's administrative offices only, no outside storage or storage in open vehicles.

Curio shops.

Dental clinics.

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

~~Drug and sundry stores.~~

Florist shops.

Foster homes.

Gift shops.

Group homes, levels I and II.

Hat cleaning and blocking.

Hobby shops.

Interior decorating and draperies.

Jewelry stores.

Learning centers.

Leather goods stores.

Luggage shops.

Mail order offices.
Medical buildings and clinics.
Messenger offices.
Millinery stores.
Music shops.
Newsstands.
Optical stores.
Paint and wallpaper stores.
Parks and public recreational facilities.
Photographic studios.
Professional offices.
Resort dwellings.
Shoe repair shops.
Shoe stores.
Single-family residence.
Soft drink stands.
Souvenir stores.
Stationery stores.
Tailor shops.
Tea rooms.
Tobacco stores.
Wearing apparel stores.

- b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Bait and tackle shop.

Coin laundromat.

Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.

Preexisting use.

Snack bar and restaurant.

SECTION 2. Section 62-1482 (1) b and c, General retail commercial, BU-1 Code of Ordinances of Brevard County, Florida, is hereby amended to remove "Drug and Sundry Store" from the listing of permitted uses, and to add Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility as a permitted use with conditions.

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

(1) Permitted uses.

- 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.
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.
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.

- c. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Assisted living facility.

Automobile and motorcycle repair (major) and paint and body work.

Boat sales and service.

Cabinetmaking and carpentry.

Dry cleaning plants, accessory to pickup stations.

Farm machinery sales and service.

Gasoline service stations.

Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products.

Outdoor restaurant seating.

Outside sale of mobile homes.

Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.

Preexisting use.

Substations, and transmission facilities.

Security mobile home.

Self storage mini-warehouses.

Tourist efficiencies and hotels and motels.

Treatment and recovery facility.

SECTION 3. Section 62-1483 (1) b and c, Retail, warehousing and wholesale commercial, BU-2 Code of Ordinances of Brevard County, Florida, is hereby amended to remove "Drug and Sundry Stores" from the listing of permitted uses, and to add Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility as a permitted use with conditions.

Sec. 62-1483. Retail, warehousing and wholesale commercial, BU-2.

(1) Permitted uses.

- b. All uses listed below, or other uses of a similar nature compatible with the character of uses described herein:

Administrative, executive and editorial offices.

Antique shops.

Aquariums.

Art goods and bric-a-brac shops.

Artists' studios.

Auditoriums.

Automobile hire.

Automobile repairs, minor and major, as defined in Section 62-1102 (also see Section 62-1837.6).

Automobile washing.

Bait and tackle shop.

Bakery sales, with baking permitted on the premises.

Banks and financial institutions.

Barbershops and beauty parlors.

Bicycle sales and service.

Billiard rooms and electronic arcades (soundproofed).

Bookstores.

Bottling beverages.

Bowling alleys (soundproofed).

Cafeterias.

Ceramics and pottery; finishing and sales, including production and firing.

Child or adult day care centers.

Civic, philanthropic or fraternal organizations.

Colleges and universities.

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

Confectionery and ice cream stores.

Conservatories.

Convenience stores, with or without gasoline sales.

Curio shops.

Dancing halls and academies (soundproofed).

Display and sales rooms.

Dog and pet hospitals and beauty parlors.

~~Drug and sundry stores.~~

Dry cleaning and laundry pickup stations.

Dry cleaning plants.

Dyeing and carpet cleaning.

Electrical appliance and lighting fixtures.

Employment agencies.

Feed and hay for animals and stock.

Fertilizer stores.

Florist shops.

Foster homes.

Fraternities and sororities.

Fruit stores (packing on premises).

Funeral homes and mortuaries.

Furniture stores.
Furriers.
Gift shops.
Glass installation.
Grocery stores.
Group homes, levels I and II.
Hardware stores.
Hat cleaning and blocking.
Hobby shops.
Hospitals.
Ice plants.
Interior decorating, costuming and draperies.
Jewelry stores.
Kindergartens.
Laboratories.
Laundries.
Lawn mower sales.
Leather good stores.
Luggage shops.
Mail order offices.
Meat markets.
Medical buildings and clinics, and dental clinics.
Messenger offices.
Millinery stores.
Music, radio and television shops and repairs.
Newsstands.
Nursing homes.

Optical stores.

Paint and body shops.

Paint and wallpaper stores.

Parking lots (commercial).

Parks and public recreational facilities.

Pawnshops.

Pet kennels.

Pet shops, with property enclosed to prevent any noxious odors.

Photograph galleries.

Photographic studios.

Plant nurseries.

Plumbing and electrical shops.

Post offices.

Printing services.

Professional offices and office buildings.

Resort dwellings.

Restaurants.

Sale of alcoholic beverages, package only.

Schools for business training.

Schools, private or parochial.

Seafood processing plants not located within 300 feet of any residential zone boundary.

Sharpening and grinding shops.

Ship chandlery.

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, power plants and other incidental uses usually pertaining to such stations.

Testing laboratories.

Theaters, but no drive-ins.

Ticket offices and waiting rooms for common carriers.

Tobacco stores.

Upholstery shops.

Wearing apparel stores.

Welding repairs (except metal fabrication).

Wholesale salesroom and storage rooms.

Worship, places of.

- c. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Assisted living facility.

Automobile and motorcycle repair (major) and paint and body work.

Automobile sales and storage.

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

Boat sales and service.

Building materials and supplies.

Cabinetmaking and carpentry.

Cemeteries and mausoleums.

Commercial entertainment and amusement enterprises (small scale), subject to conditions in section 62-1921.

Contractor's offices, plants and storage yards.

Crematoriums.

Engine sales and service.

Farm machinery sales and services.

Garage or mechanical service.

Gasoline service stations.

Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products.

Mini-warehouses.

Minor automobile repairs.

Mobile home and travel trailer sales.

Motorcycle sales and service.

Outdoor restaurant seating.

Outside sale of mobile homes.

Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.

Preexisting use.

Railroad, motor truck and water freight and passenger stations.

Recovered materials processing facility.

Security mobile home.

Service station for automotive vehicles and U-haul service.

Substations, and transmission facilities.

Tourist efficiencies and hotels and motels.

Treatment and recovery facility.

Warehouses.

SECTION 4. Section 62-1511 (1) c, General tourist commercial, TU-1 Code of Ordinances of Brevard County, Florida, is hereby amended to add "Pharmacy, drug and

sundry store, and/or medical marijuana treatment center dispensing facility.” to the listing of permitted uses with conditions.

Sec. 62-1511. General tourist commercial. TU-1.

(1) Permitted uses.

- c. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.

Preexisting use.

Tourist efficiencies.

SECTION 5. Section 62-1512 (1) c, Transient tourist commercial, TU-2 Code of Ordinances of Brevard County, Florida, is hereby amended to add “Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.” to the listing of permitted uses with conditions.

Sec. 62-1512. Transient tourist commercial. TU-2.

(1) Permitted uses.

- c. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Gasoline service stations.

Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.

Preexisting use.

SECTION 6. Section 62-1541 (1) b, Planned business park, PBP Code of Ordinances of Brevard County, Florida, is hereby amended to add “Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.” to the listing of permitted uses with conditions.

Sec. 62-1541. Planned business park, PBP.

(1) Permitted uses.

- b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Uses "permitted with conditions" will be controlled by section 62-1540 and performance standards.

Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.

Preexisting use.

Single family residence.

SECTION 7. Section 62-1542 (1) b, Planned industrial park, PIP Code of Ordinances of Brevard County, Florida, is hereby amended to add "Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility." to the listing of permitted uses with conditions.

Sec. 62-1542. Planned industrial park, PIP.

(1) Permitted uses.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Uses "permitted with conditions" will be controlled by section 62-1540 and performance standards.

Boatbuilding facility.

Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.

Preexisting use.

Recovered materials processing facility.

Single family residence.

SECTION 8. Section 62-1543 (1) b, Light industrial, IU Code of Ordinances of Brevard County, Florida, is hereby amended to add "Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility." to the listing of permitted uses with conditions.

Sec. 62-1543. Light industrial, IU.

(1) Permitted uses.

- b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Uses "permitted with conditions" will be controlled by section 62-1540 and performance standards.

Assisted living facility.

Commercial entertainment and amusement enterprises (small scale).

Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.

Power substations and transmission facilities.

Preexisting use.

Recovered materials processing facility.

Treatment and recovery facility.

SECTION 9. Section 62-1544 (1) b, Heavy industrial, IU-1 Code of Ordinances of Brevard County, Florida, is hereby amended to add "Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility." to the listing of permitted uses with conditions.

Sec. 62-1544. Heavy industrial, IU-1.

- (1) Permitted uses.

- b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Uses "permitted with conditions" will be controlled by section 62-1540 and performance standards.

Assisted living facility.

Commercial entertainment and amusement enterprises (small scale).

Pharmacy, drug and sundry store, and/or medical marijuana treatment center dispensing facility.

Power substations and transmission facilities.

Preexisting use.

Recovered materials processing facility.

Treatment and recovery facility.

Truss manufacturing plant.

SECTION 10. Chapter 62, Article VI, Division 5, Code of Ordinances of Brevard County, Florida, shall be amended to add a Section 62-1838.3, "Pharmacy, Drug and Sundry Stores, and/or Medical Marijuana Treatment Center Dispensing Facilities" as follows:

Sec. 62-1838.3. Pharmacy, Drug and Sundry Stores, and/or Medical Marijuana Treatment Center Dispensing Facilities.

Pharmacy, Drug and Sundry Stores, and/or Medical Marijuana Treatment Center Dispensing Facilities. Medical Marijuana Treatment Center Dispensing Facility (MMTC's) will meet all requirements set forth in Florida Statute 381.986. Pharmacies, Drug and Sundry Stores, and/or Medical Marijuana Treatment Center Dispensing Facilities shall comply with the following requirements:

- (1) Shall be located on parcels that have direct access to a collector or higher roadway. They shall not be permitted on a parcel that only has access to a local roadway.
- (2) Will be located in an area that has sanitary sewer and water utilities currently available.
- (3) Pharmacies and dispensing facilities approved by the County prior to the effective date of this ordinance # _____ are not subject to the criteria of section 62-1838.3

SECTION 11. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 12. 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 13. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 14. 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 15. 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



BOARD OF COUNTY COMMISSIONERS

STAFF REPORT: MEDICAL MARIJUANA TREATMENT CENTERS DISPENSING FACILITIES

The Board of County Commissioners, in regular session on October 24, 2017, adopted Ordinance No.17-26, establishing a temporary moratorium prohibiting any and all medical marijuana dispensing activities within the unincorporated areas of Brevard County. The moratorium will sunset with the end of the 2018 Florida Legislative Session which is scheduled to be March 9, 2018. This staff report provides a summary of past Board actions, information relating statewide trends for medical marijuana treatment centers (MMTC), provisions granted by the statute to local governments for regulating MMTCs, and potential Board considerations.

Past Board Actions:

Since the amendments to Florida Statute 381.986 adopted in July 2017, the County's proposed MMTC dispensing facilities regulations has gone through several transformations. On July 11, 2017, the Board authorized staff to draft an ordinance allowing MMTC dispensing facilities in the BU-1 zoning classification and be regulated the same as pharmacies. Then on August 22, 2017, the Board directed staff to prepare a moratorium to sunset July 2018 and recommendation a separate zoning classification. On October 10, 2017, the Board changed the sunset date of the moratorium to the end of the 2018 legislative session. On October 24, 2017, the Board approved the moratorium. (Please refer to Exhibit – A)

Statewide Trends:

The Florida Department of Health tracks the number of registered patients, qualified physicians, number of approved MMTCs, and their approved retail dispensing locations. The following data is according to the Office of Medical Marijuana Use's Weekly Update dated January 26, 2018 (Exhibit B). So far the department has registered 71,720 patients that have been diagnosed by one of the 1,035 qualified physicians to prescribe medical marijuana. Upon being registered, an individual can apply for a Medical Marijuana ID Card which allows them to receive treatment. The Department of Health has approved 47,675 ID Cards. The State has approved 13 MMTCs that have 27 approved retail dispensing locations. The 27 dispensing facilities are spread over 15 counties with Miami- Dade having 5 facilities.

It appears that the local jurisdictional trend is to allow dispensing facilities as a permitted use or conditional use. This is based on a survey of 15 counties and cities (Exhibit – C). Eight of the jurisdictions are allowing dispensing facilities, 4 others have banned them altogether, and 3 have a moratorium. Palm Bay, Rockledge, and Satellite Beach are the only municipalities within Brevard County that allow MMTC dispensing facilities. Titusville has an ordinance going before their council this month that will allow MMTCs in certain zoning classification.

Florida Statute 381.986 Provisions:

The amendments to FS 381.986 adopted in July 2017 created a comprehensive State licensing and regulatory framework for medical marijuana. The statute preempted the regulation of cultivation, processing, and delivery to the State. However, it does provide counties the ability to ban MMTC dispensing facilities within their jurisdiction. If a county chooses to allow dispensing facilities in their jurisdiction, they may not enact ordinances for permitting or determining locations that are more restrictive than pharmacies.



BOARD OF COUNTY COMMISSIONERS

Board Considerations:

The Board may consider banning MMTC dispensing facilities, enacting an ordinance for permitting and location criteria, or allowing the moratorium to sunset.

Banning Dispensing Facilities:

The Board would need to adopt an ordinance that bans MMTC dispensing facilities within the unincorporated areas of Brevard County. While this eliminates the “dispensing” aspect from the county, it does not remove treatment for patients. State licensed MMTCs will be able to deliver to patients within Brevard County. In addition, the MMTC would be able to cultivate and process medical marijuana as well.

Enacting Ordinance for Permitting & Location Criteria:

Florida Statute 381.986 essentially considers MMTC dispensing facilities and pharmacies the same when it comes to zoning, permitting and location requirements. The statute stipulates any permitting or locational criteria for MMTC dispensing facilities adopted by the County will also apply to pharmacies. Currently, the zoning regulations allow pharmacies as a permitted use in 9 zoning classifications without locational or separation requirements. The more restrictive the criteria for regulating dispensing facilities, the greater the effect on existing pharmacies and properties that could have been potentially held a pharmacy. The effects of the criteria may be perceived to diminish value of existing properties, and the Board should always be concerned with the diminution of value when establishing new rules governing land uses. Currently, there are 3,748 parcels designated with the aforementioned zoning classifications. (This does not consider the state requirement of 500ft separation from schools.)

The Board may consider adopting an ordinance establishing the following permitting and locational criteria for MMTC dispensing facilities and pharmacies within BU-1-A, BU-1, BU-2, PBP, PIP, IU, IU-1, TU-1 and TU-2 zoning classifications.

- Dispensing facilities shall comply with all of the requirements set forth in Fl. Statute 381.986.
- Dispensing facilities or pharmacies shall be located on parcels that have direct access to a collector or higher roadway. They shall not be permitted on a parcel that only has access to a local roadway.
- Dispensing facilities or pharmacies will be located in an area that has sanitary sewer and water utilities currently available.
- Existing pharmacies permitted prior to the adoption of this ordinance are not subject to aforementioned requirements.

Moratorium Sunset:

If the Board does not adopt an ordinance regulating MMTC dispensing facilities prior to the sunset of the moratorium, dispensing facilities would be a permitted use in 9 zoning classifications (i.e., BU-1-A, BU-1, BU-2, PBP, PIP, IU and IU-1 and TU-1 & TU-2). The only siting criteria that would apply to a dispensing facility is 500ft from schools required by FS 381.986. This requirement will reduce the number of lots which may be used for dispensing.



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BOARD OF COUNTY COMMISSIONERS

Exhibit - A: Summary of Past Board Actions

October 24, 2017:

Motion: Barfield/Tobia

In favor: Pritchett, Barfield, Tobia, Smith

Opposed: Isnardi

The Board adopted Ordinance 17-26, establishing a temporary moratorium prohibiting any and all medical marijuana dispensing activities within the unincorporated areas of the County.

No discussion.

October 10, 2017:

Motion: Barfield/Tobia

In Favor: Pritchett, Smith, Barfield, Tobia

Opposed: Isnardi

The Board amended the proposed ordinance to modify the moratorium sunset date to after the legislative session ends; directed staff to research plans from other counties; and continued the public hearing for an ordinance establishing a temporary moratorium prohibiting any and all medical marijuana dispensing activities to the October 24th meeting.

Isnardi: Would like the Board to create a zoning classification where MMTC's are allowed. Allow them where pharmacies are allowed.

Pritchett: Would like staff to work on a pharmacy zoning. Concerned about traffic in and out of neighborhoods.

Barfield: Legislature may come up with clarification. Would like to wait on Legislature.

Smith: Would like to see what the State does. A moratorium gives the Board flexibility.

Tad: Staff can look at the zoning classification for pharmacy and come up with separation requirements. Problem with existing pharmacies/could be grand-fathered.

Scott Knox suggested the Board change the duration of the moratorium to the end of the Legislative session

Tobia: The last day of the session is March 9th, and suggested the Board push the moratorium to March 10th.

August 22, 2017: (1st reading)

Motion: Pritchett/Tobia

In favor: Barfield, Smith, Pritchett, Tobia

Opposed: Isnardi

The Board approved a moratorium with a sunset of July 1, 2018; and directed staff to come back to the Board with recommendations for a separate zoning classification.

Staff requests permission to revise BU-1 to include MMTC's, dispensing facilities, and pharmacies as a permitted use.

Tobia: In favor of temporary moratorium. Thinks BU-1 is too close to residential/churches.

Knox:

- Legislature has said to either treat MMTC's like pharmacies and put them in the same classification, or ban them.
- Pharmacies cannot be regulated.
- The Board can take pharmacies out of BU-1 and create a special classification for pharmacies and medical marijuana dispensaries, but the Board cannot do anything about cultivating and processing.
- If the Board bans MMTC's it would only apply to the unincorporated county.
- In order to regulate dispensaries the Board would have to create a zoning classification separately for pharmacies and dispensaries.

Isnardi: In favor of MMTC's. Thinks the Board should create a zoning classification for pharmacies and MMTC's.

Pritchett: Concerned about traffic. Thinks a new zoning classification would be a solution.

Barfield: In favor of a moratorium with a sunset date because of what the legislature might do. Suggested sunset date of 07/01/18.

Smith: In favor of a moratorium.

July 11, 2017: (CAO item)

Motion: Barfield/Pritchett

In favor: Smith, Barfield, Pritchett

Opposed: Tobia

The Board authorized the CAO to draft an ordinance for medical marijuana facilities to be located in a BU-1 zoning classification, and to be the same as pharmacies.

Knox: Option 1 – Ban MMTC's

Option 2 – Pass regulation that would affect both MMTC's and pharmacies; both have to be regulated the same way.

Option 3 – Add MMTC's and pharmacies to the BU-1 zoning classification.

Knox recommends Option 3

Tobia: Concerned medical marijuana will lead to recreational marijuana.

Barfield, Pritchett, Smith: Not in favor, but agreeable to allowing MMTC's in BU-1

May 23, 2017:

No vote taken. The Board reached consensus for staff to compile each Commissioners' suggestions and to come back to the Board with legislative intent and permission to advertise an ordinance establishing standards for the location and operation of MMTC's at the 07/11/17 meeting.

Isnardi: Likes the Palm Bay ordinance, which includes ranking and an indemnity clause. Would like to see in the ordinance, operations, hours, signage, parking, traffic, and prohibited activities.

Barfield: Not in favor of a scoring system.

Barfield & Isnardi: Would like a separate committee to review MMTC's and bring them to the Board for a decision.

Knox: The County's ordinance has CUP's, which require two public hearings.

Smith: In favor of a CUP.

May 9, 2017:

Motion: Isnardi/Pritchett.

Unanimous.

The Board continued consideration of an ordinance establishing standards for the location and operation of MMTC, to the second public hearing schedule for May 23, 2017.

Tobia:

- Concerned about distances between dispensaries.
- Nurseries – the State set strict criteria. Concerned about distance between dispensaries instead of ratio (to residential). Asked why staff chose 200 ft. as opposed to 500 ft.
- Agrees with 1,000 ft. from schools.
- Concerned with operating hours
- Would like MMTC's handled like CRA's

Pritchett: Does not like 200 ft. from residential

Isnardi:

- Would like to see one MMTC per 25,000 or 30,000 residents/population.
- Agrees with a CUP

Smith: No opinion.



BOARD OF COUNTY COMMISSIONERS

Planning & Development Department
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Exhibit - B: Medical Marijuana Use's Weekly Update dated January 26, 2018

FLORIDA DEPARTMENT OF HEALTH Office of Medical Marijuana Use

Low-THC Cannabis & Medical Marijuana

Rick Scott, Governor of the State of Florida
Celeste Philip, MD, MPH, Surgeon General and Secretary

FloridaHealth.gov



4052 Bald Cypress Way, Bin M-01, Tallahassee, Florida 32309-3265 • 850-245-4657

WEEKLY UPDATE – January 26, 2018

The Florida Department of Health's (DOH) top priority is the health and safety of Florida's families and are dedicated to ensuring patients have safe access to low-THC cannabis and medical marijuana. Through the DOH Office of Medical Marijuana Use (OMMU), we are working diligently every day to implement the many requirements in Amendment 2 and those set by the Florida Legislature in Senate Bill 8A. We remain committed to moving this process forward, and will do so in an expedient and thoughtful manner. To keep the public informed of the latest updates, DOH will issue a weekly update on this issue.

OMMU by the Numbers

Patients in the Registry: 71,720 *

Qualified Physicians: 1,035

Approved Medical Marijuana Treatment Centers:
13

Approved Retail Dispensing Locations: 27

Processing Time for Complete Paper Application: 30 days

Processing Time for Complete Online Application: 20 days

Approved ID Card Applications: 47,675 *

Applications in Processing: 3,500

Implementation Updates

- **Low-THC cannabis and medical marijuana has been and continues to be available for qualified patients.** Patients may search for qualified ordering physicians using the new search tool on the OMMU Patients Page. Patients and caregivers may fill their orders at any of the 26 dispensing locations, or via delivery from approved MMTCs below.
- DOH issued a press release on January 19, 2018 reminding Floridians to avoid medical marijuana scams. The release can be viewed [here](#).
- **NEW:** The mailing address for Patient and Caregiver ID card applications has changed:
PO Box 31313, Tampa, FL 33631-3313
- During the 2017 Special Legislative Session, the Florida Legislature passed Senate Bill 8-A which included many changes to creating physician certifications for qualifying patients. Updates

*Note, not all patients entered into the medical marijuana use registry apply for medical marijuana use identification cards.

have been made to the Medical Marijuana Use Registry as required by 381.986, F.S. Updated user guides are available at: <http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/medical-marijuana-use-registry/index.html>

Medical Marijuana Treatment Centers

Name	Dispensing Locations
Trulieve	Tallahassee, Tampa, Clearwater, Pensacola, Miami, Edgewater, Lady Lake, Jacksonville, Orlando, St. Petersburg, Bradenton, Fort Myers, Gainesville, delivery
Surterra Therapeutics	Pensacola, Tallahassee, Tampa, North Port, delivery
Curaleaf	Miami, Kendall, Lake Worth, delivery
Knox Medical	Tallahassee, Gainesville, Orlando, Jacksonville, Lake Worth, St. Petersburg, delivery
Liberty Health Science	Summerfield, delivery
The Green Solution	Dispensing via delivery
GrowHealthy	Dispensing via delivery
3 Boys Farm	<i>Cultivation Authorization only</i>
Vidacann	<i>Cultivation Authorization only</i>
Plants of Ruskin, Inc.	<i>Cultivation Authorization only</i>
Sunbulb Company, Inc.	<i>Cultivation Authorization only</i>
Treadwell Nursery	<i>Cultivation Authorization only</i>
Keith St. Germain Nursery Farms	N/A

Legal Updates

The implementation of Amendment 2 and Senate Bill 8A continues to be frequently litigated. While some of these lawsuits have little impact on our progress, others – particularly those regarding the constitutionality of the law we are tasked with executing – have significant impact on DOH's ability to implement certain requirements of Senate Bill 8A.

Home Grow	Redner v. DOH, et. al., 13th Judicial Circuit Case No. 17-CA-5677 <i>Motion to dismiss was denied on January 24, 2018; case to go to trial.</i>
Smoking Ban	People United for Medical Marijuana v. DOH, et. al., 2d Judicial Circuit Case No. 2017-CA-1394 <i>Hearing took place January 25, 2018.</i>
Constitutionality of Black Farmers Provision 381.986(8)(a)2 F.S.	Smith v. DOH, 2d Judicial Circuit Case No. 2017-CA-001972 <i>Hearing took place on December 28, 2017. Judge Dodson granted the injunction.</i>
Constitutionality of Citrus Farmers Provision 381.986(8)(a)3 F.S.	Tropiflora, LLC v. DOH, 2d Judicial Circuit Case No. 2016-CA-1330 <i>Awaiting injunction hearing to be scheduled.</i>
Application Process	Bill's Nursery, Inc. v. DOH, 2d Judicial Circuit Case No. 2017-CA-002411 <i>Hearing regarding motion to consolidate with Smith v. DOH scheduled for February 2, 2018.</i>
MMTC Licensure	Nature's Way v. DOH Case No. 17-5801 <i>Hearing scheduled for January 29, 2018</i>

General Background Information

Medical Marijuana ID Card Application Process: Once a patient has been diagnosed by a qualified ordering physician and entered into the Medical Marijuana Use Registry, they can immediately begin the identification card application process. The department encourages applicants to complete the process online as this decreases processing time. Patients receive an email from OMMU once their email is added to the registry by their qualified ordering physician which directs them to the application. Once an application is reviewed and approved, patients receive an approval email which can be used to fill an order at an approved MMTC while they await their physical card.

Medical Marijuana Use Registry: All orders for medical marijuana are recorded and dispensed via the Medical Marijuana Use Registry. The Medical Marijuana Use Registry is accessible online, with real time information to ordering physicians, law enforcement and medical marijuana treatment center staff. Patients and caregivers may also access the Medical Marijuana Use Registry to submit a Medical Marijuana Use Registry Identification Card application, and check the status of their application.

Medical Marijuana Treatment Centers: Approved medical marijuana treatment centers are the only businesses allowed to grow, process, or sell medical marijuana in Florida. Each medical marijuana treatment center must receive authorization at three stages, (1) cultivation authorization, (2) processing authorization, and (3) dispensing authorization, prior to dispensing low-THC cannabis or medical marijuana. Medical marijuana cannot be mailed.

For more information visit www.flhealth.gov/ommu



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BOARD OF COUNTY COMMISSIONERS

Exhibit - C: Medical Marijuana Ordinance Matrix

Medical Marijuana Ordinances

COUNTY/ MUNICIPALITY	TYPE OF REVIEW	ZONING CLASSIFICATION	LOCATIONAL CRITERIA	STRUCTURE	OPERATIONAL CRITERIA
Brevard County (proposed)	Moratorium	<ul style="list-style-type: none"> • BU-1 	<ul style="list-style-type: none"> • Same criteria as Pharmacies 		
Broward County	Allowed		<ul style="list-style-type: none"> • Same criteria as Pharmacies 		
Indian River County	Banned				
Miami-Dade	Permitted with Conditions	<ul style="list-style-type: none"> • BU-1 • BU-1A • BU-2 • BU-3 • IU-1, IU-2, IU-3, IU-C • MC, MCS and MCI in an Urban Center District 	<ul style="list-style-type: none"> • 500 feet of child care, preschool, school or religious facility 		<ul style="list-style-type: none"> • One-time certificate of use
Orange County	Allowed	<ul style="list-style-type: none"> • I-2/3 and I-4 Industrial "Tourist District" 	<ul style="list-style-type: none"> • 500 feet from any school, park, child daycare center, child day care home, family daycare home, religious institution, any residential dwelling or residential zoned property, and other MMTC's. 		
Osceola County	Application Committee	<ul style="list-style-type: none"> • Zoning districts that contain multi-tenant building that are predominantly office/medical (more than 50% licensed 	<ul style="list-style-type: none"> • 250 feet from public or private school, or licensed daycare facilities • 5 mile distance from other marijuana facility 		<ul style="list-style-type: none"> • Hours regulated by state

Medical Marijuana Ordinances

COUNTY/ MUNICIPALITY	TYPE OF REVIEW	ZONING CLASSIFICATION	LOCATIONAL CRITERIA	STRUCTURE	OPERATIONAL CRITERIA
St Lucie (proposed)	Allowed	office/medical office use (by gross square feet) • General Commercial (CG)	• Same criteria for Pharmacies		
Lady Lake (Lake County)	Moratorium sun setting February 3 rd				
Lake Wales	Moratorium				
Maitland (Orange County)	Conditional Use	Commercial District 3 (OC- 3)	2500 feet from school, day care, public park or other dispensary		
Mount Dora (Lake County)	Conditional Use	• Workplace District (WP-2) as Special Exception •	• 2500 feet from school, day care, public park or another dispensary		
Pasco County	Conditional Use	•	• Limited to two (2) within the County, until number of users increases (proposed)		
Ponce Inlet	Banned				
Winter Park	Banned				
Brevard County					
Palm Bay	Allowed	• Retail Sales	• 250 feet from Schools (public or private) and house of worship		• Hours of Operation determined by Florida Law May conduct deliveries to authorized residents, business, health care

Medical Marijuana Ordinances

COUNTY/ MUNICIPALITY	TYPE OF REVIEW	ZONING CLASSIFICATION	LOCATIONAL CRITERIA	STRUCTURE	OPERATIONAL CRITERIA
Grant-Valkaria	Banned				facility, as permitted by other relevant
City of Melbourne	Banned				
West Melbourne	Banned				
Cocoa	Banned				
Cocoa Beach	Moratorium				
Rockledge	Permitted	C2 General Commercial same as where pharmacy are permitted	<ul style="list-style-type: none"> 500 Ft. within Churches, Schools, current established Pharmacy, residential 		
Malabar	Temp/ Moratorium-180 days				
Palm Shores	Permitted	M-1 Light Industrial	<ul style="list-style-type: none"> 2500 ft. of any pharmacy, school, medical office, day care center, day care home, adult living facility, playground, religious institution, public works, another dispensary or residential structure. 		Hours of operation 8a.m. and 6p.m. Mon-Fri , and 8a.m. – 12p.m. Saturday
Satellite Beach	Permitted	Commercial			Registered with the Dept. of Health
Cape Canaveral	Moratorium Sun Setting March				
Titusville					