



**THE CITY OF MADEIRA BEACH, FLORIDA
PUBLIC NOTICE**

**BOARD OF COMMISSIONERS
SPECIAL MEETING**

The Board of Commissioners of the City of Madeira Beach, Florida will meet at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida to discuss the agenda items of City Business listed at the time indicated below.

2:00 PM

FEBRUARY 13TH, 2015

AUDITORIUM

- A. CALL TO ORDER**
- B. INVOCATION AND PLEDGE OF ALLEGIANCE:** Commissioner Terry Lister
- C. ROLL CALL**
- D. APPROVAL OF THE MINUTES**
- E. APPROVAL OF THE AGENDA**
- F. PUBLIC COMMENT** (limited to 3 minutes)
- G. CONSENT AGENDA**
- H. UNFINISHED BUSINESS**
- I. NEW BUSINESS**

1. ORDINANCE 2015-03

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA RELATING TO MEDICAL MARIJUANA; AMENDING THE CODE OF ORDINANCES, CHAPTER 110, "ZONING"; PROVIDING DEFINITIONS; PROVIDING THAT MEDICAL MARIJUANA DISPENSARIES ARE A PERMITTED SPECIAL EXCEPTION USE IN THE C-3 ZONING DISTRICT; PROVIDING ADDITIONAL STANDARDS AND CONSIDERATIONS FOR APPROVAL OF A SPECIAL EXCEPTION APPLICATION FOR A MEDICAL MARIJUANA DISPENSARY PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

J. REPORTS/CORRESPONDENCE

- **CITY COMMISSION**
- **CITY ATTORNEY**
- **CITY MANAGER**
- **CITY CLERK**

K. ADJOURNMENT

Any person who decides to appeal any decision of the City Commission with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The law does not require the City Clerk to transcribe verbatim minutes; therefore, the applicant must make the necessary arrangements with a private reporter or private reporting firm and bear the resulting expense. In accordance with the Americans with Disability Act and F.S. § 286.26; any person with a disability requiring reasonable accommodation in order to participate in this meeting should call 727-391-9951 or fax a written request to 727-399-1131.

Posted February 11, 2015

*SBC
2/11/15
OK!*

ORDINANCE 2015-03

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA RELATING TO MEDICAL MARIJUANA; AMENDING THE CODE OF ORDINANCES, CHAPTER 110, "ZONING"; PROVIDING DEFINITIONS; PROVIDING THAT MEDICAL MARIJUANA DISPENSARIES ARE A PERMITTED SPECIAL EXCEPTION USE IN THE C-3 ZONING DISTRICT; PROVIDING ADDITIONAL STANDARDS AND CONSIDERATIONS FOR APPROVAL OF A SPECIAL EXCEPTION APPLICATION FOR A MEDICAL MARIJUANA DISPENSARY PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Madeira Beach has determined that it is in the best interests of the citizenry and general public to regulate the location of medical marijuana dispensaries in the event the State of Florida legalizes said dispensaries; and

WHEREAS, the City Commission has the responsibility and authority to determine what uses are best suited to particular zoning categories as well as land use categories within the City; and

WHEREAS, the City Commission of the City of Madeira Beach has determined that given the potential impact on the surrounding area, that Medical Marijuana Dispensaries should only be allowed within the C-3 zoning district, as a special exception use; and

WHEREAS, the City Commission of the City of Madeira Beach has determined that it is advisable and in the public interest to consider certain distance and other siting standards in regard to the location of operation of medical marijuana dispensaries as a special exception use; and

WHEREAS, the Planning Commission, sitting as the local planning agency, has found this ordinance to be consistent with the City's Comprehensive Development Plan and recommended approval; and

WHEREAS, the City Commission of the City of Madeira Beach finds that this ordinance promotes the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MADEIRA BEACH, FLORIDA, THAT:

SECTION 1. Chapter 110, "Zoning," Article V, "Districts," Section 110-319 "Special Exception Uses" of the City of Madeira Beach Code of Ordinances is hereby amended as follows:

Sec. 110-319. - Special exception uses.

Upon application for a special exception to the special magistrate and favorable action thereon, the following uses may be permitted in the C-3, retail commercial district:

- (1) Service stations.
- (2) Commercial recreation and entertainment facilities provided that such facilities shall not be permissible when the underlying future land use category is R/O/R.
- (3) Churches, synagogues or other houses of worship.
- (4) Public service facilities.

- (5) Drive-in or drive-through retail personal service, business and financial services.
- (6) Private fraternal, social and recreational clubs.
- (7) Outdoor storage areas, provided that the outdoor storage use is an accessory, is limited to areas in the CG land use category, and does not exceed 20 percent of the area of the building which is the principal use on the site.
- (8) Single-family or duplex.
- (9) Private schools.
- (10) Exhibition of reptiles by permit.
- (11) Medical Marijuana Dispensaries.

SECTION 2. Chapter 82, "General Provisions," Section 82-2 "Definitions," of the City of Madeira Beach Code of Ordinances is hereby amended to include the following additional definitions:

Cannabis. Any plant or part of a plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

Cannabis Farm. Any property used in whole or in part for the growing or cultivation of Cannabis plants, whether or not such growing or cultivation is lawful under federal or state law.

Medical Marijuana Dispensary. A facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal and state laws. Physicians authorized by State law to order low-THC cannabis, as defined in Florida Statutes, for patients' medical use are not included in the definition of Medical Marijuana Dispensary.

Medical Use. The prescriptive use of any form of cannabis to treat a qualifying medical condition and the symptoms associated with that condition or to alleviate the side effects of a Qualifying medical treatment.

Non-Medical Marijuana Sales. The purchase, sale, transfer or delivery of marijuana, cannabis, cannabis-based products or cannabis plants when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law.

SECTION 3. Chapter 110, "Zoning," Article VI, "Supplementary District Regulations," Division 14 is hereby created to read as follows:

Division 14. Medical Marijuana Dispensaries.

Sec. 110-940. – Medical Marijuana Dispensaries.

Medical Marijuana Dispensaries shall be allowed as a special exception use upon application, hearing and approval as provided in this Code of Ordinances. An application for special exception use for a Medical Marijuana Dispensary may be denied, approved or approved with conditions. In considering an application for special exception pursuant to this section, the Special Magistrate shall consider the following criteria:

- (1) Compatibility of the proposed facility with the surrounding uses.
- (2) The size of the lot on which the proposed facility will be located.
- (3) The maximum number of persons that can occupy the proposed facility.
- (4) The amount of traffic generated by the proposed facility.
- (5) The general health, safety and welfare of the community.
- (6) All safety measures to be implemented by the applicant to protect the property, employees and invitees during and outside of its operating hours.

In addition to all other requirements and conditions, the applicant shall comply with all the following conditions contained herein. No special exception for a Medical Marijuana Dispensary shall be approved unless the applicant has shown by competent substantial evidence its ability to comply with each of the conditions contained herein.

- (1) *Loitering.* A Medical Marijuana Dispensary shall provide adequate seating for its patients and business invitees and shall not allow patients or business invitee to stand, sit (including in a parked car), or gather or loiter outside of the building where the dispensary operates, including in any parking areas, sidewalks, right-of-way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart. The Medical Marijuana Dispensary shall post conspicuous signs on at least three sides of the building that no loitering is allowed on the property.
- (2) *No Drive Through Service.* No Medical Marijuana Dispensary shall have a drive through or drive in service aisle. All dispensing, payment for and receipt of products shall occur from inside the Medical Marijuana Dispensary.
- (3) *No Queuing of Vehicles:* The Medical Marijuana Dispensary shall ensure that there is no queuing of vehicles in the right-of-way. The Medical Marijuana Dispensary shall take all necessary and immediate steps to ensure compliance with this paragraph.
- (4) *On-site consumption of Marijuana:* No consumption of Marijuana shall be allowed on the premises including the parking areas, sidewalks or rights-of-way. The Medical Marijuana Dispensary shall take all necessary and immediate steps to ensure compliance with this paragraph.
- (5) *Fire:* The processing equipment and contents of Medical Marijuana Dispensaries are extremely flammable. When making a decision on where these dispensaries are located setback requirements and the impact on fire services and the health and safety of residents shall be considered. Local fire/building/electrical codes and International Property Maintenance Code shall be followed.

- (6) Outside Display: There shall be no outside display of any products, wares or merchandise including paraphernalia.
- (7) Alcoholic Beverages. No consumption of alcohol or sale of alcoholic beverages shall be allowed on the premises on which a Medical Marijuana Dispensary is located, including the parking areas and sidewalks.
- (8) Separation Distances. No Medical Marijuana Dispensary shall operate within three hundred (300) feet of any pre-existing alcoholic beverage establishment, ~~nine hundred (900) one thousand (1,000)~~ feet of any pre-existing school, church, day care facility, county or municipal park, ~~residential area~~ or another Medical Marijuana Dispensary legally in existence or having received legal authority to locate on a site, lot, or parcel.
- (9) Measurement of Distance Requirements. To determine compliance with the distance requirements contained herein, such distances shall be measured along a straight line from the closest portion of the property, building, unit or structure actually utilized by and containing any pre-existing or pre-approved alcoholic beverage establishment, school, church, day care facility, county or municipal park, or another Medical Marijuana Dispensary to the closest portion of the building, unit, or structure to be utilized by any portion of the proposed Medical Marijuana Dispensary.
- (10) No Delivery Service. No Medical Marijuana Dispensary shall conduct any form of off-site delivery service of Medical Marijuana.
- (11) No Vending Machines. No Medical Marijuana Dispensary shall utilize any type of vending machines for the dispensing of Medical Marijuana.
- (12) Maximum Copy Area of Freestanding Signs. The maximum aggregate copy area for any freestanding signs utilized by a Medical Marijuana Dispensary shall be twelve square feet.
- (13) Security Measures. Each medical marijuana facility shall be equipped with a silent alarm that notifies the Pinellas County Sheriff's Office or a private security agency that a break-in or robbery is taking place. A security camera capable of recording and retrieving an image shall be required. Such security camera system shall be operational at all times during and after business hours. The security cameras shall be located at every ingress and egress site of the dispensary, including doors, windows, as well as on the interior where the medical marijuana is stored. In addition, a drop safe or cash management devise that provides minimum access to the facility's cash receipts shall also be required.
- (14) Compliance with Other Laws. All Medical Marijuana Dispensaries shall at all times be in compliance with all federal, state and local laws and regulations.
- (15) Hours of Operation: Medical Marijuana Dispensaries shall only be allowed to operate Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m., and Saturday between the hours of 8:00 a.m. and 12:00 p.m. (noon).
- (16) Revocation of Permit. In the event any Medical Marijuana Dispensary is found to have violated the provisions of this Section or any other conditions of approval of the special exception three or more times within 45 days or seven or more times within 180 days, the city shall as soon as reasonably practical schedule a hearing before the Code Enforcement Special Magistrate. Upon the city establishing by competent substantial evidence that the Medical Marijuana Dispensary has violated the provisions of this Section or any other conditions of approval of the

special exception three or more times within 45 days or seven or more times within 180 days, the Code Enforcement Special Magistrate shall order the special exception revoked. Any Medical Marijuana Dispensary that has its special exception revoked pursuant to this paragraph shall not be eligible to reapply for a special exception for twelve months from the date of the revocation.

- (17) Site Plan. Each application for a special exception shall be accompanied by a site plan incorporating the regulations established herein. The site plan shall be drawn to scale indicating property lines, rights-of-way, and the location of buildings, parking areas, curb cuts and driveways. Said site plan shall be submitted to and considered by the Planning Commission and Special Magistrate prior to the granting of a building permit. Upon such approval, said site plan becomes a part of the building permit and may be amended only by action of the Special Magistrate.

SECTION 4. CODIFICATION. It is the intent of the City Commission of the City of Madeira Beach that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provision of this Ordinance.

SECTION 5. SEVERABILITY. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 6. CONFLICTS. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

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PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF MADEIRA BEACH, FLORIDA, this
_____ day of _____, 2015.

APPROVED AS TO FORM:

TOM TRASK, City Attorney

TRAVIS PALLADENO, Mayor

ATTEST:

AIMEE SERVEDIO, City Clerk

PASSED ON FIRST READING: _____

PUBLISHED: _____

PASSED ON SECOND READING: _____

Planning Commission Minutes Excerpt, February 9, 2015

NEW BUSINESS

Discuss and Review Distance Requirements Relating to Draft Medical Marijuana Ordinance – Continued from November 18, 2014

Overview by staff on requirements the separation distance of 300 feet from an alcoholic establishment and 900 feet from schools, churches. This would be a special exception use located in C-3 zone for medical marijuana dispensaries.

Motion to present Ordinance 2015-xx to the BOC with a stance favorable recommendation for approval before the Legislation version passes by Planning Commissioner Brown, seconded Maginley.

Approved (6-0)

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