

ORDINANCE NO. 14-032

AN ORDINANCE OF THE CITY OF FORT PIERCE FLORIDA RELATING TO MEDICAL MARIJUANA; AMENDING THE CODE OF ORDINANCES, CHAPTER 22, "ZONING", ARTICLE IV, "SUPPLEMENTARY"; PROVIDING DEFINITIONS; PROVIDING THAT NON-MEDICAL MARIJUANA SALES AND NON-MEDICAL MARIJUANA CANNABIS FARMS ARE PROHIBITED USES IN ALL ZONING DISTRICTS; PROVIDING THAT MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA CANNABIS FARMS ARE CONDITIONAL USES IN CERTAIN ZONING DISTRICTS; PROVIDING ADDITIONAL STANDARDS AND CONSIDERATIONS FOR APPROVAL OF A CONDITIONAL USE APPLICATION FOR A MEDICAL MARIJUANA DISPENSARY OR MEDICAL MARIJUANA CANNABIS FARM; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State of Florida is considering legalizing the dispensing of marijuana for medical purposes through constitutional amendment; and

WHEREAS, the City Commission of the City of Fort Pierce has determined that it is in the best interests of the citizenry and general public to regulate the location of medical marijuana dispensaries and related activities 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 Fort Pierce has determined that given the potential impact on the surrounding area, that medical marijuana dispensaries should only be allowed within the C-3, General Commercial zoning district and I-1, Light Industrial as a conditional use; and

WHEREAS, the City Commission of the City of Fort Pierce 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 and farms as a conditional use; and

WHEREAS, the City Commission of the City of Fort Pierce has determined that non-medical marijuana and non-medical cannabis farms sales would not be suited to any zoning district within the City of Fort Pierce; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA THAT:

SECTION 1. Chapter 22, “Zoning”, Article IV, “Supplementary Regulations,” of the City of Fort Pierce Code of Ordinances is hereby amended as follows (note: strikethrough text indicates deletions, underline text indicates additions):

Sec. 22-73 Medical Marijuana Regulations

(a) 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.

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 as authorized by State law.

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.

(b) Medical Marijuana and Cannabis Sales and Farms

Non-medical Marijuana Sales and non-medical Cannabis Farms shall be prohibited uses in all zoning districts of the City. Medical Marijuana Dispensaries and Medical Marijuana Cannabis Farms shall be a prohibited use in all zoning districts of the City except C-3, General Commercial and I-1, Light Industrial as a conditional use, hearing and approval as provided in this Code of Ordinances. An application for conditional use for a Medical Marijuana Dispensary and Medical Marijuana Cannabis Farms may be denied, approved or approved with conditions. In addition to all other

requirements and conditions, the applicant shall comply with all the following conditions contained herein and no conditional use for a Medical Marijuana Dispensary or Medical Marijuana Cannabis Farm 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 Vending Machine Service.* No stand-alone, independently operated vending machine producing marijuana, cannabis, cannabis-based products, or cannabis plants shall be permitted. No Medical Marijuana Dispensary shall incorporate a stand-alone vending machine within its establishment producing marijuana, cannabis, cannabis-based products, or cannabis plants.

(4) *Alcoholic Beverages.* No consumption of alcoholic beverages shall be allowed on the premises on which a Medical Marijuana Dispensary is located, including the parking areas and sidewalks.

(5) *Separation Distances.* No Medical Marijuana Dispensary shall operate within one thousand (1,000) feet of any pre-existing school, church, day care facility, or public park. No Medical Marijuana Dispensary shall operate within one thousand five hundred (1,500) feet of another Medical Marijuana Dispensary or like establishment. No Medical Marijuana Cannabis Farm shall operate within one thousand (1,000) feet of any pre-existing school, church, day care facility, public park. No Medical Marijuana Cannabis Farm shall operate within one thousand five hundred (1,500) feet of another Medical Marijuana Cannabis Farm or like establishment. No waiver of distance shall be granted for these uses. Distance will be measured by drawing a straight line between the closest point of the marijuana dispensary or structure on the medical marijuana cannabis farm (be it building or leased space in a building) to the closest property line or edge of leased space (whichever is closer).

Pre-existing pharmacies who participate in the sale of medical marijuana are exempt from the distance requirement.

(6) Compliance with Other Laws. All Medical Marijuana Dispensaries shall at all times be in compliance with all federal, state and local laws and regulations.

(7) Hours of Operation. Medical Marijuana dispensaries shall only be allowed to operate between the hours of 7:00 A.M. and 7 P.M., Monday through Sunday.

(8) Additional Buffering. If adjacent to residential uses, medical marijuana dispensaries or medical marijuana cannabis farms may require additional buffering to protect adjacent properties from the impacts. This may include additional landscaping, masonry walls and/or opaque fences.

(9) Cultivation. If engaged in the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof the following shall also apply:

(i) If cultivation occurs in conjunction with a dispensary of medical marijuana, the indoor cultivation is limited to 500 square feet. Outside cultivation of medical marijuana is prohibited. Cultivation may not occur in a structure which is not attached to the building upon which the medical marijuana facility is located.

(ii) The use of indoor grow lights in any structure shall comply with all applicable building code regulations. Gas products (including, without limitation, CO2, butane, propane, and natural gas), or generators shall not be used within any detached structure used for the cultivation of medical marijuana.

(iii) Cultivation shall not take place in any area of the medical marijuana facility which is accessible by the general public. Such areas of cultivation must be restricted to authorized personnel, eighteen years of age or older, of the medical marijuana facility. Such area of cultivation shall be fenced, adequately secured and locked at all times when not occupied by authorized personnel of the medical marijuana facility.

(iv) Such area of cultivation must have a ventilation system installed that shall prevent marijuana plant odors from exiting the interior of the structure and that shall comply with all applicable building code regulations, including obtaining all required permits and approvals. The ventilation system must be approved by a Florida Licensed Engineer and a Florida Licensed Heating and Ventilation Contractor at the applicant's expense, and installed prior to commencing cultivation within the fully-enclosed and secure structure.

Each application for conditional use 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.

SECTION 2. 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 3. 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 4. EFFECTIVE DATE. This Ordinance shall be and become effective immediately upon final passage.

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance **No. 14-032** was duly advertised in accordance with Section 171.044(2) of the Florida Statutes in the St. Lucie News Tribune on _____ date , and on _____; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida on **December 1st, 2014**; and was duly introduced, read by title only and passed on second and final reading on **December 15th, 2014**, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this the **15th day of December 2014**.

CITY OF FORT PIERCE, FLORIDA
CITY COMMISSION

Linda Hudson, Mayor

ATTEST:

Linda W. Cox, City Clerk