



THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT
Florida

TO: Nicholas Mimms, PE City Manager
Honorable Mayor and City Commissioners

FROM: Rebecca Grohall, AICP Planning Director

RE: Update on Medical Marijuana as it pertains to Land Development Regulations

DATE: July 3, 2017

During the recent Special Session for the Florida Legislature, the Legislature was able to agree upon and adopt rules regulating Medical Marijuana. This bill has also been signed by Governor Scott.

The bill is known as SB 8A implementing the constitutional amendment relating to medical marijuana, finally passed the Legislature during the special session. The bill authorizes 10 new Medical Marijuana Treatment Center (MMTC) licenses, in addition to the seven currently issued. The MMTC is the only entity authorized to grow/cultivate, process and dispense Medical Marijuana. The seven currently licensed MMTC's are: Trulieve, CHT Medical, The Green Solution, Knox Medical, GrowHealthy, Surterra Therapeutics and Modern Health Concepts.

The bill divides the state into five regions (Northwest, Northeast, Central, Southeast, Southwest) and authorizes the Department of Health to determine the maximum number of dispensaries allowed in each region based on population within that region compared to the total state population. A dispensary is a place of business where the retail sale of Medical Marijuana occurs. The bill caps the number of dispensaries per MMTC license at 25.

Under the bill, medical marijuana is exempt from the state sales tax. The bill prohibits the smoking of medical marijuana, but authorizes it to be vaped or consumed in pill or other edible form. There are extensive regulations that prohibit it appearing as any form of candy. The use of medical marijuana, unless it is low-THC cannabis, is prohibited in any public place, on any form of public transportation, in a qualifying patient's place of employment (unless allowed by the employer), on school grounds, or in a school bus, vehicle, aircraft or motorboat. Key to the legislation is also stated hours of operation (not all night facilities) and the "product" must be kept locked, in an almost vault like manner.

Additionally cities that choose to allow them cannot limit the number of dispensaries within their boundaries. Cities can determine the criteria for the location of dispensaries and other permitting requirements that do not conflict with state law or department rule, but such permitting requirements cannot be more restrictive than the zoning or permitting requirements for Pharmacies. Cities are authorized to charge a license or permit fee to MMTC facilities, but the fee cannot be more than what is currently charged for pharmacies. Cities can, by ordinance, ban medical marijuana dispensaries. In the City of Fort Pierce – pharmacies are permitted in the C3, C4 and C5 Commercial zoning regulations. This encompasses much of the US 1 corridor, Orange Avenue and Okeechobee Blvd, as well as the parts of the Downtown district and the Beachside.

One of the few location limiting regulations established in the Florida law is that Dispensaries cannot be located within 500 feet of a public or private elementary, middle or high school, unless the city approves the location through a formal proceeding open to the public and determines that the location promotes the health, safety, and general welfare of the community. This would be a similar process to the Waiver of Distance procedures for alcohol licenses.

Of importance to cities, the bill adds "delivery" to the current preemption on cultivation and processing. In other words, the State has pre-empted cities ability to set guidelines on the cultivation, processing and delivery. Finally, the bill allows cities to ensure that MMTC facilities comply with the Florida Building Code, the Florida Fire Prevention Code or any local amendments to these codes.

Prior to the Florida Legislature drafting these rules St. Lucie County had adopted regulations pertaining to the placement of dispensaries, with the passage of the Bill, these regulations are largely pre-empted. Likewise, local governments (including St. Lucie County) that adopted regulations now find them invalidated. The legislation indicates that local governments must treat them the same as Pharmacies (that sell FDA approved drugs) OR can ban the use entirely, but cannot regulate other aspects of dispensaries.

Staff recommendation: Discuss the new regulations and provide Staff feedback.