

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 94 ZONING AND LAND DEVELOPMENT REGULATIONS, ARTICLE IV (DOWNTOWN MASTER PLAN URBAN REGULATIONS), SECTION 94-106 (GENERAL USES WITH SPECIAL REQUIREMENTS); AND ARTICLE VII (SPECIAL DISTRICTS), SECTION 94-210 (NORTHWOOD MIXED USE DISTRICT); AND SECTION 94-215 (CURRIE MIXED USE DISTRICT); AND ARTICLE IX (PERMITTED USES, USES PERMITTED WITH EXTRA REQUIREMENTS AND SPECIAL USES), SECTION 94-272 (PERMITTED USES) AND SECTION 94-273 (EXTRA REQUIREMENTS FOR SPECIAL USES OR PERMITTED USES), AND ARTICLE XIX (DEFINITIONS) SECTION 94-611 (DEFINITIONS) TO IDENTIFY MEDICAL MARIJUANA DISPENSARIES AS A PERMITTED USE AND ESTABLISH REGULATIONS FOR THE USE; DECLARING THIS AMENDMENT CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, on June 16, 2014, Florida’s Compassionate Medical Cannabis Act of 2014 (Chapter 2014-157, Laws of 32 Florida; codified at Section 381.986, Florida Statutes; hereinafter referred to as the 33 “Compassionate Use Act”) became law; and

WHEREAS, the Compassionate Use Act legalized the cultivation, production, and dispensing of a low-THC derivative product of marijuana for “qualified patients”; and

WHEREAS, the Compassionate Use Act is implemented by rule of the Florida Department of Health under Chapter 64-4, Florida Administrative Code; and

WHEREAS, Florida Senate Bill 8-A, effective as of June 23, 2017, and codified as Section 381.986, Florida Statutes, made certain amendments to the Compassionate Use Act; and

WHEREAS, Section 381.986, Florida Statutes, authorizes municipalities to decide whether to allow medical marijuana dispensaries within their boundaries; and

WHEREAS, the City of West Palm Beach has determined allowing medical marijuana dispensaries to be beneficial to the health, safety and general welfare of the residents and businesses of the City; and

WHEREAS, Section 381.986, Florida Statutes, provides that a municipality may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or administrative rule for, medical marijuana treatment center dispensing facilities located within the boundaries of that municipality; and

WHEREAS, Section 381.986, Florida Statutes, provides that a municipality that does not ban marijuana dispensing facilities may not place specific limits on the number of dispensing facilities that may locate within that municipality; and

ORDINANCE NO. 4780-18

WHEREAS, Section 381.986, Florida Statutes, establishes the regulations to ensure the safety and security of medical marijuana dispensaries, including that such dispensaries shall:

1. Maintain a fully operational security alarm system that secures all entry points and perimeter windows and is equipped with motion detectors and alarms;
2. Maintain a video surveillance system that records continuously 24 hours a day;
3. Ensure that the dispensary's outdoor premises have sufficient lighting from dusk until dawn;
4. Ensure that the indoor premises where dispensing occurs includes a waiting area with sufficient space and seating to accommodate qualified patients;
5. Not dispense from its premises between the hours of 9 p.m. and 7 a.m.;
6. Store marijuana in a secured, locked room or a vault;
7. Require at least two of its employees, or two employees of a security agency with whom it contracts, to be on the premises at all times;
8. Not engage in advertising that is visible to the public from any street or sidewalk, except, the dispensary may have a sign that is affixed to the outside or hanging in the window of the premises which identifies the dispensary by the licensee's business name, or state-approved trade name, or logo;
9. Not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school; and

WHEREAS, Rule 64-4.002(2)(c)3, Florida Administrative Code, requires that applicants wishing to operate cannabis dispensing facilities or medical marijuana treatment centers must also demonstrate the ability to obtain local zoning approval; and

WHEREAS, Section 381.986, Florida Statutes, provides that a municipality may not enact ordinances or zoning regulations for marijuana dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies; and

WHEREAS, the proposed amendment to the Zoning and Land Development Regulations will establish MEDICAL MARIJUANA DISPENSARY as a general use with special requirements within the Downtown Master Plan Area and as a permitted use subject to extra requirements in the rest of the city; and

WHEREAS, the proposed ZLDR text amendment was found to be consistent with the Amendment Standards in Section 94-32 of the ZLDR; and

WHEREAS, the Downtown Action Committee recommended approval (7-0) of the ZLDR text amendment with staff's recommendation after a Public Hearing on May 9, 2018; and

WHEREAS, the Planning Board recommended approval (5-1) of the proposed ZLDR text amendment with staff's recommendation after a Public Hearing on May 15, 2018.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: The City Commission hereby finds and determines that the amendments set forth in this Ordinance are consistent with the Comprehensive Plan of the City. Adopted pursuant to Section 163.3161 et seq., Florida Statutes.

SECTION 2: The City Commission hereby finds and determines that the amendments set forth in this Ordinance comply with the amendment standards set forth Section 94-32 of the Zoning and Land Development Regulations as follows:

A. Consistency with Comprehensive Plan. The City's Comprehensive Plan provides general guidance for the growth and future development of the City. The proposed amendment will allow for Medical Marijuana Dispensaries in the GC, NC, CS, CMUD, NMUD, I, and IL zoning districts, and non-residential subdistricts within the DMP which is complementary to the other uses currently permitted within this zoning district and consistent with the Future Land Uses where GC, NC, CS, CMUD, NMUD I, and IL zoning districts, and non-residential subdistricts within the DMP can be located. Therefore, the amendment is consistent with all elements of the City of West Palm Beach Comprehensive Plan.

B. Changed Conditions. Changes to State laws including the Compassionate Medical Cannabis Act of 2014 and Senate Bill 8A have allowed Medical Marijuana Dispensaries to locate in Florida. The State has given Florida municipalities the option to either ban Medical Marijuana Dispensaries or allow them and regulate them the same as pharmacies, with the exception of a 500 foot separation distance from public or private elementary, middle or secondary school. The City is initiating a request to permit Medical Marijuana Dispensaries in NC, GC, CMUD, NMUD, I and IL zoning districts, and non-residential subdistricts within the DMP which is currently prohibited. In order for Medical Marijuana Dispensaries to be added as a permitted use subject to extra requirements, it necessitates a Zoning and Land Development Regulations (ZLDR) text amendment.

C. Consistency with Land Development Code. The proposed amendment is consistent with all applicable portions of the City's Development Code.

D. Consistency with Use. The proposed amendment will allow for Medical Marijuana Dispensaries as a permitted use subject to extra requirements within GC, NC, CS, CMUD, NMUD, I and IL zoning districts, and non-residential subdistricts within the DMP and is consistent with existing and proposed land uses.

E. Capacity of Public Facilities. The proposed amendment will have a minimal impact on the demands of public facilities, nor will it cause the capacity of facilities to be exceeded.

F. Natural Resources. The proposed amendment will not result in adverse impacts to the natural environment.

G. Property Values. The GC, NC, CS, CMUD, NMUD, I and IL zoning districts, and non-residential subdistricts within the DMP allow for a variety of uses, including pharmacies, medical offices, commercial, retail and manufacturing. Medical Marijuana Dispensaries are compatible with the uses currently permitted in GC, NC, CS, CMUD, NMUD, I and IL zoning districts, and non-residential subdistricts within the DMP. As a result, the proposed amendments will not adversely affect property values in the area.

H. Logical Development Pattern. Medical Marijuana Dispensaries are complementary to uses already permitted in GC, NC, CS, CMUD, NMUD, I and IL zoning districts, and non-residential subdistricts within the DMP. The proposed amendment to permit Medical Marijuana Dispensaries in GC, NC, CS, CMUD, NMUD, I and IL zoning districts, and non-residential subdistricts within the DMP will not negatively affect orderly and logical development patterns.

SECTION 3: The Code of Ordinances of the City of West Palm Beach, is hereby amended at Chapter 94, Zoning and Land Development Regulations, Article IV – Downtown Master Plan Urban Regulations, Section 94-106, General uses with special requirements, to add subsection 14, as follows. The remainder of this Section shall be unchanged.

ARTICLE IV. - DOWNTOWN MASTER PLAN URBAN REGULATIONS

* * * * *

Sec. 94-106 General uses with special requirements.

(a) General uses with special requirements

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(14) Medical marijuana dispensaries. Medical marijuana dispensaries shall be permitted within the urban core planning area, except residential subdistricts, provided the following conditions are met:

1. Separation distance. A medical marijuana dispensary shall not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, unless waived by the city commission pursuant to F.S. 381.986.

ORDINANCE NO. 4780-18

SECTION 4: The Code of Ordinances of the City of West Palm Beach, is hereby amended at Chapter 94, Zoning and Land Development Regulations, Article VII – Special Districts, Section 94-210, Northwood mixed-use district (NMUD), to modify Table VII-9 – Permitted Uses in the Northwood Mixed-Use District, to allow Medical Marijuana Dispensary as a permitted use with extra requirements, which shall read as follows. The remainder of Table VII-9 shall be unchanged.

TABLE VII-9

PERMITTED USES IN THE NORTHWOOD MIXED-USE DISTRICT (NMUD)

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Table VII-9					
PERMITTED USES IN THE NORTHWOOD MIXED-USE DISTRICT (NMUD)					
			Use Areas		
			Core	Transi tion	Edge
Retail/R etail Service s					
	<u>78.1</u>	<u>MEDICAL MARIJUANA DISPENSARY</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR (3)</u>

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ORDINANCE NO. 4780-18

SECTION 5: The Code of Ordinances of the City of West Palm Beach, is hereby amended at Chapter 94, Zoning and Land Development Regulations, Article VII – Special Districts, Section 94-215, Currie mixed-use district (CMUD), to modify Table VII-9 – Permitted Uses in the Currie Mixed-Use District, to allow Medical Marijuana Dispensary as a permitted use with extra requirements, which shall read as follows. The remainder of Table VII-9 shall be unchanged.

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TABLE VII-9

PERMITTED USES IN THE CURRIE MIXED-USE DISTRICT (CMUD)

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		Uses	Use Areas		
			Core	Transition	Edge
General Business	Table IX-1 reference				
	<u>78.1</u>	<u>Medical Marijuana Dispensary</u>	<u>PXR(1)</u>	<u>PXR(1)</u>	

ORDINANCE NO. 4780-18

SECTION 6: The Code of Ordinances of the City of West Palm Beach, is hereby amended at Chapter 94, Zoning and Land Development Regulations, Article IX – Permitted Uses, Uses Permitted with Extra Requirements, and Special Uses, to modify Table IX-1 – Permitted Use Table, to allow Medical Marijuana Dispensary as a permitted use, which shall read as follows. The remainder of Table IX-1 shall be unchanged.

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TABLE IX-1

PERMITTED USE TABLE

* * * * *

USES		S F 3 - S F 1 1	S F 1 4	M F 1 4	M F 2 0	M F 3 2	O C	P O R	A C	N C	G C	C M	C C2	I	I L	R O S	C S	U T	C O N
78.1	<u>MEDICAL MARIJUANA DISPENSARY</u>									<u>PX</u> <u>R</u>	<u>P</u> <u>X</u> <u>R</u>			<u>P</u> <u>X</u> <u>R</u>	<u>P</u> <u>X</u> <u>R</u>		<u>PX</u> <u>R</u>		

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ORDINANCE NO. 4780-18

SECTION 7: The Code of Ordinances of the City of West Palm Beach, is hereby amended at Chapter 94, Zoning and Land Development Regulations, Article IX – Permitted Uses, Uses Permitted with Extra Requirements, and Special Uses, Section 94-273, Extra requirements for special uses or permitted uses, to add extra requirements for the Medical Marijuana Dispensary use, which shall read as follows. The remainder of this Section shall be unchanged..

Sec. 94-273 Extra requirements for special uses or permitted uses.

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(78.1) Medical Marijuana Dispensary (PXR: See item 78.1, Table IX-I)

a. Additional application requirements: None.

b. Additional standards:

1. Separation distance. A Medical Marijuana Dispensary shall not be located within five hundred (500) feet of the real property that comprises a public or private elementary school, middle school, or secondary school, unless waived by the City Commission pursuant to F.S. 381.986.

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SECTION 8: The Code of Ordinances of the City of West Palm Beach, is hereby amended at Chapter 94, Zoning and Land Development Regulations, Article XIX – Definitions, Section IV – Downtown Master Plan Urban Regulations, Section 94-611, Definitions, to add a definition for Medical Marijuana Dispensary, which shall read as follows. The remainder of this Section shall be unchanged.

* * * * *

Medical marijuana dispensary. A facility licensed or registered by the Florida Department of Health which dispenses medical marijuana or products containing marijuana and related supplies, to qualifying patients or their caregivers, pursuant to statute. A medical marijuana dispensing facility does not cultivate process, transfer, or prepare any form of marijuana or marijuana product.

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SECTION 9: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 10: Should any section or provision of this Ordinance or any portion, paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

ORDINANCE NO. 4780-18

SECTION 11: Authority is hereby granted to codify the text amendments set forth in Sections 3 through 8 of this Ordinance.

SECTION 12: This Ordinance shall take effect in accordance with law.

FIRST READING THIS 4TH DAY OF JUNE, 2018.

SECOND READING AND PASSAGE THIS 18TH DAY OF JUNE, 2018.



ATTEST:

X *Hazeline F. Carson*

CITY CLERK
Signed by: Hazeline F Carson

**CITY OF WEST PALM BEACH BY
ITS CITY COMMISSION:**

X *Geraldine Muoio*

PRESIDING OFFICER
Signed by: Geraldine Muoio

**APPROVED AS TO FORM AND
LEGALITY:**

6/18/2018

X *Nancy Urcheck*

CITY ATTORNEY
Signed by: Nancy DeSimone Urcheck