

ORDINANCE 17-005

AN ORDINANCE OF THE ST. LUCIE BOARD OF COUNTY COMMISSIONERS AMENDING THE ST. LUCIE COUNTY LAND DEVELOPMENT CODE TO ADDRESS MEDICAL MARIJUANA DISPENSARIES BY AMENDING SECTION 2.00.00 DEFINITIONS; BY AMENDING SECTION 3.01.03 ZONING DISTRICTS ALLOWING LOW THC AND MEDICAL MARIJUANA DISPENSARIES AS A PERMITTED USE IN CG, COMMERCIAL GENERAL ZONING DISTRICTS; BY CREATING SECTION 7.10.33 FOR LOW THC AND MEDICAL MARIJUANA DISPENSARIES SUPPLEMENTAL STANDARDS; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR ADOPTION AND CODIFICATION AND AN EFFECTIVE DATE;

WHEREAS, the voters of the State of Florida were presented a Constitutional amendment question on the November 4, 2016 general election ballot that approved by over 60% of the votes, legalized marijuana for medical purposes; and,

WHEREAS, the Board of County Commissioners ("Board") has determined that is in the best interests of the citizenry and general public to regulate the location of medical marijuana dispensaries; and,

WHEREAS, the Board has the responsibility and authority to determine which zoning categories and which land use categories are the best suited for specific purposes, such as the establishment of medical marijuana dispensaries; and,

WHEREAS, the Board has determined that, given the potential impact on the surrounding area, medical marijuana dispensaries should be allowed within specific zoning district(s); and,

WHEREAS, the Board has determined that it is advisable and in the public interest to consider certain distance and other siting standards and conditions with regard to the location and operation of medical marijuana dispensaries; and,

WHEREAS, this ordinance is enacted in the interest of the public health, peace, safety, and general welfare of the citizens and inhabitants of St. Lucie County, Florida, pursuant to Article VIII, Section 1 (f), Florida Constitution and Section 125.01, Florida Statutes.

WHEREAS, the St. Lucie County Sheriff's Office has requested the Board consider implementing certificate of approval process, numerical limits on the number of dispensaries, geographical restrictions and a facility inspection process.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. LUCIE COUNTY, FLORIDA:

PART A.

THE SPECIFIC AMENDMENTS TO THE ST. LUCIE COUNTY LAND DEVELOPMENT CODE CAUSING THE CODE TO READ AS FOLLOWS:

CHAPTER II - DEFINITIONS

2.00.00. DEFINITIONS

JOSEPH E. SMITH, CLERK OF THE CIRCUIT COURT
SAINT LUCIE COUNTY
FILE # 4313146 05/26/2017 10:07:30 AM
OR BOOK 4001 PAGE 378 - 382 Doc Type: ORDN
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Except as provided herein, all terms shall be defined in accordance with this chapter and Section 381.986, Florida Statutes, as may be amended from time to time:

- (A) "Dispensing facility" refers to the building or structure where low-THC cannabis or medical cannabis, as well as cannabis delivery devices, are dispensed at retail.
- (B) "Dispensing organization" means an organization approved by the state to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis.
- (C) "Low-tetrahydrocannabinol cannabis" or "low-THC cannabis" means a plant of the genus Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization.
- (D) "Medical cannabis" means all parts of any 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, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient.
- (E) "Medical use" means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:
 - (1) Possession, use, or administration of low-THC cannabis or medical cannabis by smoking; or
 - (2) Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient's legal representative authorized to receive it on the qualified patient's behalf.
 - (3) Use or administration of low-THC cannabis or medical cannabis:
 - i. On any form of public transportation.
 - ii. In any public place.
 - iii. In a qualified patient's place of employment, if restricted by his or her employer.
 - iv. In a correctional institution.
 - v. On the grounds of any child care facility, preschool, or school.
 - vi. On or in any vehicle, aircraft, or motorboat.

CHAPTER III ZONING DISTRICTS

3.01.03. Zoning Districts

A. - R. NO CHANGE

S. CG, Commercial General

2. Permitted Uses

a. - xx. NO CHANGE

yy. - Low THC and Medical Marijuana dispensing facility subject to the requirements of Section 7.10.33

CHAPTER VII DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

7.00.00 GENERAL PROVISIONS

7.10.00 Supplemental Standards

Section 7.10.00 is hereby amended to create a new Section 7.10.33 Medical Marijuana Dispensary as follows:

7.10.33 – LOW-THC CANNABIS AND MEDICAL CANNABIS DISPENSING FACILITIES

A. – Intent.

Section 381.986, Florida Statutes, and Florida Administrative Code Chapter 64-4 authorize a limited number of dispensing organizations throughout the State of Florida to cultivate, process, and dispense low-tetrahydrocannabinol (low-THC) cannabis and medical cannabis for use by qualified patients suffering from cancer, terminal conditions, and certain chronic conditions. The dispensing organizations must be approved by the Florida Department of Health and, once approved, are subject to state regulation and oversight.

The intent of this article is to establish the criteria for the location and permitting of establishments that dispense low-THC cannabis or medical cannabis in accordance with Section 381.986, Florida Statutes, and Florida Administrative Code Chapter 64-4.

B. – Applicability.

The provisions of this article shall be applicable in the unincorporated areas of St. Lucie County. This article shall only be construed to allow the dispensing of low-THC cannabis or medical cannabis by a state-approved dispensing organization for medical use. The sale of cannabis or marijuana is prohibited in St. Lucie County except in accordance with this article.

C. – Zoning districts where dispensing allowed.

Only in accordance with the requirements of this article and the applicable zoning district, dispensing of low-THC or medical cannabis shall be permitted in: Commercial General, (CG) zoning districts.

D. – Zoning requirements for dispensing facilities.

Low-THC and medical cannabis dispensing facilities shall comply with the following requirements:

(A) No low-THC or medical cannabis dispensing facility shall be located within:

(1) 1,000 feet of any kindergarten, elementary school, middle school, junior high school, high school, licensed daycare facility, religious institution or liquor store, park and five (5) miles from any other low-THC or medical cannabis dispensing facility.

(B) Distances between low-THC or medical cannabis dispensing facilities shall be measured by drawing a straight line between property lines. The distance from a kindergarten, elementary school, middle school, junior high school, high school, licensed daycare facility, religious institution or liquor store shall be measured by following a straight line between property lines. Distance from a park shall be measured by following a straight line between property lines.

(C) Dispensing of, payment for, and receipt of low-THC or medical cannabis is prohibited anywhere outside of the dispensing facility, including, but not limited to, on sidewalks, in parking areas, or in the rights-of-way surrounding the dispensing facility; provided, however,

this provision shall not be construed to prohibit delivery of low -THC or medical cannabis to an eligible patient, as permitted by state law or rule.

(D) Consumption of low -THC or medical cannabis or alcoholic beverages is prohibited onsite at the dispensing facility, including, but not limited to, in the parking areas, sidewalks, or rights-of-way surrounding the dispensing facility; provided, however, this provision shall not be construed to prohibit consumption associated with a dispensing facility employee, trained by a medical professional such as a doctor, nurse, pharmacist, or medical or physician's assistant, instructing an eligible patient on the mechanism of consumption of low -THC or medical cannabis, as permitted by state law or rule.

(E) Facilities dispensing low -THC or medical cannabis shall only be allowed to dispense between the hours of 7:00 a.m. and 9:00 p.m. daily.

(F) Maintain approval as a dispensing organization by the State of Florida, Department of Health, Office of Compassion Use and comply with administrative regulations establishing a certificate of approval process similar to the approval process for zoning compliance as set out Section 11.05.00 in St. Lucie Land Development Code.

(G) During business hours and other times of apparent activity, all approved premises shall be subject to inspection by the fire chief, the building official, code enforcement officer, county sheriff and police.

E. — Dispensing facilities must comply with Florida Statutes including but not limited to Section 381.986 and Florida Administration Rules to ensure the safety and security of their premises.

PART B. CONFLICTING PROVISIONS.

Special acts of the Florida legislature applicable only to unincorporated areas of St. Lucie County, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded

by this ordinance to the extent of such conflict.

PART C. SEVERABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any

provision thereof shall be held to be inapplicable to any person, property, or circumstance, such holding shall not

affect its applicability to any other person, property, or circumstance.

PART D. APPLICABILITY OF ORDINANCE.

This ordinance shall be applicable in the unincorporated area of St. Lucie County.

PART E. CODIFICATION.

It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the County of St. Lucie, Florida; that

the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word

"Ordinance" shall be changed to "Section" or other appropriate word.

PART F. FILING WITH THE DEPARTMENT OF STATE.

The Clerk is hereby directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code and Laws, Department of State, The Capitol, Tallahassee, Florida 32304.

PART G. POSTPONEMENT EXPIRATION.

Upon this Ordinance becoming effective, Ordinance 17-002 will expire.

PART H. EFFECTIVE DATE.

This Ordinance shall be effective upon filing with the Department of State.

PART I. ADOPTION.

After motion and second, the vote on this ordinance was as follows:

Commissioner Chris Dzadovsky, Chairman AYE

Commissioner Tod Mowery, Vice Chairman AYE

Commissioner Linda Bartz AYE

Commissioner Frannie Hutchinson AYE

Commissioner Cathy Townsend AYE

PASSED AND DULY ADOPTED this 16th day of May, 2017.

ATTEST:

S

BOARD OF COUNTY COMMISSIONERS

ST. LUCIE COUNTY

BY:

Chair

APPROVED AS TO FORM

CORRECTNESS

BY:



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 24, 2017

Honorable Joseph E. Smith
Clerk of the Circuit Court
St. Lucie County
2300 Virginia Avenue
Fort Pierce, Florida 34982

Attention: Ms. Melissa Upton

Dear Mr. Smith:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of St. Lucie County Ordinance No. 17-005, which was filed in this office on May 24, 2017.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb