

ORDINANCE NO. 034-2024

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING, AT ARTICLE I, IN GENERAL BY AMENDING SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, TO ADD A DEFINITION OF “MARIJUANA”; AT ARTICLE VI, DISTRICT REGULATIONS, BY REPEALING SUBSECTION 134-1109(A)(20) TO REMOVE THE REFERENCE TO MEDICAL MARIJUANA TREATMENT CENTERS AND DISPENSARIES AS SPECIAL EXCEPTION USES IN THE C-TS TOWN SERVING COMMERCIAL DISTRICT IF NOT PROHIBITED; AT ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATIONS, AT DIVISION 17. MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA DISPENSARIES TO AMEND THE TITLE OF DIVISION 17 TO REFERENCE MARIJUANA GENERALLY AND OUTDOOR EVENTS; TO AMEND SECTION 134-2113, PROHIBITION TO DETAIL THE USES PROHIBITED; AND TO REPEAL SECTION 134-2114, DEVELOPMENT STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Palm Beach, pursuant to the authority granted to it in Chapters 163 and 166, Florida Statutes, is authorized and empowered to consider changes to its land development regulations; and

WHEREAS, in 2016, the electors of the State of Florida, by referendum voted to legalize medical marijuana for certain individuals who have qualifying medical conditions; and

WHEREAS, the Town on January 11, 2017 adopted Ordinance No. 24-2016 prohibiting the location of medical marijuana treatment centers, medical marijuana dispensaries, cannabis cultivation, and non-medical marijuana sales in all zoning districts of the Town; and

WHEREAS, the Town by Ordinance No. 24-2016 alternatively detailed the zoning regulations to govern medical marijuana treatment centers and medical marijuana dispensaries if said prohibition was preempted by State Law and

WHEREAS, in 2017, the Florida Legislature passed Senate Bill 2017-8-A, which was subsequently adopted as Chapter 2017-232, Laws of Florida, codified at F.S. § 381.986 and signed into law by Governor Rick Scott on June 23, 2017, concerning the medical use of marijuana (the “Legislation”); and

WHEREAS, the Legislation expressly permits a municipality like the Town to ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that municipality by ordinance, F.S. § 381.986(11)(b)1; and

WHEREAS, the Town Council of the Town has determined that it is in the best interests of residents and visitors of the Town to continue to ban medical marijuana treatment centers,

medical marijuana dispensaries, cannabis cultivation, and non-medical marijuana sales from being located within the Town's boundaries; and

WHEREAS, after public hearing pursuant to notice required by law, the Planning and Zoning Commission considered all testimony and recommended modification to the Town's Chapter 134, ZONING, of the Town's Code of Ordinances; and,

WHEREAS, after public hearing pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals, and general welfare of the citizens of the Town of Palm Beach require that the aforesaid Chapter 134, ZONING, of the Code of Ordinances, be amended as hereinafter set forth,

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Palm Beach, Palm Beach County, Florida, as follows:

Section 1. Article I, IN GENERAL, **Section 134-2, Definitions and rules of construction**, is hereby amended to add a new definition as follows:

Marijuana shall mean 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, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis as defined in F.S. § 381.986(1)(f), which are dispensed from a medical marijuana treatment center for medical use by a qualified patient pursuant to F.S. § 381.986.

Section 2. Article VI, DISTRICT REGULATIONS, **Section 134-1109, Special exception uses**, is hereby amended to repeal subsection (20) and renumber the remainder, as follows:

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-TS town-serving commercial district are as follows:

~~(20) — Medical marijuana treatment centers and medical marijuana dispensaries are prohibited, however, should state law preempt said prohibition, said uses shall be permitted subject to the requirements in sections 134-2113 through 134-2114 of this chapter.~~

(21) Outdoor promotional events. See section 134-2115 for additional conditions and criteria

(22) Restaurants, excluding formula restaurants, as defined in section 134-2 and bars/lounges.

Section 3. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Division 17, MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA DISPENSARIES, is hereby amended to amend the title of the Division, to amend **Section 134-2113**, Prohibition, and to repeal **Section 134-2114**, Development Standards, as follows:

The title of **Division 17, MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA DISPENSARIES IS AMENDED AS FOLLOWS:**

Division 17, MARIJUANA, INCLUDING MEDICAL MARIJUANA TREATMENT CENTERS AND DISPENSARIES, AND OUTDOOR EVENTS.

Sec. 134-2113. – Prohibition is amended as follows:

Cannabis cultivation, the operation of a medical marijuana treatment center or medical marijuana dispensary, and the sale or dispensation of marijuana (including medical and non-medical marijuana), cannabis, cannabis-based products and cannabis plants, are prohibited uses in all zoning districts of the town. Medical marijuana treatment centers and medical marijuana dispensaries are prohibited in all zoning categories of the town, however, should state law preempt the prohibition of said uses, said uses are only permitted in the commercial town serving (C-TS) district, subject to the development standards set forth in sections 123-201, 134-226 through 134-230, 134-1109 and 134-2114.

Sec. 134-2114.- Development Standards is hereby repealed in its entirety:

In addition to applicable regulations and requirements otherwise set forth in this article, the following minimum standards and regulations shall apply to the development or use of property for a medical marijuana treatment center or medical marijuana dispensary. Such standards shall be met regardless of the existence of lesser standards that may be imposed by other agencies of government. The town council may impose additional conditions or safeguards as deemed necessary.

- (1) *Distance separation.* No medical marijuana treatment center or dispensary shall be located within 1,000 feet of any school, church, child care facility, municipal park or substance abuse treatment facility licensed by the Florida Department of Children and Families pursuant to Rule 65D-30, or within 2,500 feet of another medical marijuana treatment center or dispensary, or within 100 feet of residentially zoned property within the town limits, as further defined by these regulations. Distances shall be measured by drawing a straight line between the closest point of the medical marijuana treatment center/dispensary structure to the closest property line or tenant space (whichever is closer) of a school, church, childcare facility, public park, resource recovery/addiction treatment facility, or other medical marijuana treatment center or dispensary residentially zoned property.
- (2) *Parking.* Any off-street parking demand created by a medical marijuana treatment center /dispensary shall not exceed the parking spaces located or allocated on-site, as required by section 134-2176. An applicant shall be required to demonstrate that on-site traffic

~~and parking attributable to the medical marijuana treatment center/dispensary will be sufficient to accommodate traffic and parking demands generated by the medical marijuana treatment center/dispensary, based upon a current traffic and parking analysis prepared by a certified professional.~~

- ~~(3) *Display of registration/town approval of operational plan.* Any medical marijuana treatment center/dispensary shall be validly registered with the State of Florida, as required, and with the town, and shall prominently display in a public area near its main entrance copies of all state licenses, town registration and local business tax receipt, and the name of the owner and designated physician responsible for compliance with State and town regulations. A medical marijuana treatment center/dispensary shall register with the town by completing and submitting to the planning zoning and building department a registration form and operational plan, including security measures, for review and approval by the town prior to issuance of the town registration and business tax receipts. The operational plan shall be reviewed annually prior to renewal of the registration and business tax receipt to ensure that it adequately addresses concerns of the town, including security, parking, loitering, etc.~~
- ~~(4) *Controlled substances.* The on-site sale, provision or dispensing of controlled substances (other than those types of marijuana approved for sale by the department of health or its successor agency) at a medical marijuana treatment center/dispensary shall be prohibited except as is specifically set forth in applicable federal or state law.~~
- ~~(5) *On-site consumption of marijuana and/or alcoholic beverages.* No consumption of marijuana or alcoholic beverages shall be allowed on the premises, including in the parking areas, sidewalks or rights of way. In addition, no consumption of marijuana or alcoholic beverage shall be allowed on neighboring parking areas, sidewalks or right of way. The persons responsible for the operation of the medical marijuana treatment center /dispensary shall take all necessary and immediate steps possible to ensure compliance with this subsection.~~
- ~~(6) *Loitering.* A medical marijuana treatment center/dispensary shall provide adequate seating for its qualified patients and care givers and shall not allow qualified patients or care givers, to stand, sit (including in a parked car), or gather or loiter outside of the building where the treatment center/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. In addition, no other visitors or business invitees shall be permitted on the premises per (15)c of this division and said person(s) shall not be allowed to loiter in any parking areas, sidewalks, right of way or neighboring properties for any period of time. The medical marijuana treatment center/dispensary shall post conspicuous signs on at least three sides of the building that no loitering is allowed on the property.~~
- ~~(7) *Queuing of vehicles.* The persons responsible for the operation of the medical marijuana treatment center/dispensary shall ensure that there is no queuing of vehicles in the rights-of-way. The persons responsible for the operation of the medical marijuana treatment~~

~~center / dispensary shall take all necessary and immediate steps to ensure compliance with this subsection.~~

~~(8) *No drive-thru service /no delivery.* No medical marijuana treatment center / dispensary shall have a drive thru or drive in service aisle. All dispensing, payment and receipt of said marijuana shall occur from inside the medical marijuana treatment center / dispensary. No medical marijuana treatment center or dispensary shall conduct any form of off site delivery service of medical marijuana prescriptions.~~

~~(9) *Operating hours.* A medical marijuana treatment center / dispensary may operate only Monday through Friday and only during the hours of 8:00 a.m. to 6:00 p.m.~~

~~(10) *Compliance with other laws.* A medical marijuana treatment center / dispensary shall at all times be in compliance with all federal and state laws and regulations and the Town of Palm Beach Code.~~

~~(11) *Certification affidavit by applicants for related uses.* Any application for a business tax receipt as a medical marijuana treatment center / dispensary as defined in section 1-2, shall be accompanied by an executed affidavit certifying registration with the State of Florida and the Town of Palm Beach as a medical marijuana treatment center / dispensary. The failure of an applicant to identify the business in the application for a business tax receipt as a medical marijuana treatment center / dispensary will result in immediate expiration of the business tax receipt and immediate ceasing of all activity conducted in the medical marijuana treatment center / dispensary.~~

~~(12) *Non-medical marijuana sales.* Non-medical marijuana sales, including 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, shall be prohibited uses in all zoning districts of the town.~~

~~(13) *Cannabis cultivation.* Cannabis cultivation shall be a prohibited use in all zoning districts of the town.~~

~~(14) *Property standards.* Medical marijuana treatment centers and dispensaries shall be situated on real property meeting the following requirements:~~

~~a. *Minimum parcel size.* The minimum parcel size shall be 20,000 square feet.~~

~~b. *Location.* Medical marijuana treatment centers and dispensaries shall have frontage on a collector or arterial roadway.~~

~~c. *Structure.* A medical marijuana treatment center and dispensary shall only be operated from a freestanding building that is not part of a larger commercial plaza, retail center, or multi-tenant building.~~

d. ~~Appearance.~~ Building architecture, including building color, shall be harmonious with surrounding properties.

e. ~~Signage.~~ Consistent with article XI, signs, of this chapter.

(15) ~~Security.~~ Security measures shall be taken by the owner/operator, including but not limited to:

a. ~~A monitored alarm system and/or panic buttons shall be installed in the interior of the building.~~

b. ~~A uniformed armed security guard shall be on the premises at all times the dispensary is open for business. The security guard/officer must be insured and licensed with the State of Florida possessing the minimum of an active and valid Class "D" and a Class "G" license as per F.S. § 493.6301.~~

c. ~~Only qualified registered patients per department of health definitions and personal caregivers, employees of the business, or town and state and any other applicable governmental staff members, shall be permitted inside the proposed business.~~

d. ~~Town staff shall be granted right of entry at all times to ensure compliance with the requirements of this division 18.~~

(16) ~~Other activities.~~ No medical marijuana treatment center or dispensary shall sell, market, dispense, provide, exchange, or otherwise vend any other services, product, or drug paraphernalia as defined by federal or state law. In addition, no medical marijuana dispensary or doctors, physicians, agents, employees, representatives, contractors, or the like shall provide any other medical, social, or psychological counseling, diagnosis or advice to any patient or business invitee.

Section 4. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 5. Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

Section 6. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 7. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 13 day of November, 2024, and for second and final reading on this 11 day of December, 2024.

Danielle H. Moore, Mayor

Bobbie D. Lindsay, Town Council President

Lewis S.W. Crampton, Council President Pro Tem

ATTEST:

Julie Araskog, Town Council Member

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk
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Bridget Moran, Town Council Member