

ORDINANCE NO. 05-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ZONING, OF THE CITY CODE; PROVIDING FOR THE LOCATION OF PHARMACIES AND MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES IN THE CITY; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, in 2016, Florida voters approved the Florida Right to Medical Marijuana Initiative (“Amendment 2”), which amended the Florida Constitution to authorize “Medical Marijuana Treatment Centers”; and

WHEREAS, the Florida Legislature passed SB 8-A, amending section 381.986, Florida Statutes, in the 2017 Special Session, approved by the Governor on June 23, 2017, which implemented Amendment 2 and which further contained specific preemption provisions regarding dispensary facilities of medical marijuana treatment centers; and

WHEREAS, specifically, SB 8-A provides that a municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that municipality, but that a municipality that does not ban dispensing facilities may not place specific limits either on the number of dispensing facilities that may locate in the municipality and, further, may not enact ordinances for permitting or determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under chapter 465, Florida Statutes; and

WHEREAS, the City Council previously in Ordinance 1-2017 enacted a ban on medical marijuana treatment center dispensing facilities, prohibiting them from locating in the City; and

WHEREAS, the City Council now desires to reconsider the prohibition on medical marijuana treatment center dispensing facilities previously enacted in Ordinance 1-2017 to allow for such dispensing facilities in certain locations where pharmacies are permitted; and

WHEREAS, the City Council also desires to revise the locations where pharmacies are permitted, eliminating pharmacies as a permitted use in the Central Business District and Cocoa

Waterfront Overlay District; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of Cocoa.

Section 2. **Code Amendment.** Appendix A, Zoning, Article XIII, Section 22 of the Code of Ordinances, City of Cocoa, Florida, is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from the Ordinance of text existing in Section 22. It is intended that the text in Section 22 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this ordinance.):

APPENDIX A - ZONING

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ARTICLE XI. – SCHEDULE OF DISTRICT REGULATIONS

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Sec. 9. - District and intent—R-P, Residential Professional District.

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(A) PRINCIPAL USES AND STRUCTURES.

- (1) Professional offices, general offices and similar uses.
- (2) Medical and dental clinics and laboratories.
- (3) Multiple-family dwellings as regulated by section 5, RU-2-15.
- (4) Pharmacy, medical marijuana treatment center dispensing facilities, apothecary and optical services. Medical marijuana treatment center dispensing facilities shall not be located within 500 feet of the real property that comprises a public or private elementary, middle or secondary school, unless the City Council approves the location at a public hearing and determines that the location promotes the public health, safety, and general welfare of the community, or as otherwise provided in Chapter 381, Florida Statutes, as may hereafter be amended.

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Sec. 10. - District and intent—P-S, Professional, Offices and Services District.

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(A) PRINCIPAL USES AND STRUCTURES.

- (1) Professional offices and services and studies such as medical, dental, legal, engineering, real estate, insurance, technical management consultant.
- (2) Business services such as secretarial services, drafting, reproduction services.
- (3) Book and stationery stores, business supply retail stores.
- (4) Medical and dental clinics and laboratories.
- (5) Financial institutions.
- (6) Pharmacy, medical marijuana treatment center dispensing facilities, apothecary and optical services. Medical marijuana treatment center dispensing facilities shall not be located within 500 feet of the real property that comprises a public or private elementary, middle or secondary school, unless the City Council approves the location at a public hearing and determines that the location promotes the public health, safety, and general welfare of the community, or as otherwise provided in Chapter 381, Florida Statutes, as may hereafter be amended.
- (7) Personal service establishments such as florist shops, barber and beauty shops, laundry and dry cleaning pickup stations, tailor shops, and similar uses.

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Sec. 10A. - District and intent—C-R, Restricted Commercial District.

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(A) PRINCIPAL USES AND STRUCTURES. The following uses and structures are permitted for any use or groups of uses that are developed, either separately, or as a unit with certain site improvements shared in common:

- (1) Retail stores, sales and display rooms (except automotive) and similar uses, including places such as bakeries in which goods are produced and sold at retail upon the premises.
- (2) Personal service establishments such as beauty and barber shops, laundry and dry cleaning pickup stations, tailor shops, and similar uses.
- (3) Professional offices, studios, clinics, laboratories, general offices and similar uses.
- (4) Multiple-family and single-family residences as regulated in section 5, RU-2-15.
- (5) Financial institutions.
- (6) Pharmacy, medical marijuana treatment center dispensing facilities, apothecary and optical services. Medical marijuana treatment center dispensing facilities shall not be located within 500 feet of the real property that comprises a public or private elementary, middle or

secondary school, unless the City Council approves the location at a public hearing and determines that the location promotes the public health, safety, and general welfare of the community, or as otherwise provided in Chapter 381, Florida Statutes, as may hereafter be amended.

(7) Restaurants.

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Sec. 11. - District and intent—C-N, Neighborhood Commercial District.

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(A) PRINCIPAL USES AND STRUCTURES. The following uses and structures are permitted for any use or group of uses that are developed, either separately, or as a unit with certain site improvements shared in common:

- (1) Retail stores, sales and display rooms (except automotive) and similar uses, including places such as bakeries in which goods are produced and sold at retail upon the premises.
- (2) Personal service establishments such as beauty and barbershops, laundry and dry cleaning pickup stations, tailor shops and similar uses.
- (3) Professional offices, studios, clinics, laboratories, general offices and similar uses.
- (4) Restaurants, subject to the following:
 - a. Outdoor entertainment shall be prohibited;
 - b. The restaurant shall be required to close no later than 10:00 PM on Sunday through Thursday and no later than 12:00 AM on Friday and Saturday; and
 - c. Walls and/or opaque vegetative screening buffers shall be required between the restaurant and adjacent properties with residential zoning designations.
- (5) Multiple-family and single-family residences as regulated in section 5, RU-2-15 District.
- (6) Financial institutions.
- (7) Pharmacy, medical marijuana treatment center dispensing facilities, apothecary and optical services. Medical marijuana treatment center dispensing facilities shall not be located within 500 feet of the real property that comprises a public or private elementary, middle or secondary school, unless the City Council approves the location at a public hearing and determines that the location promotes the public health, safety, and general welfare of the community, or as otherwise provided in Chapter 381, Florida Statutes, as may hereafter be amended.
- (8) Child care centers, day nurseries of kindergartens.
- (9) Package store, beer and wine.

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Sec. 13. – District and intent – CBD, Central Business District.

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(A) PRINCIPAL USES AND STRUCTURES.

- (1) Professional offices, services, and studios such as medical; dental; optical; legal; engineering; real estate; insurance; travel agents; employment services consultant.
- (2) Retail stores, sales and display rooms (except automotive) and similar uses, including places such as bakeries in which goods are produced and sold at retail upon the premises.
- (3) Personal service establishments such as beauty and barber shops, laundry and dry cleaning pickup stations, tailor shops and similar uses.
- (4) Restaurants.
- (5) Residential—Multiple-family dwellings.
- (6) Residential—Townhouse dwellings.
- (7) Hotels and motels.
- (8) Marinas—Public and private.
- (9) Bed and breakfast establishments as regulated by article XIII section 24, bed and breakfast establishments.
- (10) Business service establishments.
- (11) Clubs and lodges, private.
- (12) Cultural centers, social service centers, museums, galleries, and community centers—Commercial.
- (13) Cultural centers, social service centers, museums, galleries, and community centers-Noncommercial.
- (14) Financial institutions.
- (15) Gym and fitness facilities.
- (16) Home occupation.
- (17) Medical and dental clinics and laboratories.
- ~~(18) Pharmacy and optical services.~~
- ~~(19)~~(18) Printing, engraving and related reproduction processes as well as the publishing and distribution of books, newspapers and other printed material.

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Sec. 20. - District and intent—UMD, Urban Mixed-Use District.

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B. *Brevard Crossings UMD Sub-District:*

- (1) *Schedule of Permitted Uses, Special Exceptions and Prohibited Uses.*

Allowable Uses	P: Permitted SE: Special Exception	
	UMD - Brevard Crossings	Specific Use Restrictions
	All uses are locationally restricted to those areas identified on the Brevard Crossings Master Development Plan. See the Brevard Crossings Development Guidelines for additional development standards.	
* * *		
Commercial Uses		
* * *		
Pharmacy, <u>medical marijuana treatment center dispensing facilities</u> and optical	P	<u>Medical marijuana treatment center dispensing facilities shall not be located within 500 feet of the real property that comprises a public or private elementary, middle or secondary school, unless the City Council approves the location at a public hearing and determines that the location promotes the public health, safety, and general welfare of the community, or as otherwise provided in Chapter 381, Florida Statutes, as may hereafter be amended.</u>
Post offices	P	

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Sec. 22. - Cocoa Waterfront Overlay District.

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(F) *Uses.* The following table identifies, by zoning district and overlay sub district what uses are permitted (P), not permitted (blank) and/or requires a special exception (SE).

"Key: SE-Special Exception, Blank Cell-Not Permitted, P-Permitted, RP-as identified on the regulating plan"	Heart of Cocoa	Uptown Neighborhood (UN)			South of the Village (SV)		South End (SE)		Waterfront (WF)	Cocoa Village			North of the Village (NV)				King Willard (KW)	
	RU-2-10	RU-2-25	CB-D	C-C	RU-2-25	CB-D	CB-D	C-C	CBD	RU-2-10	CB-D	C-C	C-G	C-C	C-P	CB-D	C-P	C-C
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Commercial																		
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Personal Service Establishments, beauty, barber, laundry, dry cleaning, tailor			P	P		P	P	P	P		P	P	P	P	P	P	P	P
Pharmacy, Optical services			P			P	P		P		P		P			P		

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 8th day of July, 2020.

Jake Williams Jr., Mayor

ATTEST:

Carie Shealy, MMC, City Clerk

First Reading: 06/24/2020
Second Reading: 07/08/2020
Legal Ads Published: 06/05/2020 & 06/30/2020
Effective Date: 07/08/2020