



Legislation Text

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## CITY COUNCIL AGENDA ITEM

Memo Date: June 25, 2020  
Agenda Date: July 8, 2020  
Prepared By: Dodie Selig, Planning & Zoning Manager  
Through: Nancy A. Bunt, Community Services Director  
Requested Action:  
Pass on Second Reading: Ordinance 05-2020; providing for the location of pharmacies and medical marijuana treatment center dispensing facilities.

### **BACKGROUND:**

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”. Following this the Florida Legislature passed Senate Bill 8-A in 2017 which amended section 381.986, Florida Statutes, providing specific preemption provisions regarding dispensary facilities of medical marijuana treatment centers. Senate Bill 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.

On January 9, 2018, the City Council approved Ordinance 1-2017 which enacted a ban on medical marijuana treatment center dispensing facilities, prohibiting them from locating in the City. However, the City Council now desires to reconsider the prohibition on medical marijuana treatment center dispensing facilities, to allow for such dispensing facilities in certain locations where pharmacies are permitted and 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.

The following changes are proposed by this ordinance:

(1) The addition of the language below under the list of principle uses for the following zoning districts; R-P (Residential Professional District), P-S (Professional, Offices and Services District), C-R (Restricted Commercial District), C-N (Neighborhood Commercial District) and UMD (Urban Mixed-Use District).

*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.

*(Appendix A. Zoning, Article XI, Section 9, Appendix A. Zoning, Article XI, Section 10, Appendix A. Zoning, Article XI, Section 10 A, and Appendix A. Zoning, Article XI, Section 11)*

It should be noted that because several zoning districts cross-reference uses allowed in the C-N (Neighborhood Commercial District), medical marijuana treatment center dispensing facilities will also be permitted in the CW (Wholesale Commercial), CG (General Commercial), and M-1 (Light Industrial and Warehouse) districts.

(2) The removal of pharmacies under the list of principle uses for the following zoning districts; CBD (Central Business District) zoning district and CWOD (Cocoa Waterfront Overlay District).

*(Appendix A. Zoning, Article XI, Section 13 and Appendix A. Zoning, Article XI, Section 20)*

(3) The removal of the prohibition against medical marijuana treatment center dispensing facilities.

*(Appendix A. Zoning, Article XIII, Section 31)*

#### I. Zoning Ordinance Amendment Analysis

In accordance with Appendix A. Zoning, Article XXI, Section 1(G)(2) of the Code of the City of Cocoa, the Planning and Zoning Board shall consider and study the following when an amendment to the zoning code is proposed:

a. *The need and justification for the change.*

b. *The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning programs and to the comprehensive plan, with appropriate consideration as to whether the proposed changes will further the purposes of [the] zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.*

#### **Need and justification for change**

The City desires to remove the prohibition against medical marijuana treatment center dispensing facilities within the City and, at the same time, regulate the location of pharmacies within the City in general. The changes proposed by this ordinance will allow all pharmacy types within zoning districts allowing similar medical office uses. At the same time, the use will be removed from the historic downtown area which is largely oriented towards tourist/leisure/entertainment business.

#### **Relationship and consistency with Comprehensive Plan Policies and Objectives**

The following Comprehensive Plan policy supports the proposed zoning text amendment:

GOAL 1.3: The City of Cocoa shall enhance the quality of life and prosperity of its citizens through the retention and creation of a wide range of profitable business opportunities and jobs.

#### **STRATEGIC PLAN CONNECTION:**

#### **BUDGETARY IMPACT:**

**N/A**

**PREVIOUS ACTION:**

The Planning & Zoning Board recommended approval at the June 16, 2020 meeting.

The City Council approved this item at the regular meeting on June 24, 2020.

**RECOMMENDED MOTION:**

Pass on Second Reading: Ordinance 05-2020; providing for the location of pharmacies and medical marijuana treatment center dispensing facilities.