



City of Hallandale Beach

Planning and Zoning Board Agenda Cover Memo

Primary Application Type:	Land Development Regulation Amendment	Hearing Date:	June 25, 2018		
Additional Applications:	N/A	Public Hearing:	YES	NO	
			X		
General Title:		Quasi-Judicial:	YES	NO	
				X	
Applicant:	City of Hallandale Beach	Workshop:	YES	NO	
				X	
Application #		Advertisement Type Required:	DISPLAY	REGULAR	N/A
			x		
Staff Recommendation:		Approve	Approve with Conditions		Reject
		X			
Request:			Strategic Plan Priority Area:		
			<input checked="" type="checkbox"/> Safety <input checked="" type="checkbox"/> Quality <input checked="" type="checkbox"/> Vibrant Appeal		
Sponsor Name:	Keven Klopp, Development Services Director	Prepared By:	City Attorney's Office, Development Services		

Short Title:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING CHAPTER 32, "ZONING AND LAND DEVELOPMENT CODE", DIVISION 24 "ON-SITE DISPENSING OF CONTROLLED SUBSTANCES" PROVIDING DEFINITIONS AND MINIMUM DISTANCE SEPARATION REQUIREMENTS FOR MEDICAL MARIJUANA ESTABLISHMENTS AND PHARMACIES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff Summary:

City Administration periodically reviews City Ordinances and makes recommendations to the City Commission.

In reviewing state law related to the regulation of medical marijuana establishments, pharmacies, and pain management clinics, the City Administration has determined it is in the best interest to regulate distance requirements for the on-site dispensing of controlled substances.

Marijuana is a Schedule I drug under the federal Controlled Substances Act, 21 U.S.C Section 811. According to the United States Drug Enforcement Agency, in 2014, an estimated 6.5 million people aged 12 or older used marijuana on a daily or almost daily basis over a 12-month period. A significant proportion of all admissions for substance abuse treatment are for marijuana/hashish as their primary drug of abuse. In 2013, 16.8% of all such admissions, 281,911 over the course of the year, were for primary marijuana/hashish abuse.

In November 2016, Florida voters approved an amendment to the Florida Constitution to allow for the broader medical use of medical marijuana. On June 7, 2017, the City Commission of the City Hallandale Beach adopted Ordinance No. 2017-09, Ordinance No 2017-10, and Ordinance No. 2017-11 related to the regulation of medical marijuana within City Boundaries. On June 23, 2017, Governor Rick Scott signed into law Senate Bill 8-A, which significantly amended Section 381.986, Florida Statutes. The statute preempted to the state of Florida the regulation of cultivation, processing, and delivery of marijuana, and established parameters for municipal action related to the regulation of medical marijuana and pharmacies. Local governments may either ban medical marijuana dispensaries by ordinance, or regulate them only as much as pharmacies.

In addition, Section 381.986(11)(c), Florida Statutes provides that a medical marijuana treatment center dispensing facility “may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location through a formal proceeding open to the public at which the county or municipality determines that the location promotes the public health, safety, and general welfare of the community.”

Pain management clinics and pharmacies licensed and under the regulatory authority of the state of Florida also provide on-site dispensing of controlled substances, identified in Schedule II, III, or IV in Section 893.03, 893.035, or 893.0355, Florida Statutes.

In 2017, following the Centers for Disease Control and Prevention (CDC) declaring a national opioid epidemic, Governor Rick Scott signed Executive Order 17-146 directing a Public Health Emergency across the state. In 2015, opioids were responsible for over 33,000 deaths nationwide and nearly 3,900 deaths in Florida.

Opioid abuse has required additional resources from local first responders such as law enforcement, firefighters, and emergency medical services. According to the Hallandale Beach Fire Department, in 2017, there were 110 suspected opioid overdoses in Hallandale Beach. By May 2018, there were 17 suspected opioid overdoses in Hallandale Beach. Narcan was administered to these patients at an additional cost to the City.

The overprescribing and excessive consumption of opiate prescription drugs has resulted in the increased addiction of persons, increased crime associated with such activity, and a high number of deaths in the South Florida area and around the City of Hallandale Beach. It has created an urgent situation requiring immediate action to reduce the threat to the health, safety and welfare of the citizens of the City of Hallandale Beach.

Preventing the concentration and proliferation of medical marijuana establishments, pharmacies, and pain management clinics serves to disperse and mitigate the deleterious impacts more widely and to prevent the gradual blighting of surrounding areas.

Several municipalities have recognized the link between the medical marijuana, the opioid crisis and risk from the proliferation of pharmacies and pain management clinics. The City of Dania Beach enacted an ordinance in August 2017 requiring that no retail pharmacy, medical marijuana retail center, or pain management clinic may be permitted to locate within a one-thousand-foot radius of another retail pharmacy, medical marijuana retail center, or pain management clinic. The City of Deerfield Beach enacted an ordinance in January 2018 to restrict pharmacies from being located within 250 feet of other pharmacies, and restricted medical marijuana dispensaries 250 feet from other medical marijuana dispensaries. Other municipalities such as Miami Beach and Oakland Park have enacted ordinances restricting the location of pharmacies and medical marijuana establishments through zoning districts.

City Administration has found a 1,000 foot minimum interbusiness distance separation requirement for medical marijuana establishments, pharmacies, and pain management clinics is reasonable and consistent with the Comprehensive Plan, and in the best interest of the public health, safety, and welfare. The proposed ordinance provides for minimum distance interbusiness separation requirements, and provides for a procedure for the applicant to apply for a variance, which is only granted by the City Commission upon a determination that the location promotes the public health, safety, and general welfare of the community. The proposed ordinance also provides that nonconforming uses may continue until there is an abandonment of that use. Once abandoned, the legally nonconforming establishment may not be reestablished unless it conforms to the requirements of the code.

Staff Recommendation:

Staff recommends the Planning and Zoning Board/Local Planning Agency recommend the City Commission approve the attached Ordinance.

Requested Action:

The Planning and Zoning Board/Local Planning Agency may recommend to the City Commission:

- Approval;
- Approval with amendment; or,
- Denial of the proposed ordinance.

Attachment(s):

Exhibit 1 – Ordinance