



TOWN OF PALM BEACH

PLANNING, ZONING, & BUILDING DEPARTMENT

LOCAL PLANNING AGENCY

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

NOVEMBER 13, 2024

9:30 AM

Welcome

For information regarding procedures for public participation at Town Council Meetings, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Danielle H. Moore, Mayor
Margaret A. Zeidman, President
Bobbie D. Lindsay, President Pro Tem
Julie Araskog
Ted Cooney
Lew Crampton

II. PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR DANIELLE H. MOORE

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND DIRECTOR OF PLANNING, ZONING AND BUILDING

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VI. APPROVAL OF AGENDA

VII. ORDINANCES

A. First Reading

1. Proposed ordinance to amend the Town's Comprehensive Plan

ORDINANCE NO. 015-2024 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Of Palm Beach's Comprehensive Plan By Amending The Data & Analysis, As Well As The Goals, Objectives, And Policies Within The Plan Based On The Town's Recent Evaluation And Appraisal Of The Comprehensive Plan; Providing For Incorporation Of Recitals; Providing For Severability; Providing For Repeal Of Ordinances In Conflict Herewithin; Providing For Codification; Providing An Effective Date.

2. Proposed ordinance amending code sections related to medical marijuana and related treatment centers and dispensaries.

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.

VIII. ANY OTHER MATTERS

IX. ADJOURNMENT

Procedures for Public Participation:

Note 1: **Live Stream audio:** To watch/listen live, visit the 'Public Meetings' webpage on the Town's website at www.townofpalmbeach.com and select the "View Event" or "Click Here to Listen" button.

Note 2: Any citizen is entitled to be heard concerning any matter under the sections entitled 'Communications from Citizens' and 'Public Hearings', subject to the three-minute limitation. The public also can speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion. Citizens desiring to address the Town Council should proceed toward the public microphones when the applicable agenda item is being considered to enable the Town Council President to acknowledge you. In-person or virtual Public Comment is limited to three minutes and must be preceded by your name and address for the record. As a public business meeting, the Town Council President retains the right to limit discussion on any issue.

Alternative public comment is also welcome for Town Council Meetings via four methods:

1. To make a virtual public comment, please register for the Microsoft Teams meeting. This link will be available prior to the meeting on the Public Meeting page or on the Town's calendar of events, which both can be found at townofpalmbeach.com.
2. Written public comment submittals should be sent to publiccomment@townofpalmbeach.com.
3. Direct written entry into the public meeting record through the eComment portal on the Public Meetings webpage.
4. Mail or in-person submittal of written document to the Town Clerk's Office at Town Hall no later than the Friday prior to the meeting.

Note 3: **Appeals:** If a person decides to appeal any decision made with respect to any matter considered at this meeting, they will need to ensure that a verbatim record of the proceedings is made for such purposes, which shall include the testimony and evidence upon which the appeal is to be based.

Note 4: Disabled persons needing accommodations to participate in this meeting are requested to call the Clerk's Office at (561) 838-5416 at least one day prior to the meeting.

TOWN OF PALM BEACH

Local Planning Agency on: November 13, 2024

Section of Agenda

Ordinances - First Reading

Agenda Title

Proposed ordinance to amend the Town's Comprehensive Plan

ORDINANCE NO. 015-2024 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Of Palm Beach's Comprehensive Plan By Amending The Data & Analysis, As Well As The Goals, Objectives, And Policies Within The Plan Based On The Town's Recent Evaluation And Appraisal Of The Comprehensive Plan; Providing For Incorporation Of Recitals; Providing For Severability; Providing For Repeal Of Ordinances In Conflict Herewithin; Providing For Codification; Providing An Effective Date.

Presenter

ATTACHMENTS:

- ▣ **PZB Staff Memorandum**
- ▣ **2024 Comprehensive Plan for Transmittal**
- ▣ **2024 Comprehensive Plan Maps for Transmittal**

TOWN OF PALM BEACH

Information for Town Council Meeting on:

November 13, 2024

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

WB

From: Wayne Bergman, MCP, LEED® AP Director of Planning, Zoning & Building

Re: Local Planning Agency (LPA) and Town Council Transmittal Hearing on 2024 Comprehensive Plan

Date: October 25, 2024

STAFF RECOMMENDATION

Staff recommends that the Town Council acting as the Local Planning Agency (LPA) and the governing body transmit the 2024 Updated Comprehensive Plan based upon the required Evaluation and Appraisal Review to the Florida Department of Commerce, the state planning agency.

GENERAL INFORMATION

Pursuant to §163.3177, Fla. Stat., referred to as the Community Planning Act, the state mandates that every local government adopt a comprehensive plan. The comprehensive plan provides the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements. These “Elements” are state required of a comprehensive plan. The state also allows for optional elements that are specific to the particulars of a local jurisdiction. Each element requires Goals, Objectives and Policies that are based upon the data and analysis of historical and current statistics, housing needs, development trends, natural resource protection, an adequate multi-mobile transportation network, and the ability to provide necessary public services and facilities, among other aspects that are specific to that local government.

The state law also mandates per §163.3191, Fla. Stat. that every seven years local governments update their comprehensive plans through the Evaluation and Appraisal Review (EAR) to address any changes in state law that may impact local comprehensive plans since the last update. Additionally, the EAR requires a review to any changes in local conditions that may affect the Goals, Objectives, and Policies of a comprehensive plan.

This EAR-based amendment to the Town’s Comprehensive Plan is subject to the State Coordinated Review process, pursuant to §163.3184(4), Fla. Stat. A summary of this process is outlined below.

1. After initial local hearings (Local Planning Agency and Town Council) approving the proposed amendment to the Comprehensive Plan, the Town is required to transmit the complete proposed plan amendment to the State Land Planning Agency.

2. Next, within 60 days of receiving the complete amendment proposal, the State Land Planning Agency must issue an Objection, Recommendation, and Comments Report (ORC) to the local government.
3. The Town is required to hold a second public hearing to adopt the amendment to the Comprehensive Plan.
4. The complete adopted Comprehensive Plan amendment must then be submitted back to the State.
5. Finally, within 45 days of receiving the complete adopted plan amendment, the State Land Planning Agency issues a Notice of Intent to find the plan in compliance or not in compliance, which is posted on its website.

State law also requires the establishment of a Local Planning Agency (LPA) pursuant to §163.3174, Fla. Stat. The LPA is responsible for the preparation of the comprehensive plan or plan amendment after hearings held with public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The governing body may designate itself as the local planning agency pursuant to this subsection of the Florida Statutes.

The Town of Palm Beach Town Council is the designated LPA. The duties and responsibilities of the LPA are specified in Code Section 86-52 and include the following.

- ✓ Conduct the comprehensive planning program and prepare the comprehensive plan or elements or portions thereof for the Town.
- ✓ Coordinate the comprehensive plan or elements or portions thereof with the comprehensive plans of other appropriate local governments and the State.
- ✓ Recommend the comprehensive plan or elements or portions thereof to the town council for adoption.
- ✓ Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the town council such changes in the comprehensive plan as may be required from time to time.

Additionally, under the direction of Code Section 2-333, the Planning and Zoning Commission (PZC) is authorized to act in an advisory capacity to the Town Council in all matters relating to municipal planning and development. The PZC is required to follow the concepts and contents of the Town's Comprehensive Plan in all planning, zoning and development related deliberations and decisions. The PZC also has such powers and duties as may be prescribed by ordinance.

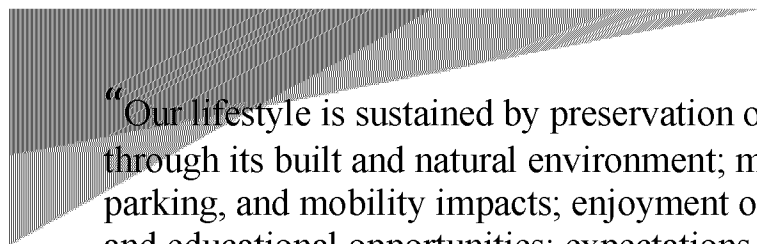
PLANNING AND ZONING COMMISSION REVIEW

As part of the state mandated public participation related to comprehensive planning, the PZC served as the primary reviewing Town body. Over nearly one year and a half, the PZC meet collectively and independently to serve the Planning, Zoning and Building (PZB) staff in the preparation of the 2024 Comprehensive Plan. Additionally, an engaged group of residents meet continually with staff to assist.

The updated 2024 Comprehensive Plan has been redrafted to place Quality of Life for Town residents as the forefront, while maintaining reverence for businesses and Town persons. As stated, the Town of Palm Beach's Comprehensive Plan provides the policy framework to address Quality of Life issues. The Quality of Life definition is the controlling component within each of the Elements' Goals of the 2024

Comprehensive Plan. The definition was adopted by the Town’s Strategic Planning Committee in 2022 and confirmed by the PZC. Through the EAR process, at the public hearing held on October 15, 2024, the Town Council added the quiet enjoyment of residential property to the definition.

The Quality of Life definition, which provides for the community’s vision through our series of Elements, now reads as follows:



“Our lifestyle is sustained by preservation of our community beauty through its built and natural environment; management of traffic, parking, and mobility impacts; enjoyment of cultural, recreational, and educational opportunities; expectations for respectful community conduct; quiet enjoyment of residential property and a safe and secure community.”

Town of Palm Beach Strategic Plan, as amended during the EAR process

The proposed 2024 Comprehensive Plan update includes the following amendments:

- ✓ The Coastal Management/Conservation Element has been separated into two (2) distinct Elements
- ✓ The Public Safety Element now has Data and Analysis, which was not present with the 2017 Comprehensive Plan
- ✓ The Transportation Element has the addition of a Parking Sub-Element
- ✓ The Recreation and Open Space has a new Recreational Programming Sub-Element
- ✓ The order of the Elements has been amended to tell the story of the Town of Palm Beach.
- ✓ The Goals for each of the twelve Elements of the Comprehensive Plan state that the “Town shall preserve, protect and ensure a high Quality of Life for Town residents...”

The 2024 Comprehensive Plan update composition is as follows.

Data and Analysis and Goals, Objectives and Policies

	Introduction
1	Future Land Use Element
2	Transportation Element
3	Housing Element
4	Historic Preservation Element
5	Public Safety Element
6	Infrastructure Element
7	Recreation and Open Space

8	Coastal Management Element
9	Conservation Element
10	Property Rights Element
11	Capital Improvements Element
12	Intergovernmental Coordination Element
	GIS Map Series

The Town held the following workshops with the PZC:

- May 3, 2023 – kick off meeting
- October 17, 2023- Distribution of the draft 2024 Comprehensive Plan update
- November 8, 2023–Public meeting on the draft 2024 Comprehensive Plan update
- December 6, 2023 - Public meeting on the draft 2024 Comprehensive Plan update – Introduction, Future Land Use, Housing, Historic Preservation, Public Safety, Recreation and Open Space and Property Rights.
- January 3, 2024 – Public meeting on the draft 2024 Comprehensive Plan update – Infrastructure, Coastal Management, Conservation, Capital Improvements Intergovernmental Coordination, Map Series
- February 6, 2024 – Public meeting on the draft 2024 Comprehensive Plan update Transportation and Infrastructure Elements
- March 5, 2024 – Public meeting on the draft 2024 Comprehensive Plan update Review of all Elements with the exception of the Transportation Element
- May 7, 2024 - Public meeting on the draft 2024 Comprehensive Plan update to review the Transportation Element
- June 4, 2024 - Public meeting on the draft 2024 Comprehensive Plan update to review the Transportation Element
- August 6, 2024 - Public meeting on the entire draft 2024 Comprehensive Plan update

In addition, the Comprehensive Plan update was presented to the Town Council, acting as the Local Planning Agency, on the following dates:

- May 10, 2023 – kick off meeting
- October 17, 2023- Distribution of the draft 2024 Comprehensive Plan update
- August 12, 2024 – Introductory Review of 2024 Comprehensive Plan update
- September 11, 2024 – Review of draft 2024 Comprehensive Plan update
- October 15, 2024- Review of draft 2024 Comprehensive Plan update
- November 13, 2024 - LPA and Town Council transmittal hearing
- January 15, 2025 – Tentative date of Adoption Hearing

FUNDING/FISCAL IMPACT

There are no funding fiscal impacts associated with the 2024 Comprehensive Plan. See attached Business Impact Estimate Form.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed all Elements of the 2024 Comprehensive Plan and the draft Ordinance No. 015-2024 for legal form and sufficiency.

Attachment: Complete Transmittal Document of the 2024 Comprehensive Plan
Ordinance No.015-2024
Business Impact Estimate Form

cc: Joanne M. O'Connor, Town Attorney
James Murphy, Assistant Planning Director
Jennifer Hofmeister-Drew, Planner III, AICP

ORDINANCE NO. 015-2024

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN OF PALM BEACH'S COMPREHENSIVE PLAN BY AMENDING THE DATA & ANALYSIS, AS WELL AS THE GOALS, OBJECTIVES, AND POLICIES WITHIN THE PLAN BASED ON THE TOWN'S RECENT EVALUATION AND APPRAISAL OF THE COMPREHENSIVE PLAN; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITHIN; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Palm Beach has adopted a Comprehensive Plan pursuant to Chapter 163, Part II, Florida Statutes, known as the Community Planning Act (the "Act"); and

WHEREAS, pursuant to Section 163.3191 of the Act, the Town of Palm Beach, Florida, is required to periodically and comprehensively evaluate its Comprehensive Plan to determine if plan amendments are necessary and to notify the state land planning agency as to its determination; and

WHEREAS, on October 23, 1989, the Town of Palm Beach amended the Town of Palm Beach Comprehensive Plan with the adoption of Ordinance No. 11-89; and

WHEREAS, on October 14, 1997, pursuant to Section 163.3191, Florida Statutes, "Evaluation and Appraisal of Comprehensive Plan", the Town of Palm Beach amended the Town of Palm Beach Comprehensive Plan based upon an Evaluation and Appraisal Report (EAR) with the adoption of Ordinance No. 14-97; and

WHEREAS, on April 15, 2009, the Town of Palm Beach amended the Town of Palm Beach Comprehensive Plan based upon an Evaluation and Appraisal Report (EAR) with the adoption of Ordinance No. 6-09; and

WHEREAS, on August 9, 2017, the Town of Palm Beach amended the Town of Palm Beach Comprehensive Plan based on the Town's Evaluation and Appraisal Review of the Comprehensive Plan with the adoption of Ordinance No. 9-2017; and

WHEREAS, on January 13, 2021, the Town of Palm Beach amended the Town of Palm Beach Comprehensive Plan by amending the Infrastructure Element, as well as the 10-Year Water Supply Facility Work Plan; and

WHEREAS, on November 15, 2022, the Town of Palm Beach amended the Town of Palm Beach Comprehensive Plan by creating a Property Rights Element with the adoption of Ordinance No. 15-2022; and

WHEREAS, on May 15, 2024, the Town of Palm Beach amended the Town of Palm Beach Comprehensive Plan Future Land Use Element Policy 2.3.6 related to the Private Group Use Future Land Use designation to remove the maximum lot coverage and to allow, in limited circumstances, the maximum building height to be three stories with Town Council approval; and

WHEREAS, in accordance with Section 163.3191 of the Act, the Town of Palm Beach conducted a recent Evaluation and Appraisal of the Town of Palm Beach Comprehensive Plan and determined that it is necessary and appropriate to amend the Data & Analysis (D&A) as well as the Goals, Objectives, and Policies (GOPs) of the Town of Palm Beach Comprehensive Plan; and

WHEREAS, pursuant to Section 163.3184(4) of the Act, the Town of Palm Beach has followed the state coordinated review process for review of comprehensive plans and plan amendments described in Section 163.3184(2)(c) of the Act; and

WHEREAS, the Town of Palm Beach's Planning and Zoning Commission issued a Record and Report recommending proposed amendments to the Town of Palm Beach Comprehensive Plan; and

WHEREAS, pursuant to Section 163.3174(11) of the Act after notice required by law, the Town Council, acting as the Local Planning Agency (LPA) , conducted a public hearing on November 13, 2024 wherein it considered the Planning and Zoning Commission's Record and Report and all evidence and testimony regarding the proposed amendments;

WHEREAS, the LPA recommended that the Town Council amend the Town of Palm Beach's Comprehensive Plan in the manner set forth in Exhibit "A" hereto (the "Amendments"), and transmit the Amendments to the Florida Department of Commerce; and

WHEREAS, pursuant to Section 163.3184(11) of the Act and after notice required by law, the Town Council conducted a public hearing on November 13, 2024 to consider the LPA's recommendations regarding the Amendments wherein it determined that the adoption of the Amendments would be in compliance with the Act and voted to transmit the Amendments to the Florida Department of Commerce, appropriate reviewing agencies, and any other local government or governmental agency that has made a written request of the Town pertaining to the proposed amendments; and

WHEREAS, the Florida Department of Commerce and appropriate reviewing agencies have reviewed the Amendments for consistency with the Act pursuant to Section 163.3184(4)(c) and (d) of the Act; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals

The above recitals are incorporated as fully set forth herein.

Section 2. Findings

The proposed Comprehensive Plan Amendments, as more particularly described in Exhibit A, have been determined by the Town Council to promote the public health, safety and welfare and are consistent with the requirements in Florida Statutes, and all elements of the adopted Comprehensive Plan.

Section 3. Amendment of the Comprehensive Plan

The Town of Palm Beach Comprehensive Plan is hereby amended to incorporate those amendments set forth in Exhibit A attached hereto and incorporated herein by reference.

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 Comprehensive Plan of the Town of Palm Beach.

Section 7. Effective Date.

This Ordinance shall take effect pursuant to Section 163.3184(4)(e)5, Florida Statutes.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading on November 13, 2024, and for second and final reading on the 15th day of January 2024.

Danielle H. Moore, Mayor

Bobbie Lindsay, Town Council President

Lewis S.W. Crampton, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Bridget Moran, Town Council Member



Business Impact Estimate

TOWN OF PALM BEACH

TITLE OF ORDINANCE:

ORDINANCE NO. 015-2024

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN OF PALM BEACH'S COMPREHENSIVE PLAN BY AMENDING THE DATA & ANALYSIS, AS WELL AS THE GOALS, OBJECTIVES, AND POLICIES WITHIN THE PLAN BASED ON THE TOWN'S **Business Impact Estimate**

This is provided in accordance with section 166.041(4), Florida Statutes. According to Section 166.041(4)(c) of the Florida Statutes, if one or more boxes are checked below, state law **does not** require a business impact estimate for the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☒ The proposed ordinance is required for compliance with Federal or State law or regulation.
- ☐ The proposed ordinance relates to the issuance or refinancing of debt.
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget.
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government.
- ☐ The proposed ordinance is an emergency ordinance.
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - a. Development orders and development permits, as those terms are defined in s. 163.3164, and development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220 - 163.3243.
 - b. Comprehensive plan amendments and land development regulation amendments initiated by an application by a private party other than the municipality.
 - c. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts.
 - d. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - e. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention

In accordance with the provisions of controlling law, the Town hereby publishes the following information:

1. Summary of the proposed ordinance:

The proposed Ordinance is to adopt the EAR-based 2024 Comprehensive Plan that amends the data and analysis and goals, objectives and policies.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, if any:

n/a

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

n/a

4. Additional information the governing body deems useful (if any):

n/a

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Town of Palm Beach's website by the time notice of the proposed enactment of the ordinance is published.

TOWN OF PALM BEACH

Local Planning Agency on: November 13, 2024

Section of Agenda

Ordinances - First Reading

Agenda Title

Proposed ordinance amending code sections related to medical marijuana and related treatment centers and dispensaries.

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.

Presenter

ATTACHMENTS:

- ▣ **PZB Staff Memorandum**
- ▣ **Ordinance 034-2024**

TOWN OF PALM BEACH

Information for Town Council Meeting on:

November 13, 2024

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, MCP, LEED® AP Director of Planning, Zoning & Building

Re: **Ordinance No. 2024 Related to Medical Marijuana and Marijuana Treatment Centers and Dispensaries**

Date: October 9, 2024

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Ordinance No. 034-2024 to amend Code Sections related to medical marijuana and related treatment centers and dispensaries.

GENERAL INFORMATION

At the September 11, 2024 Town Council meeting, suggested changes to the Zoning Code were recommended by Town Attorney, Joanne O'Connor, based upon state law related to medical marijuana treatment centers and dispensaries. That state law took effect in 2017 after the Town had adopted Ordinance 024-2016. Fla. Stat. 381/986 confirmed that municipalities like the Town are not from prohibiting medical marijuana treatment dispensary facilities within their boundaries.

The Town Council directed staff to discuss the changes with the Planning and Zoning Commission (PZC). The draft Ordinance No. 024-2024 was presented to the PZC on October 1, 2024 and PZC recommended approval of proposed Ordinance No. 034-2024. The subject Ordinance will amend Chapter 134, Zoning, in the following manner:

- Article I, In General, Section 134-2, Definitions and Rules of Construction, to add a definition of “marijuana” that tracks the definition used by the Florida Legislature in F.S. § 381.986.
- Article VI, District Regulations, by repealing subsection 134-1109 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. Since the State has expressly deemed the prohibition of such uses not preempted, subsection 134-1109(20) is not necessary.
- Article VIII, Supplementary District Regulations, to amend Section 134-2113, Prohibition medical marijuana treatment centers and medical marijuana dispensaries to confirm that cannabis cultivation, the operation of medical marijuana treatment centers and medical marijuana dispensaries, and the sale or dispensation of marijuana (including non-medical marijuana) is prohibited in all zoning districts of the Town consistent with State law.

- Article VIII, Development Standards, to repeal Section 134-2114, Development Standards which is not necessary given the Town's prohibition of the referenced uses.

BOARD OR COMMISSION RECOMMENDATION

On October 1, 2024, the Planning and Zoning Commission recommended that Ordinance No. 034-2024 move forward to the Town Council for the first reading in November and the second in December.

TOWN ATTORNEY REVIEW

The Zoning Code amendment has been reviewed and approved for legal form and sufficiency.

WRB: JHD

Attachment: Draft Ordinance No. 034-2024

cc: Joanne M. O'Connor, Town Attorney
James Murphy, Assistant Planning Director
Jennifer Hofmeister-Drew, Planner III, AICP

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 ____ day of _____, 2024, and for second and final reading on this ____ day of _____, 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
#5784788 v2 13156-00008

Bridget Moran, Town Council Member