MEMORANDUM

Public Hearing: July 5, 2017, Planning Commission

Report Date: June 26, 2017

Subject: Discussion on Medical Marijuana Treatment Centers.

Applicant: Development Services Department

Staff: Becky Mendez, AICP, Development Services Director

SUMMARY OF REPORT

The State Legislature passed a Medical Marijuana Bill, SB 8-A in special session that Governor Rick Scott signed on June 23, 2017. The overall purpose of the bill is to license Medical Marijuana Treatment Centers (MMTC) to ensure reasonable statewide accessibility and availability as necessary for qualified patients registered in the medical marijuana registry and who are issued a physician certification. The bill includes preemptions, which limits the scope of regulation that any city or county may apply to a MMTC. A MMTC by definition includes the cultivation, processing, transporting, and dispensing of marijuana for medical use.

Currently, Orange City is under a temporary moratorium that prohibits any and all medical cannabis activities. The moratorium expires on July 23, 2017, but will likely be extended by City Council to allow staff time to make a recommendation to ban or draft regulations for MMTCs. Staff requests Planning Commission discussion and recommendation to the City Council on next course of action.

BACKGROUND

Governor Rick Scott signed the Compassionate Medical Cannabis Act into law in June 2014, which became effective on January 1, 2015. The Florida Department of Health-Office of Compassionate Use is responsible for rule implementation. The law allowed limited use of cannabis to treat specific illnesses and issued seven licenses authorizing cultivation, processing and dispensing of medical marijuana. While the cultivation and processing of the flower is limited to the seven specific locations within Florida, there was no statutory limitation on the number of dispensing facilities (retail sales) allowed. The State deferred to local zoning laws for regulation (if any) of the dispensaries.

In November 2016, the referendum known as Amendment 2- Use of Marijuana for Debilitating Medical Conditions was approved by voters and became effective on January 3, 2017. The amendment expanded the list of illnesses eligible for treatment, which increased the potential patient base. The amendment also allows all forms of marijuana and does not limit the THC levels. The Office had until July 2017 to complete rule
making, but the State passed SB-8A in June 2017 that established regulations.

SB-8A BILL ANALYSIS

Medical Use.

The bill limits the use of medical marijuana as follows:

- Smoking prohibited (will likely be challenged by Attorney John Morgan)
- Prescriptions may not exceed three 70-day doses (increase from 45-day supply maximum)
- Except for low-THC cannabis, use is not allowed in the following areas:
  - Public transportation
  - Public place
  - On a school bus, vehicle, aircraft or motorboat
- No use is allowed in the following areas:
  - Place of employment (unless allowed by the employer)
  - State correctional institution
  - Grounds of a preschool, primary or secondary school

Number of MMTC Licenses.

The State has issued seven (7) licenses for what were previously called Dispensing Organizations, and are now called Medical Marijuana Treatment Centers by geographic location (map attached). The definitions are synonymous. Previously, each license holder could have an unlimited number of dispensaries. The bill increases the number of MMTC licenses issued, but limits the number of dispensaries that each holder may operate.

- 10 new MMTC licenses with preference given to previously denied applicants and citrus growers. At least one of the new 10 licenses must be issued to a member of the Black Farmers and Agricultural Association.
- Plus 4 additional MMTC licenses for every 100,000 qualified patients thereafter.
- Each MMTC may open 25 dispensaries, plus an additional 5 for every 100,000 qualified patients thereafter.
- May not exceed the maximum number of dispensaries allowed by region.
  - Volusia is located within the Central region, along with 14 other counties.
  - Formula: % of state population in region X the maximum number of dispensing facilities.
  - It is not possible to calculate the maximum number of dispensaries allowed in the Central region, because we do not know the location of the next 10 MMTC licenses.

MMTC Regulations for all Facility Types.

- Requires seed to sale tracking system
- All employees must be 21 years of age or older
- Conducted within an enclosed structure
• Must make at least one low-THC product
• Extensive regulations regarding edibles (packing, colors, shapes, ingredients)
• Testing required before dispensing
• The State will develop a marijuana universal symbol used to ID all product
• Alarm system and motion detection securing all entry points and perimeter windows
• 24-hours a day video surveillance with images stored for 45-day minimum
• Dusk to Dawn outside lighting
• Storage within a secured, locked room or vault
• At least two employees must be on premises at all times (private security contract)
• Employee photo ID badge must be worn at all times
• Visitors must wear a visitor pass at all times
• Implement an alcohol and drug-free workplace policy
• Report theft within 24 hours to law enforcement
• Extensive delivery and transport regulations
• No advertising visible from any street, sidewalk, park or other public place with very specific exceptions
• Internet advertising and marketing is allowed with conditions
• Florida Building Code and Fire Prevention Code applies to buildings
• Not located within 500 feet from a public or private elementary, middle or high school (location map attached)

MMTC Dispensing Facility Regulations.

• No sales of alcohol or drug-related products, including pipes, bongs, or wrapping papers allowed
• Provides a waiting area for patients where no display or dispensing of product occurs
• Hours of operation are limited to 7AM to 9PM daily

Preemption.

The City may ban MMTC dispensing facilities, but cannot ban MMTC growing or processing facilities. If the City chooses not to ban dispensaries then the City cannot place specific limits on the number or location of dispensaries more restrictive than the regulation of pharmacies. The City cannot charge Business Tax Receipt (BTR) or impact fees greater than any pharmacy assessment.

The City zoning code does not specifically define or list the term pharmacy. Historically, planning staff has determined that a pharmacy is most similar to retail sales and service. Retail sales and service is a permitted use in the General Commercial Restricted (CG-1), General Commercial (CG-2) and Mixed Use Urban (MX-1) zoning classifications. Retail sales and service is a conditional use in the Office Transition (OT) zoning classification.

Staff provides a table of other jurisdiction’s regulations of MMTCs to date made prior to the new legislation. Also provided, is a table of Volusia County and a few cities on how they regulate pharmacies.
Public Education Campaigns.

$500,000 funded in FY 17-18 for statewide Cannabis and Marijuana Education and Illicit Use Prevention.

$5 million funded in FY 17-18 for statewide Impaired Driving Education.

$750,000 funded in FY 17-18 for Medical Marijuana Research and Education Act. The present state of knowledge concerning the use of marijuana to alleviate pain and treat illnesses is limited because permission to perform clinical studies on marijuana is difficult to obtain, with access to research-grade marijuana so restricted that little or no unbiased studies have been performed. The Act includes creation of a coalition for research and education board to oversee the program established within the H. Lee Moffitt Cancer Center and Research Institute, Inc.

The Bill authorizes 55 full-time employees with a salary rate of $2,198,860 annually. Also includes $4.7 million in non-recurring funds and $4.0 million in recurring funds to cover the costs of implementation.

PLANNING COMMISSION DISCUSSION ITEMS

1. Ban MMTC dispensaries?
2. Define and list Pharmacy and MMTC Dispensing Facility in the zoning matrix?
3. Allow uses in the same zoning classifications as retail sales and service?
4. Take no action?
5. Update sign code to reference Florida Statute restrictions on advertising?

ATTACHMENTS

Dispensing Organizations location map

City zoning map with school locations

Jurisdiction tables regarding MMTC and pharmacy regulations
Approved Dispensing Organization

- Trulieve—Gadsden County
- CHT Medical—Alachua County
- The Green Solution—Alachua County
- Knox Medical—Orange County
- GrowHealthy—Polk County
- Surterra Therapeutics—Hillsborough County
- Modern Health Concepts—Miami-Dade County
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Year and Ordinance</th>
<th>Permitted zoning districts</th>
<th>Conditional use zoning districts</th>
<th>Outdoor sales?</th>
<th>Drive-thru service?</th>
<th>Consumption on premises?</th>
<th>Limited hours of operation?</th>
<th>Distance separation?</th>
<th>Allows cultivation and/or processing?</th>
<th>Parking requirements</th>
<th>Alcoholic beverages</th>
<th>Other</th>
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<tbody>
<tr>
<td>Orange City</td>
<td>2017 Proposed</td>
<td>MX-1, CG1, and CG-2</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>7-9 daily</td>
<td>1,000 feet from school, day care and another facility</td>
<td>Yes, permitted and CU in I1 and I2</td>
<td></td>
<td>20 acre min for cultivation</td>
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<tr>
<td>Port Orange</td>
<td>Ord 2015-34</td>
<td>CC</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Mon-Fri 7-9</td>
<td>1,000 ft from school, church, day care, public park, drug tx, or another facility</td>
<td>Yes, by CU in Cl and LI</td>
<td>1/200 sqft</td>
<td>No</td>
<td></td>
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<tr>
<td>Daytona Beach</td>
<td>2016 Permitted use as a pharmacy</td>
<td></td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Mon-Fri 7-9</td>
<td>500 feet from another facility</td>
<td>No</td>
<td>No</td>
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<tr>
<td>Deltona</td>
<td>2014 C-1, C-2 and C-3</td>
<td>No</td>
<td>Mon-Sat 7-7</td>
<td>No</td>
<td>No</td>
<td>1,000 feet from school, church and another facility</td>
<td>Yes, but as a separate business</td>
<td>No</td>
<td>No</td>
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<td>Anna Maria</td>
<td>Ord 16-820</td>
<td>None</td>
<td>None</td>
<td>No</td>
<td>No</td>
<td>Mon-Fri 7-7 and on Sat 7-12</td>
<td>500 feet</td>
<td>No</td>
<td>No</td>
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<td>Ponce Inlet</td>
<td>Ord 2014-05</td>
<td>B-1</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Mon-Fri 7-7</td>
<td>2,500 feet from school, church, day care, public park, beach or another facility</td>
<td>No</td>
<td>No</td>
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<td>Sarasota County</td>
<td>2014 Ord 1581</td>
<td>CG</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Mon-Fri 7-7 Sat-Sun 7-12</td>
<td>1,000 feet from school, church and another facility. 200 feet from any res zoning</td>
<td>No</td>
<td>No</td>
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<tr>
<td>Flagler Beach</td>
<td>Ord 2014-12</td>
<td>Highway Commercial</td>
<td>No</td>
<td>2,500 feet</td>
<td>No</td>
<td></td>
<td></td>
<td>Limit to 7</td>
<td>No raw cannabis</td>
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<td>Orlando</td>
<td>2017- pending MU and AC-Light retailing</td>
<td>No</td>
<td>No</td>
<td>Mon- Sat 8-7</td>
<td>1,000 feet from school, church and daycare. 200 feet from res districts. 1 mile from another facility.</td>
<td>No</td>
<td>Limit to 3 Security plan</td>
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<tr>
<td>St. Lucie County</td>
<td>2017- Pending CG</td>
<td>No</td>
<td>7-9 daily</td>
<td>1,000 feet from schools, churches, liquor stores and parks. Five miles from another facility.</td>
<td>No</td>
<td>Limit to 3</td>
<td></td>
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<tr>
<td>Miami-Dade County</td>
<td>2016 Commercial and Industrial</td>
<td>No</td>
<td>One mile from another facility. 1,000 feet from school, church or day care. 500 feet from res zoning.</td>
<td>No</td>
<td>Yes, permitted in AU</td>
<td></td>
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<tr>
<td>Winter Park</td>
<td>Ord 2981-14</td>
<td>I-1</td>
<td>No</td>
<td>1,000 feet school, church, daycare, or another facility, park. 100 feet from res zoning.</td>
<td>Yes, industrial</td>
<td>No</td>
<td>Limit to 3 Security plan</td>
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### Volusia County and city’s regulation of pharmacies. June 26, 2017.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Defines Pharmacy?</th>
<th>Pharmacy is a listed use in zoning code?</th>
<th>Pharmacy is considered most similar to another listed use?</th>
<th>Zoning classifications</th>
<th>Jurisdiction action since June 2017 bill</th>
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<tbody>
<tr>
<td>Orange City</td>
<td>No</td>
<td>No</td>
<td>Retail sales and service</td>
<td>CG1, CG2, MX1 and conditional use in OT</td>
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<tr>
<td>South Daytona</td>
<td>No</td>
<td>No</td>
<td>Professional Services</td>
<td>General Com and Pro Office</td>
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<td>DeLand</td>
<td>No</td>
<td>Yes</td>
<td>NA</td>
<td>P1, BR, C2, C2A, and C2AC</td>
<td>City Council banned them on 6.19.17</td>
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<td>Volusia County</td>
<td>No</td>
<td>No</td>
<td>Retail sales and service</td>
<td>B1- B5, OCV and OMV and conditional use in OUR</td>
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<td>Edgewater</td>
<td>No</td>
<td>Yes</td>
<td>NA</td>
<td>B-3</td>
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<tr>
<td>Deltona</td>
<td>No</td>
<td>Yes</td>
<td>Drug and Sundry stores &amp; retail specialty</td>
<td>C-1 and C-2</td>
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<td>Port Orange</td>
<td>Retail Pharmacy</td>
<td>No</td>
<td>Retail</td>
<td>PCD, Community C, Highway C, Interchange C, Ridgewood D, Riverwalk Overlay</td>
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<tr>
<td>DB Shores</td>
<td>No</td>
<td>No</td>
<td>Retail sales and service</td>
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