

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

ORDINANCE NO. 2024-20 OF THE CITY OF LAKE WORTH BEACH, FLORIDA; AMENDING CHAPTER 23, "LAND DEVELOPMENT REGULATIONS"; AMENDING ARTICLE 1 "GENERAL PROVISIONS," DIVISION 2 "DEFINITIONS," SECTION 23.1-12 "DEFINITIONS" AND ARTICLE 5 "SUPPLEMENTAL REGULATIONS," SECTION 23.5-10, "MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES PROHIBITED" TO PROHIBIT MEDICAL AND NON-MEDICAL MARIJUANA DISPENSING FACILITIES AND RELATED USES WITHIN THE BOUNDARIES OF THE CITY; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR CODIFICATION, A MORATORIUM CONTINGENCY, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

WHEREAS, as provided in Section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the "City"), a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in Section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, pursuant to Section 381.986(11), Florida Statutes, "[a] county or municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality"; and

WHEREAS, Section 381.986(11), Florida Statutes, further provides that "[a] county or municipality that does not ban dispensing facilities and their related uses...may not place specific limits..." and that "...a county or municipality may not enact ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinance permitting or determining the locations for pharmacies..."; and

WHEREAS, in accordance with Section 381.986(11), Florida Statutes, Section 23.5-10 of the City's Code currently prohibits medical marijuana treatment center dispensing facilities and related uses; and

WHEREAS, on November 5, 2024, Florida voters will consider a proposed Constitutional Amendment ("Amendment 3") allowing adults 21 years or older to possess, purchase or use marijuana products for non-medical personal consumption and allowing the licensure of entities that are not Medical Marijuana Treatment Centers to acquire, cultivate, possess, process, transfer, transport, sell, and distribute marijuana products and accessories; and

WHEREAS, the federal Controlled Substances Act of 1970 classifies marijuana as a schedule I controlled substance, the possession, use, manufacturing or distribution of which is prohibited; and

50 WHEREAS, Amendment 3, if approved, will apply to Florida law only and will not change,
51 or immunize violations of federal law, such that the possession, purchase, or consumption of
52 marijuana will remain illegal under federal law; and
53

54 WHEREAS, the findings of the California Police Chiefs Association and the Marijuana
55 Policy Group as cited in Ordinance 2018-12 still apply; and
56

57 WHEREAS, the City desires to be consistent in its treatment of medical and non-medical
58 marijuana dispensing facilities; and
59

60 WHEREAS, the Lake Worth Beach City Commission hereby finds that this ordinance is in
61 the best interest of the public health, safety, and welfare.
62

63 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF
64 LAKE WORTH BEACH, FLORIDA, that:
65

66 Section 1. Findings. The foregoing recites are hereby ratified and conformed as being true and
67 correct and are hereby incorporated as findings of the City Commission of the legislative intent of
68 this ordinance.
69

70 Section 2. Chapter 23, Article 1, Division 2, Section 23.1-12, Definitions, is hereby amended
71 by adding the words shown in underlined type and deleting the words struck through as follows:
72

73 Marijuana dispensing facility. Any facility holding or required to hold state license(s) or
74 permit(s) where marijuana, as defined in Sections 893.02 and 381.986, Florida Statutes, or any
75 product derived therefrom or accessories used for inhaling, ingesting, topically applying, or
76 otherwise introducing marijuana into the human body is dispensed at retail.
77

78 Section 3. Chapter 23, Article 5, Section 23.5-10, Medical Marijuana Treatment Center
79 Dispensing Facilities Prohibited, is hereby amended by adding the words shown in underlined
80 type and deleting the words struck through as follows:
81

82 ~~MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES PROHIBITED~~

83
84 ~~Prohibition of Medical Marijuana Treatment Center Dispensing Facilities~~

85
86 (a) Prohibition. ~~Medical m~~Marijuana ~~treatment center~~ dispensing facilities are prohibited and
87 shall not be located within the boundaries of the city. The city shall not accept, process or
88 approve any request or application for a development order, building permit or other
89 approval associated with a proposed ~~medical marijuana treatment center~~ dispensing
90 facility.
91

92 (b) Interpretation/Intent. This section (b) and the terms used herein shall be interpreted in
93 accordance with Section 381.986, Florida Statutes. The intent of this section is to ban
94 ~~medical marijuana treatment center~~ dispensing facilities from being located within the
95 boundaries of the city ~~as authorized by Section 381.986(11) (b) 1, Florida Statutes.~~
96

97 Section 4. Inclusion in the Code. It is the intention of the City Commission of the City of Lake
98 Worth Beach that Sections 2 and 3 of this ordinance shall be made a part of the City of Lake

99 Worth Beach Code of Ordinances. Any section, paragraph number, letter and/or any heading may
100 be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and
101 similar or like errors may be corrected.
102

103 Section 5. Moratorium Contingency. In the event Florida Statutes is amended or interpreted
104 by a court of competent jurisdiction in a way as to eliminate or prevent the City's ability to ban or
105 prohibit marijuana dispensing facilities within the City's boundaries (or such statute or this
106 ordinance is interpreted in a manner to prevent the enforcement of Section 23 of the City Code
107 adopted by this ordinance), upon the effective date of such event an automatic one year
108 moratorium shall go into effect on the acceptance, processing, and approval of any requests or
109 applications for a development order, building permit, or other approval of any requests or
110 applications for a proposed marijuana dispensing facility within the City limits in order to allow
111 the City time to evaluate changes in the applicable law, the City's ability to regulate such uses
112 and activities, and potentially enact local legislation regarding the same. Such moratorium may
113 be terminated early through resolution or ordinance of the City Commission.
114

115 Section 6. Severability. The provisions of this ordinance are declared to be severable and if
116 any section, sentence, clause or phase of this ordinance shall for any reason be held by a court
117 of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity
118 of the remaining terms, provisions, clauses, sentences, or sections of this ordinance but they shall
119 stand notwithstanding the invalidity of any part.
120

121 Section 7. Conflicts. All ordinances, resolutions, official determinations or parts thereof
122 previously adopted or entered by the City or any of its officials and in conflict with this ordinance
123 are hereby repealed to the extent inconsistent herewith.
124

125 Section 8. Effective Date. This ordinance shall become effective immediately upon adoption
126 by the City Commission on second reading.
127

128 The passage of this ordinance was moved by _____, seconded by
129 Commissioner _____, and upon being put to a vote, the vote was as follows:
130

- 131 Mayor Betty Resch
 - 132 Vice Mayor Sarah Malega
 - 133 Commissioner Christopher McVoy
 - 134 Commissioner Mimi May
 - 135 Commissioner Reinaldo Diaz
- 136
137

138 The Mayor thereupon declared this ordinance duly passed on first reading on the ____ of
139 _____, 2024.
140

141
142 The passage of this ordinance on second reading was moved by Commissioner
143 _____, seconded by _____, and upon being put to a vote, the vote was
144 as follows:
145

- 146 Mayor Betty Resch
- 147 Vice Mayor Sarah Malega

148 Commissioner Christopher McVoy
149 Commissioner Mimi May
150 Commissioner Reinaldo Diaz

151
152 The Mayor thereupon declared this ordinance duly passed and enacted on the _____
153 day of _____, 2025.

154
155
156 LAKE WORTH BEACH CITY COMMISSION

157
158
159 By: _____
160 Betty Resch, Mayor

161
162 ATTEST:
163
164
165 _____
166 Melissa Ann Coyne, MMC, City Clerk