

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

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

WHEREAS, potential adverse impacts on the health, safety, and welfare of residents and business from secondary effects associated with the sale and distribution of marijuana exist, potentially including offensive odors, trespassing, theft, fire hazards, increased crime in an around marijuana dispensing facilities (and their related uses), robberies, negative impacts on nearby businesses, and nuisance problems; and

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

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

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

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

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

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

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

~~MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES PROHIBITED~~

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

- (a) Prohibition. ~~Medical m~~Marijuana ~~treatment center~~ dispensing facilities are prohibited and shall not be located within the boundaries of the city. The city shall not accept, process or approve any request or application for a development order, building permit or other approval associated with a proposed ~~medical marijuana treatment center~~ dispensing facility.
- (b) Interpretation/Intent. This section and the terms used herein shall be interpreted in accordance with Section 381.986, Florida Statutes. The intent of this section is to ban ~~medical marijuana treatment center~~ dispensing facilities from being located within the boundaries of the city ~~as authorized by Section 381.986(11) (b) 1, Florida Statutes.~~

Section 4. Inclusion in the Code. It is the intention of the City Commission of the City of Lake Worth Beach that Sections 2 and 3 of this ordinance shall be made a part of the City of Lake Worth Beach Code of Ordinances. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected.

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

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

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

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

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

Mayor Betty Resch
Vice Mayor Sarah Malega
Commissioner Christopher McVoy
Commissioner Mimi May
Commissioner Reinaldo Diaz

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

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

Mayor Betty Resch
Vice Mayor Sarah Malega
Commissioner Christopher McVoy
Commissioner Mimi May
Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed and enacted on the _____ day of _____, 2024.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk