



MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Matthew Morton, City Manager

THRU: Tanya Earley, Chief Deputy City Attorney
Althea Jefferson, AICP, Growth Management Director

DATE: May 7, 2026

RE: Ordinance 2026-13, amending the Code of Ordinances, Chapter 120, Cannabis Dispensing Businesses, by prohibiting the establishment of medical marijuana treatment center dispensing facilities within the municipal boundaries, first reading. (Deputy Mayor Jaffe)

SUMMARY:

At its regular meeting of December 18, 2025, the City Council reached a consensus to direct the City Attorney's Office to explore options for limiting or deterring establishments that dispense medical marijuana.

Currently, Chapter 120 of the City's Code of Ordinances allows medical marijuana treatment center dispensing facilities ("dispensaries") to be established in any zoning district where pharmacies are permitted under the Land Development Code. The relevant zoning districts are:

- RC - Restricted Commercial;
- NC - Neighborhood Commercial;
- CC - Community Commercial;
- GC - General Commercial;
- HC - Highway Commercial;
- CMU - Community Mixed Use; and
- UMU - Urban Mixed Use.

State law requires dispensaries to be allowed, if at all, anyplace pharmacies are allowed. In addition to determining the zoning districts where dispensaries must be allowed, section 381.986, Florida Statutes, preempts the City from establishing any permitting process for dispensaries. As a result, the City cannot adopt regulations to prevent the over-concentration of dispensaries or protect surrounding uses that may be incompatible.

Despite the preemption on zoning and permitting, state law authorizes local governments to prohibit

dispensaries altogether. Specifically, section 381.986(11) Florida Statutes, authorizes local governments to "ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality."

The purpose of the proposed amendment is to prohibit the establishment of new dispensaries within the City.

If adopted, the prohibition would not apply retroactively to affect dispensaries that are legally operating as of the date of enactment.

PROPOSED AMENDMENT:

The text of the proposed amendment is set forth in full below:

CHAPTER 120: ~~CANNABIS DISPENSING BUSINESSES~~ >>MEDICAL MARIJUANA DISPENSARIES<<

§ 120.01 PURPOSE AND INTENT.

~~The purpose of this chapter is to permit medical marijuana treatment centers, licensed per Fla. Stat. § 381.986(8) to dispense marijuana for medical use within the territorial limits of the City of Palm Bay, Florida, in the interest of the public health, safety and general welfare. Nothing in this chapter is intended to promote or condone the sale, distribution, possession, or use of Cannabis in violation of any applicable state law. Compliance with the requirements of this chapter shall not provide a defense to criminal prosecution under any applicable law.~~

>>Pursuant to Fla. Stat. § 381.986(11), municipalities may ban medical marijuana treatment center dispensing facilities within their municipal boundaries. The purpose of this chapter is to ban such facilities from locating within the City. The ban established by this chapter is not intended to apply retroactively to prohibit the continued, lawful operation of any such facilities operating within the City on the date of enactment, as further specified herein.<<

§ 120.02 ZONING REQUIREMENTS >>DEFINITION; PROHIBITION.<<

~~(A) No medical marijuana treatment center licensed to operate under Fla. Stat. § 381.986(8) shall be located within five hundred (500) feet of any public or private elementary, middle, or secondary school. However, a medical marijuana treatment center does not violate this subsection and may not be forced to relocate if it meets the requirements of this section and a public or private elementary, middle, or secondary school is subsequently established within five hundred (500) feet of the business, unless a variance is granted by City Council excepting the medical marijuana treatment center from this 500-foot requirement.~~

~~(B) For purposes of this chapter, measurements shall be made from the nearest property line of the public or private elementary, middle, or secondary school to the nearest property line of the licensed medical marijuana treatment center. If the licensed medical marijuana treatment center is located in a multi-tenant building, the distance shall be measured from the nearest property line of the public or private elementary, middle, or secondary school to the nearest line of the leasehold or other space actually controlled or occupied by the licensed medical marijuana treatment center.~~

>>(A) As used in this chapter, the term “medical marijuana treatment center dispensing facility” means any facility where medical marijuana or any product derived therefrom is dispensed.

(B) Medical marijuana treatment center dispensing facilities are prohibited within the municipal boundaries of the City of Palm Bay.<<

§ 120.03 SIGNAGE REQUIREMENTS. >>NONCONFORMING USES.<<

All signage associated with a licensed medical marijuana treatment center Cannabis Dispensing Business shall meet the standards established in this Code for signs Chapter 178, Palm Bay Code of Ordinances.

>>Medical marijuana treatment center dispensing facilities lawfully operating within the City on _____, 2026, shall be considered nonconforming uses subject to the provisions of Title XVII, Chapter 173, Part 9, Palm Bay Code of Ordinances.<<

§ 120.04 SEVERABILITY.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.

REQUESTING DEPARTMENTS:

City Attorney's Office
Growth Management

STAFF RECOMMENDATION:

Staff requests that the City Council review the proposed amendment and make a recommendation.

Possible motions include:

1. Recommend approval of the proposed amendment.
2. Recommend approval of the proposed amendment with revisions.
3. Recommend denial of the proposed amendment.

Planning & Zoning Board Recommendation:

The Board will consider this case at its meeting on May 6, 2026. The Board’s recommendation will be provided to City Council prior to the regular Council meeting.

ORDINANCE 2026-13

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XI, BUSINESS REGULATIONS, CHAPTER 120, CANNABIS DISPENSING BUSINESSES, BY PROHIBITING THE ESTABLISHMENT OF MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES WITHIN THE MUNICIPAL BOUNDARIES; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 381.986 (11) Florida Statutes, authorizes counties and municipalities to "ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality," and

WHEREAS, Section 381.986(11) further provides that "[a] county or municipality that does not ban dispensing facilities under this subparagraph may not place specific limits, by ordinance, on the number of dispensing facilities that may locate within that county or municipality," 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 ordinances permitting or determining the locations for pharmacies licensed under chapter 465", and

WHEREAS, Section 381.986, Florida Statutes severely limits, through State preemption, the City's control over the zoning and permitting of medical marijuana dispensaries, thereby substantially restricting the City's ability to protect surrounding land uses for which dispensaries may not be compatible, and

WHEREAS, it is in the best interest of the public health, safety, and welfare to avoid the over-concentration of medical marijuana dispensaries within the City, and

WHEREAS, given the statutory restrictions on local government authority to regulate number and location of dispensing facilities if not banned, there is a rational basis for the City to exercise its authority under Section 381.986(11), Florida Statutes to ban dispensing facilities within the boundaries of the City.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title XI, Business Regulations, Chapter 120, Cannabis Dispensing Businesses, is hereby amended and shall henceforth read as follows:

“CHAPTER 120: CANANBIS DISPENSING BUSINESSES >>MEDICAL MARIJUANA DISPENSARIES<<

§ 120.01 PURPOSE AND INTENT.

~~The purpose of this chapter is to permit medical marijuana treatment centers, licensed per Fla. Stat. § 381.986(8) to dispense marijuana for medical use within the territorial limits of the City of Palm Bay, Florida, in the interest of the public health, safety and general welfare. Nothing in this chapter is intended to promote or condone the sale, distribution, possession, or use of Cannabis in violation of any applicable state law. Compliance with the requirements of this chapter shall not provide a defense to criminal prosecution under any applicable law.~~

~~>>Pursuant to Fla. Stat. § 381.986(11), municipalities may ban medical marijuana treatment center dispensing facilities within their municipal boundaries. The purpose of this chapter is to ban such facilities from locating within the City. The ban established by this chapter is not intended to apply retroactively to prohibit the continued, lawful operation of any such facilities operating within the City on the date of enactment, as further specified herein.<<~~

§ 120.02 ZONING REQUIREMENTS >>DEFINITION; PROHIBITION.<<

~~(A) — No medical marijuana treatment center licensed to operate under Fla. Stat. § 381.986(8) shall be located within five hundred (500) feet of any public or private elementary, middle, or secondary school. However, a medical marijuana treatment center does not violate this subsection and may not be forced to relocate if it meets the requirements of this section and a public or private elementary, middle, or secondary school is subsequently established within five hundred (500) feet of the business, unless a variance is granted by City Council excepting the medical marijuana treatment center from this 500-foot requirement.~~

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~~the leasehold or other space actually controlled or occupied by the licensed medical marijuana treatment center.~~

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§ 120.04 SEVERABILITY.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.”

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. If any portion, clause, phrase, sentence, or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative, or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative, or void portion or portions of this ordinance did not induce its passage, and that without the

inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 4. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2026-XX, held on _____, 2026; and read in title only and duly enacted at Meeting 2026-XX, held on _____, 2026.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Strikethrough words shall be deleted; highlighted words that will included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.