

CITY OF HOLLY HILL, FLORIDA

BOARD OF PLANNING AND APPEALS

AGENDA • JANUARY 11, 2017

City Commission Chamber

BOPA Regular Meeting

6:30 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448



City Commission Chamber
City Hall
1065 Ridgewood Avenue
Holly Hill, FL 32117

PLANNING & APPEALS BOARD MEMBERS

Chairman

Mike Myer

Board Member

Arthur Cappuccio

Board Member

Jim Legary

Board Member

Arthur W. Morris

Board Member

Robin D. Hanger

CITY PLANNER

Thomas Harowski

Building & Zoning

Liz Nelson

1. CALL TO ORDER

2. INVOCATION

3. PLEDGE OF ALLEGIANCE

4. AGENDA ITEM

1. Fair Housing Appeals Criteria

(Requested by Thomas Harowski, Board of Planning and Appeals)

2. Medical Marijuana Moratorium

(Requested by Thomas Harowski, Board of Planning and Appeals)

5. OLD BUSINESS

1. Fountainhead MPUD Agreement

(Requested by Thomas Harowski, Board of Planning and Appeals)

6. BOARD/STAFF COMMUNICATIONS

7. ADJOURNMENT

Website Address – www.hollyhillfl.org (City Clerk)

NOTICE – If any person decides to appeal any decision of the City Commission at this meeting, he/she will need a record of the proceedings and, for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City does not prepare or provide such a record.



For special accommodations, please notify the City Clerk's Office at least 72 hours in advance. (386) 248-9441



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Commission proceedings should contact the City Clerk's Office no later than three (3) days prior to the proceedings.



**STAFF REPORT
CITY OF HOLLY HILL, FLORIDA**

**Board of Planning and Appeals
Agenda Item**

MEETING DATE: January 11, 2017
FROM: Thomas Harowski
SUBJECT: Fair Housing Appeals Criteria
NUMBER: (ID # 1530)
APPLICANT: City of Holly Hill
PLANNER: Thomas Harowski

INTRODUCTION: This application is a request by the City to consider an amendment to the criteria contained in the City's fair housing ordinance to be used in the evaluation and placement of group homes. The Department of Justice and HUD have modified the list of criteria to be used in evaluating group homes to include distance between similar homes. This request is to bring the City ordinance in line with current Federal standards.

BACKGROUND: Under its rules regarding variances, the City maintains a process for individuals seeking accommodation under the Fair Housing Act. This process offers a route for individuals who desire relief from some element of the City's zoning code as applied to a person with a disability. Recently the Justice Department and HUD issued a ruling allowing the presence of nearby group homes to be a consideration in determining whether additional group homes may be permitted. In some cases, state law exempts group homes of limited size from local zoning rules, and the addition of the spacing criterion in the fair housing appeals section may give the City an additional tool to prevent an over concentration of these uses in a given neighborhood.

The City's zoning classifications do provide for maximum size and spacing for ALF facilities in residential zones, and some of the state exemptions provide spacing requirements for units as well.

DISCUSSION: The City Attorney has prepared a draft amendment to the fair housing appeals section including the new guidance from the cited Federal agencies on spacing requirements.

FISCAL ANALYSIS: No fiscal impact.

RECOMMENDATION: Recommend the City Commission amend the fair housing appeals regulations to include the current Federal guidelines.

- Proposed Group Home Criteria Draft Ordinance (DOC)

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING SECTION 82-322 (EVALUATION OF REQUEST FOR ACCOMMODATION PURSUANT TO THE FAIR HOUSING ACT) OF THE CITY OF HOLLY HILL CODE OF ORDINANCE TO INCORPORATE RECENT CHANGES IN FEDERAL LAW REGARDING THE REVIEW AND APPROVAL OF GROUP HOMES; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 82-322 provides a procedure for evaluating a request for accommodation under the Fair Housing Act;

WHEREAS, recently a joint statement from the Federal Department of Housing and Urban Development and the Department of Justice allowing local governments to take into consideration surrounding sober homes when considering the location of a new sober home.

WHEREAS, the City adopted a procedure for considering a request for accommodation under the Fair Housing Act, which would include a request for a sober home.

WHEREAS, the City's procedure should be amended to incorporate the joint statement from the Federal Government.

WHEREAS, words which are underlined (underlined) are additions to the text and words with strike through (~~strike through~~) the characters are deletions from the text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF HOLLY HILL, FLORIDA:

Attachment: Proposed Group Home Criteria Draft Ordinance (1530 : Fair Housing Appeals Criteria)

Section 1.

Sec. 82-322. - Evaluation of request for accommodation pursuant to the Fair Housing Act.

- (a) A request may be made by the property owner or authorized representative for a request for an accommodation from the city's rules, policy, practices or service to allow a handicapped person or persons to have equal opportunity to use and enjoy a dwelling. The request shall be on an approved form issued by the city and must contain the following:
- (1) Proof of ownership of the property which the request is being made or authorization from the property owner.
 - (2) Specifically identify the rules, policies, practices or services from which relief is being requested.
 - (3) Identify the nature of the disability of the occupants of the dwelling.
 - (4) Outline the minimum relief that is necessary to allow a handicapped person to use and enjoy the dwelling.
 - (5) Described in detail how the requested relief is necessary to allow a person with the above identified disability to be able to reasonably use and enjoy the dwelling.
 - (6) Access must be granted to the necessary city employees to inspect the dwelling.
- (b) The city shall evaluate all necessary criteria, facts, rules, laws, etc., to make a determination as to whether the requested accommodation is reasonable, including, but not limited to:
- (1) The policies and objectives of the city's comprehensive plan including the future land use designation of the property in question.
 - (2) The permitted uses, conditional uses and special exceptions allowed for the zoning designation of the property in question.
 - (3) The surrounding neighborhood, including zoning and future land use designations of the surrounding area.
 - (4) The capacity of existing city utilities and infrastructures to accommodate the requested use.

- (5) Existing traffic patterns and traffic problems in the area that currently exists or may become a problem if the requested relief were granted.
 - (6) Potential for noise, dust or other impacts to the neighborhood.
 - (7) Ability of the existing dwelling to accommodate the requested variation, including bedrooms, bathrooms, outside parking and existing compliance with current building codes to determine the existence of any life and safety issues.
 - (8) The existence of any current code violations.
 - (9) The over-concentration of group homes in close proximity to the applicant.
- (c) The board of planning and appeals shall review the application and all relevant facts and laws and make a recommendation to the city commission to approve, deny or approve with conditions. The city commission shall make the final determination.

Section 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 3. That all ordinances made in conflict with this Ordinance are hereby repealed.

Section 4. That this Ordinance shall become effective immediately upon its adoption.

Section 5. That this Ordinance shall be posted at City Hall as required by law.

The within and foregoing Ordinance was introduced and read on first reading before the City Commission of the City of Holly Hill, Florida, at its regular meeting held in Commission Chambers at City Hall on the _____ day of _____, A.D. 2017.

It was moved by Commissioner _____ and seconded by Commissioner _____ that said Ordinance be approved on first reading. A roll call vote of the Commission held on said motion for approval of the Ordinance resulted as follows:

- Mayor John Penny _____
- Commissioner Arthur Byrnes _____
- Commissioner Penny Currie _____
- Commissioner John Capers _____
- Commissioner Elizabeth Albert _____

The within and foregoing Ordinance was introduced and read on the second reading before the City Commission of the City of Holly Hill, Florida, at its regular meeting held in Commission Chambers at City Hall on the _____ day of _____, A.D. 2017.

It was moved by Commissioner _____ and seconded by Commissioner _____ that said Ordinance be adopted. A roll call vote of the Commission held on said motion to adopt the Ordinance resulted as follows:

- Mayor John Penny _____

Attachment: Proposed Group Home Criteria Draft Ordinance (1530 : Fair Housing Appeals Criteria)

Commissioner Arthur Byrnes _____
 Commissioner Penny Currie _____
 Commissioner John Capers _____
 Commissioner Elizabeth Albert _____

Whereupon, the Mayor of the City of Holly Hill, Florida, has hereunto set his official signature, duly attested by the City Clerk, and has caused the official seal of said City to be affixed, all at City Hall in the City of Holly Hill, this _____ day of _____, A.D. 2017, for the purpose of authenticity as is required by law.

CITY OF HOLLY HILL, FLORIDA

 John Penny, MAYOR

ATTEST:

 CITY MANAGER

Approved as to form and legality:

 CITY ATTORNEY

Attachment: Proposed Group Home Criteria Draft Ordinance (1530 : Fair Housing Appeals Criteria)



**STAFF REPORT
CITY OF HOLLY HILL, FLORIDA**

**Board of Planning and Appeals
Agenda Item**

MEETING DATE: January 11, 2017
FROM: Thomas Harowski
SUBJECT: Medical Marijuana Moratorium
NUMBER: (ID # 1531)
APPLICANT: City of Holly Hill
PLANNER: Thomas Harowski

INTRODUCTION: This application is seeking a recommendation on establishing a moratorium on the approval of medical marijuana dispensaries until the Florida legislature considers ground rules.

BACKGROUND: In November the voters approved a constitutional amendment approving the sale and distribution of medical marijuana. The Florida legislature has been tasked with establishing the rules for administration of the production and distribution systems. Early reports indicate the legislature will establish some rules within the next nine months. It is unclear at this point whether the regulations will address local land use and zoning requirements. It is possible that these issues will be left to the local government discretion in establishing rules.

DISCUSSION: In dealing with the need to set regulations for land use and zoning one technique that is used is to set a moratorium on the proposed activity to give the local government sufficient time to analyze needs and adopt local regulations. In this case the local governments are also waiting for guidance from Tallahassee on what areas of regulation will be left to the municipalities. The proposal is to set a moratorium of up to one year to give the City time to consider and adopt rules for medical marijuana dispensaries.

FISCAL ANALYSIS: No fiscal impact.

RECOMMENDATION: Recommend the City Commission adopt the moratorium.

- Draft Medical Marijuana Moratorium Ordinance (DOC)

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA ADOPTING A TWELVE (12) MONTH MORATORIUM ON THE APPROVAL OF ANY DEVELOPMENT ORDER OR ISSUANCE OF ANY BUSINESS TAX RECEIPT FOR THE GROWING, PROCESSING, MANUFACTURING, DISTRIBUTION, DISPENSING AND SELLING OF MEDICAL CANNIBAS WITHIN THE CITY LIMITS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2014 the Florida Legislature enacted a law legalizing low-THC medical cannabis in Florida; and

WHEREAS, in 2016 the Florida Legislature expanded the law to legalize medical cannabis in Florida; and

WHEREAS, a comprehensive State licensing and regulatory framework for the cultivation, processing, and dispensing of cannabis now exists; and

WHEREAS the comprehensive State licensing and regulatory framework directs that the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of cannabis businesses may be determined by local ordinance; and

WHEREAS, cannabis businesses licensed pursuant to the law have begun cultivating cannabis for processing and dispensing; and

WHEREAS, the dispensing of cannabis is currently illegal under federal law and the United States Drug Enforcement Agency has recently confirmed that cannabis remains a Schedule I drug under federal law, but

the United States Department of Justice has discussed federal enforcement of such laws with respect to state regulated cannabis operations in the 2012 "Cole Memorandum," and;

WHEREAS, potential adverse impacts on the health, safety, and welfare of residents and business from secondary effects associated with the distribution of cannabis exist, potentially including, offensive odors, trespassing, theft, fire hazards, increased crime in and about the dispensary, robberies, negative impacts on nearby businesses, nuisance problems, and increased DUI incidents; and

WHEREAS, there exists the potential for misappropriation of medical cannabis to non-medical uses; and

WHEREAS, an overabundance of dispensing facilities can affect the viability of such facilities, result in compliance issues, lead to the improper diversion of products, and accentuate threats to the public health, safety, and welfare; and

WHEREAS, in November of this year, Florida voters decided to amend the Florida Constitution to legalize the cultivation, production, and dispensing of medical cannabis for a broader population of eligible patients; and

WHEREAS, the approved constitutional amendment requires the State to adopt regulations implementing medical marijuana as approved in the constitutional amendment within 6 months of the approval; and

WHEREAS, until the State adopts the implementing regulations, the City will not know the extent to which it can or needs to regulate

medical marijuana; and

WHEREAS, Florida laws relating to the cultivation, production, and dispensing of cannabis products are rapidly changing - raising substantial questions about whether cannabis-related land uses, as a category of commercial use, may have deleterious and negative secondary effects on surrounding land uses and communities; and

WHEREAS, the purpose of this ordinance is to place a moratorium on the opening of certain new cannabis growing, processing and dispensing facilities; and

WHEREAS, the City of Holly Hill, hereby finds that the moratorium imposed by this ordinance is intended to give the State time to adopt regulations implementing the medical cannabis constitutional amendment and the City of Holly Hill the time reasonably necessary to investigate the impacts of and if necessary, to promulgate reasonable regulations relating to growing, cultivating, manufacturing, selling and dispensing of medical cannabis; and

WHEREAS, the City of Holly Hill hereby finds that this ordinance advances an important government purpose by reducing the likelihood of the unregulated negative secondary effects of cannabis growing, processing and dispensing facilities; and

WHEREAS, the City of Holly Hill hereby finds that this ordinance is in the best interest of the public health, safety, and welfare; and

WHEREAS, the City of Holly Hill has determined it is in the public interest to adopt this Ordinance pursuant to the City of

Holly Hill police powers and section 381.986 to protect the health, safety, and welfare of the public;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF HOLLY HILL, FLORIDA:

Section 1. Purpose and intent.

The purpose of this Ordinance is to provide the City of Holly Hill with the opportunity to review the impact of recent changes in law and the passage of a constitutional amendment, as well as the impact of cannabis dispensing in other jurisdictions, to determine how such growing, processing, manufacturing, distribution, dispensing and selling of medical cannabis should be permitted or regulated in the City of Holly Hill.

Section 2. Definitions.

1) The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Ordinance:

a. **Cannabis** means 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 and includes medical marijuana.

b. **Cannabis dispensing business** or **business** shall mean a business location offering cannabis for retail sale pursuant to a license to dispense cannabis issued under applicable law.

c. **Compassionate Use Act** shall mean section 381.986, Florida Statutes, and chapter 2016-123, Laws of Florida, as amended from time to time, and any rules or regulations promulgated thereunder.

d. **State** shall mean the State of Florida.

2) In addition to the definitions contained in Subsection (1), other terms used in this Ordinance shall have the meaning ascribed to them in the Compassionate Use Act, and such definitions are incorporated into this Ordinance by this reference.

Section 3. Temporary Moratorium.

Beginning on the effective date of this Ordinance, a moratorium is hereby imposed on the in businesses engaged in growing, processing, manufacturing, distribution, dispensing and selling of medical cannabis in the City of Holly Hill. During this moratorium the City of Holly Hill shall not issue any development order or business tax receipt for the growing, processing, manufacturing, distribution, dispensing and selling of medical cannabis, including but not limited to the following:

a. During the moratorium, it is unlawful and a violation of this ordinance for any person or entity to open or cause to be opened any cannabis dispensing business within the City of Holly Hill.

b. During the moratorium, it is unlawful and a violation of this ordinance for any person or entity to relocate or cause to be relocated any cannabis dispensing business within the City of Holly Hill.

c. During the moratorium, it is unlawful and a violation of this ordinance for any person or entity to expand or cause to be expanded any

cannabis dispensing business within the City of Holly Hill.

d. During the moratorium, the City of Holly Hill shall not accept, process or approve any application for business tax receipts, licenses, building permits, land use permits, or any development permits concerning or related to a cannabis dispensing business.

e. During the moratorium, the City of Holly Hill shall not accept, process or approve any business tax receipts, building permits, land use permits, or any development permits concerning or related to a cannabis dispensing business.

f. During the moratorium, the City of Holly Hill shall not accept, process or approve any licenses, permits, or approvals for any property, entity, or individual for the sale or dispensation of cannabis so long as this ordinance is in effect.

Nothing in this temporary moratorium shall be construed to prohibit the use of cannabis pursuant to the Compassionate Use Act or other applicable Florida Law, or the delivery of cannabis in compliance with the Compassionate Use Act or other applicable Florida Law.

Section 4. Study and Recommendations.

The City of Holly Hill's Manager is hereby directed to study land development regulations for growing, processing, manufacturing, distribution, dispensing and selling of cannabis and medical marijuana and the impact of such regulations in other jurisdictions.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

Section 6. That all ordinances made in conflict with this Ordinance are hereby repealed.

Section 7. That this Ordinance shall become effective immediately upon its adoption.

Section 8. That this Ordinance shall be posted at City Hall as required by law.

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It was moved by Commissioner _____ and seconded by Commissioner _____ that said Ordinance be approved on first reading. A roll call vote of the Commission held on said motion for approval of the Ordinance resulted as follows:

- Mayor John Penny _____
- Commissioner Arthur Byrnes _____
- Commissioner Penny Currie _____
- Commissioner John Capers _____

Attachment: Draft Medical Marijuana Moratorium Ordinance (1531 : Medical Marijuana Moratorium)

Commissioner Elizabeth Albert _____

The within and foregoing Ordinance was introduced and read on the second reading before the City Commission of the City of Holly Hill, Florida, at its regular meeting held in Commission Chambers at City Hall on the _____ day of _____, A.D. 2017.

It was moved by Commissioner _____ and seconded by Commissioner _____ that said Ordinance be adopted. A roll call vote of the Commission held on said motion to adopt the Ordinance resulted as follows:

- Mayor John Penny _____
- Commissioner Arthur Byrnes _____
- Commissioner Penny Currie _____
- Commissioner John Capers _____
- Commissioner Elizabeth Albert _____

Whereupon, the Mayor of the City of Holly Hill, Florida, has hereunto set his official signature, duly attested by the City Clerk, and has caused the official seal of said City to be affixed, all at City Hall in the City of Holly Hill, this _____ day of _____, A.D. 2017, for the purpose of authenticity as is required by law.

CITY OF HOLLY HILL, FLORIDA

John Penny, MAYOR

ATTEST:

Attachment: Draft Medical Marijuana Moratorium Ordinance (1531 : Medical Marijuana Moratorium)

CITY MANAGER

Approved as to form and legality:

CITY ATTORNEY



STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

Board of Planning and Appeals
Agenda Item

MEETING DATE: January 11, 2017
FROM: Thomas Harowski
SUBJECT: Fountainhead MPUD Agreement
NUMBER: (ID # 1557)
APPLICANT: Michael Woods, Cobb & Cole
PLANNER: Thomas Harowski

Discussion: The City staff and the applicant are continuing efforts to complete negotiations on the proposed mixed planned unit development agreement. As of the cut-off date for the January 11th Board of Planning and Appeals meeting, a resolution on all issued has not been achieved, and the applicant and staff are requesting more time to prepare the MPUD proposal. The staff and applicant are requesting this item be rescheduled to the February 6, 2017 Board of Planning and Appeals meeting.

Recommendation: Staff recommends the Board of Planning and Appeals reschedule the case for the February 6, 2017 regular meeting.