



**BOARD OF COUNTY
COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA
COMMISSION AGENDA**

**SPECIAL CALL MEETING
TUESDAY, NOVEMBER 18, 2014 - 5:01 P.M.**

**County Commission Chamber
Indian River County Administration Complex
1801 27th Street, Building A
Vero Beach, Florida, 32960-3388
www.ircgov.com**

COUNTY COMMISSIONERS DISTRICT

Peter D. O’Bryan
Wesley S. Davis
Joseph E. Flescher
Bob Solari
Tim Zorc

District 4
District 1
District 2
District 5
District 3

Joseph A. Baird, County Administrator
Dylan Reingold, County Attorney
Jeffrey R. Smith, Clerk of the Circuit
Court and Comptroller

-
- | | | <u>PAGE</u> |
|----|--|--------------------|
| 1. | <u>CALL TO ORDER</u> <u>5:01 P.M.</u> | |
| 2. | <u>INVOCATION</u> Commissioner Wesley S. Davis | |
| 3. | <u>PLEDGE OF ALLEGIANCE</u> Joseph A. Baird, County Administrator | |
| 4. | <u>PUBLIC HEARING</u>
A. FINAL HEARING: Consideration of Amendments to Land Development Regulations (LDRs) Chapters 901 (Definitions), 911 (Zoning), and 971 (Specific Land Use Criteria) to Establish Regulations for Medical Marijuana Treatment Centers
(memorandum dated November 5, 2014) | 1-12 |
| 5. | <u>ADJOURNMENT</u> | |

Except for those matters specifically exempted under the State Statute and Local Ordinance, the Board shall provide an opportunity for public comment prior to the undertaking by the Board of any action on the agenda, including those matters on the Consent Agenda. Public comment shall also be heard on any proposition which the Board is to take action which was either not on the Board agenda or distributed to the public prior to the commencement of the meeting.

Anyone who may wish to appeal any decision which may be made at this meeting will need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal will be based.

Anyone who needs a special accommodation for this meeting may contact the County's Americans with Disabilities Act (ADA) Coordinator at (772) 226-1223 at least 48 hours in advance of meeting.

Anyone who needs special accommodation with a hearing aid for this meeting may contact the Board of County Commission Office at 772-226-1490 at least 20 hours in advance of the meeting.

The full agenda is available on line at the Indian River County Website at www.ircgov.com The full agenda is also available for review in the Board of County Commission Office, the Indian River County Main Library, and the North County Library.

***Commission Meeting may be broadcast live by Comcast Cable Channel 27
Rebroadcasts continuously with the following proposed schedule:
Tuesday at 6:00 p.m. until Wednesday at 6:00 a.m.,
Wednesday at 9:00 a.m. until 5:00 p.m.,
Thursday at 1:00 p.m. through Friday Morning,
and Saturday at 12:00 Noon to 5:00 p.m.***

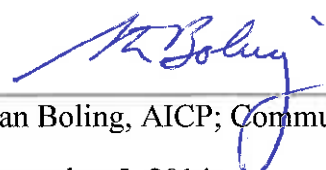
4A

INDIAN RIVER COUNTY, FLORIDA

MEMORANDUM

TO: Joseph A. Baird; County Administrator

FROM:


Stan Boling, AICP; Community Development Director

DATE: November 5, 2014

SUBJECT: FINAL HEARING: Consideration of Amendments to Land Development Regulations (LDRs) Chapters 901 (Definitions), 911 (Zoning), and 971 (Specific Land Use Criteria) to Establish Regulations for Medical Marijuana Treatment Centers

It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its **5:01 pm special meeting** of November 18, 2014.

BACKGROUND

On November 4, 2014, the Board of County Commissioners (Board) conducted the first of two public hearings to consider a land development regulation (LDR) amendment establishing medical marijuana treatment center regulations in the event that the medical marijuana constitutional amendment (Amendment 2) was passed by the voters. At its November 4, 2014 hearing, the Board considered the proposed LDR amendment and announced its intention to consider adoption at a special 5:01 pm hearing to be held on November 18, 2014.

The Board is now to conduct the 5:01 pm special hearing.

ANALYSIS

A result of the November 4 elections is that Amendment 2 did not pass, since support for the amendment did not reach the necessary 60% threshold for state constitutional amendments (see Attachment #1). Consequently, at this time, high THC-level medical marijuana use is not allowed in Florida and adoption of the proposed LDR amendment is not necessary or appropriate. Therefore, the Board should reject the proposed LDR amendment.

In a related matter, on October 21, 2014, the Board adopted changes to the County's pain management clinic regulations to establish non-LDR local regulations for medical marijuana treatment centers. It is the opinion of staff and the County Attorney that those code changes (Ordinance No 2014-018) should be repealed since Amendment 2 failed.

RECOMMENDATION






Staff recommends that the Board of County Commissioners:

1. Reject the proposed LDR amendment; and
2. Authorize the County Attorney to initiate the process for repealing Ordinance No 2014-018

Attachments:

1. Amendment 2 Election Results
2. Proposed LDR Amendment

APPROVED AGENDA ITEM:
FOR: November 18, 2014
BY: Joseph A. Bauer

Indian River Co,	Approved	Date
Admin.		11/13/14
Legal		11/6/14
Budget		11/6/14
Dept.		11/5/14
Risk Mgr.		

Amendments

Amendment No. 1

Water and Land Conservation - Dedicates funds to acquire and restore Florida conservation and recreation lands

[to MyElection \(/MyElection/?add=900100\)](#)

Nonpartisan

[Compare All Counties \(/CompareCounties/?ContestId=900100\)](#)
[Compare by County \(/CompareByCounty/?ContestId=900100\)](#)

Ballot Choice:

Votes
Received

Yes for Approval
No for Rejection

4,223,814 74.93%
1,412,928 25.07%

Amendments require 60% to pass

Full Text: English

http://FLDOSElectionFiles.elections.myflorida.com/enr/ncr/11/00144/amendFullText_900100enr1111.pdf

5,636,742 Total

[Expand]

http://FLDOSElectionFiles.elections.myflorida.com/enr/ncr/11/00144/amendFullText_900100spanenr.pdf

Amendment No. 2

Use of Marijuana for Certain Medical Conditions

[to MyElection \(/MyElection/?add=900200\)](#)

Nonpartisan

[Compare All Counties \(/CompareCounties/?ContestId=900200\)](#)
[Compare by County \(/CompareByCounty/?ContestId=900200\)](#)

Ballot Choice:

Votes
Received

Yes for Approval
No for Rejection

3,357,537 57.58%
2,473,608 42.42%

Amendments require 60% to pass

Full Text: English

http://FLDOSElectionFiles.elections.myflorida.com/enr/ncr/11/00144/amendFullText_900200enr1111.pdf

5,831,145 Total

[Expand]

http://FLDOSElectionFiles.elections.myflorida.com/enr/ncr/11/00144/amendFullText_900200spanenr.pdf

Amendment No. 3

PROSPECTIVE APPOINTMENT OF CERTAIN JUDICIAL VACANCIES

[to MyElection \(/MyElection/?add=900300\)](#)

Nonpartisan

[Compare All Counties \(/CompareCounties/?ContestId=900300\)](#)
[Compare by County \(/CompareByCounty/?ContestId=900300\)](#)

Ballot Choice:

Votes
Received

Yes for Approval
No for Rejection

2,568,991 47.9%
2,794,256 52.1%

Amendments require 60% to pass

Full Text: English

http://FLDOSElectionFiles.elections.myflorida.com/enr/ncr/11/00144/amendFullText_900300enr1111.pdf

5,363,247 Total

[Expand]

http://FLDOSElectionFiles.elections.myflorida.com/enr/ncr/11/00144/amendFullText_900300spanenr.pdf

Source: Florida Division of Elections website

ATTACHMENT 1

ORDINANCE 2014-___

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CONCERNING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS (LDRs); PROVIDING FOR AMENDMENTS TO CHAPTER 901, DEFINITIONS, CHAPTER 911, ZONING, AND CHAPTER 971, REGULATIONS FOR SPECIFIC LAND USES; BY AMENDING SECTION 901.03, ESTABLISHING THE DEFINITION FOR "MARIJUANA" AND "MEDICAL MARIJUANA TREATMENT CENTER"; BY AMENDING SECTION 911.11(4), INDUSTRIAL USES; BY AMENDING SECTION 971.13, COMMERCIAL USES TO ESTABLISH CRITERIA FOR MEDICAL MARIJUANA TREATMENT CENTERS; AND BY PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; CODIFICATION; SEVERABILITY; AND EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT THE INDIAN RIVER COUNTY LAND DEVELOPMENT REGULATIONS (LDRS) CHAPTER 901, DEFINITIONS, CHAPTER 911, ZONING, AND CHAPTER 971, REGULATIONS FOR SPECIFIC LAND USES, BE AMENDED AS FOLLOWS:

SECTION #1:

Amend LDR Section 901.03, To Establish Definitions of "Marijuana" and "Medical Marijuana Treatment Center"; as follows:

Marijuana shall mean cannabis as defined in Section 893.02(3), Florida Statutes. The term does not include "low-THC cannabis," as defined in Section 381.986, Florida Statutes if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with Florida Law.

Medical Marijuana Treatment Center shall mean an entity that acquires, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes or dispenses marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers and is registered by the Department.

SECTION #2:

Amend LDR Section 911.11(4), Industrial Uses, to add Medical Marijuana Distribution Facilities, as follows:

- (4) *Uses.* Uses in the industrial districts are classified as permitted uses, administrative permit uses, and special exception uses. Site plan review shall be required for the construction, alteration and use of all structures and buildings.

Use	District	
	IL	IG
<i>Agriculture</i>		
Agricultural Production Crops		

ATTACHMENT 2

ORDINANCE 2014-____

Horticultural and landscape	P	P
Plants and specialties		
Mulch products and services	P	P
Kennels and animal boarding	P	P
<i>Services</i>		
Farm labor and management services	P	P
Landscape services	P	P
Veterinary services	P	P
Commercial fisheries	P	-
<i>Commercial</i>		
Construction		
General building contractors	P	P
Special trade contractors	P	P
<i>Personal Services</i>		
Linen supply	P	-
Carpet and upholstery cleaning	P	-
Dry cleaning plants	P	-
Crematoriums	P	-
<i>Auto Repair, Services and Parking</i>		
Automobile parking and storage	P	-
Automobile Repair		
Body and paint shops	P	P
General automotive repair	P	P
Carwashes	P	-
<i>Miscellaneous Repairs</i>		
Electrical repair	P	P
Reupholstery and furniture	P	P
Welding	P	P
Heavy machinery	P	P
<i>Social Services</i>		
Job training services	P	P
<i>Wholesale Trade</i>		
Durable goods (not including demolition debris site, junkyard, recycling center)	P	P

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Non-durable goods	P	P
Auction facilities, unenclosed	S	-
Flea market	A	-
Recycling center (including vegetation debris mulching)	A	A
Auto and home supply stores	P	-
Gasoline service stations	P	S
Boat dealers	P	-
Recreational vehicle dealers	P	-
Motorcycle dealers	P	-
Automobile sales (new and/or used)	P	-
Automotive fluid sales and services (other than gasoline)	-	A
<i>Retail Trade</i>		
Convenience stores	P	P
<u>Medical Marijuana Treatment Center</u>	-	<u>A</u>
<i>Amusement and Recreation</i>		
Enclosed commercial amusements, gyms, dance studios	P	-
<i>Eating and Drinking Establishments</i>		
Restaurants	P	-
Take out restaurants	P	P
Drive through	P	-
Bars and lounges	P	-
Bottle clubs	P	-
Fuel dealers	P	P
Adult entertainment facilities	S	S
<i>Marine-Related Commercial Activities</i>		
Boat sales and rental	P	-
Commercial marina	P	-
Marine repair and services	P	P
<i>Industrial</i>		
Manufacturing		
Food and kindred products	P	P
Tobacco products	P	P
Fruit and vegetable juice extraction	A	P

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Fruit and vegetable packing houses	A	P
Textile products	P	P
Lumber and wood	P	P
Furniture and fixtures	P	P
Paper manufacturing	-	P
Printing and related support activities	P	P
Chemicals	-	P
Petroleum products	-	P
Rubber and plastics	-	P
Tires	-	P
Rubber and plastic footwear	P	P
Hose, belts, gaskets and packing	P	P
Fabricated rubber products	P	P
Drugs and pharmaceuticals	P	P
Tanning and finishing	-	P
Footwear	P	P
Other leather goods	P	P
Brick and tile	-	P
Glass and glass products	-	P
Cement and concrete products	-	P
Other nonmetallic mineral products	-	P
Primary metal industries	-	P
Fabricated metal products	P	P
Machine shops	P	P
Industrial machinery and equipment	-	P
Electronic and other electric equipment	P	P
Transportation equipment	-	P
Instruments and related products	P	P
Junk and salvage yards	-	S
Demolition debris site	-	S
<i>Transportation and Utilities</i>		
Airports/airstrips	S	S
Heliports/helipads	S	S

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Railroad and bus transportation services	P	P
Trucking and courier services	P	P
Commercial warehousing & storage	P	P
Moving and storage	P	P
Trucking terminals	P	P
Self storage	P	P
Outdoor storage	P	P
Vehicle storage lot (paved/unpaved) ²	P	P
Postal services	P	P
Water transport services	P	-
Air transport services	P	-
Pipelines	P	P
<i>Transportation Services</i>		
Communications towers (wireless facilities including cell towers)	A ³	A ³
Communications towers (non-wireless facilities including TV and radio broadcast towers)		
Amateur radio (accessory use)		
Less than 80 feet	P	P
80 feet or taller (see 971.44(4) for special criteria)	S	S
Commercial		
Up to 70 feet:		
Camouflaged	P	P
Non-camouflaged	P	P
70 feet to 150 feet:		
Camouflaged	A	A
Monopole (minimum of 2 users)	A	A
Not camouflaged and not monopole	A/S*	A/S*
Over 150 feet:		
All tower types (see 971.44(1) for special criteria)	S	S
Freight transport arrangement	P	P
Utilities		
Public and private utilities, heavy	S	S
Gas services	P	P

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Electric services	P	P
Water services	P	P
Sanitary services	P	P
Irrigation systems	P	P
<i>Residential Uses</i>		
Accessory housing (watchmen)	A	A

P= Permitted use

A= Administrative permit use

S= Special exception use

¹The requirements of section 917.06(11) of the accessory uses and structures chapter, shall apply to towers less than seventy (70) feet.

² Standards for unpaved vehicle storage lots are found in section 954.08(6).

³ For wireless commercial facilities regulations, see section 971.44(5), Section 4 use table.

*See 971.44(4) to determine whether the administrative permit or special exception use process applies.

SECTION #3:

Amend LDR Section 971.13, Commercial Uses, to Establish Criteria for Medical Marijuana Treatment Centers, as follows:

(6) Medical Marijuana Treatment Center (administrative permit).

(a) Districts requiring administrative permit use approval (pursuant to the provisions of 971.04): IG.

(b) Additional information requirements:

1. Provide a site plan meeting all the requirements of Chapter 914;

2. Provide in written form information required for a pain management clinic under County Code Chapter 315.

(c) Criteria for medical marijuana treatment centers:

1. No medical marijuana treatment center shall be located within the WGIC (West Gifford Industrial and Commerce) overlay area as described in Section 911.23;

2. No medical marijuana treatment center shall be located west of 66th Avenue;

3. No medical marijuana treatment center site shall be located within 1,000 feet of a primary or a secondary school site, a child care facility

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site, a public park site, or another medical marijuana treatment center site;

4. No medical marijuana treatment center site shall be located within 500 feet of a residential zoning district, a property with a Public or a residential land use designation, or within 200 feet of a Thoroughfare Plan road right-of-way (collector or arterial road);
5. No medical marijuana treatment center site shall be designed for or operated to provide drive-through service;
6. On-site consumption of marijuana or alcoholic beverages on a medical marijuana treatment center site is prohibited.
7. Cultivation of marijuana on a medical marijuana treatment center site is prohibited;
8. Hours of operation for a medical marijuana treatment center shall be limited to 8 am – 7 pm Monday through Friday and 8 am – Noon on Saturdays and Sundays;
9. Loitering on a medical marijuana treatment center site is prohibited. The applicant shall provide treatment center facility plans, including operational plans, that demonstrate how loitering will be discouraged on the treatment center site.
10. The medical marijuana treatment center shall be designed and operated in a manner that prevents the odor of marijuana from escaping the treatment center building.
11. To the maximum extent possible, the treatment center shall be designed and operated in a manner that incorporates security measures recommended by the Sheriff's Office.
12. Parking shall be provided at the rate applicable to a medical office.
13. The medical marijuana treatment center shall comply with applicable requirements of County Code Chapter 315.

SECTION #4: SEVERABILITY

If any clause, section or provision of this Ordinance shall be declared by a court of competent jurisdiction to be unconstitutional or invalid for any cause or reason, the same shall be eliminated from this Ordinance and the remaining portion of this Ordinance shall be in full force and effect and be as valid as if such invalid portion thereof had not been incorporated therein.

SECTION #5: REPEAL OF CONFLICTING ORDINANCES

The provisions of any other Indian River County ordinance that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

SECTION #6: INCLUSION IN THE CODE OF LAWS AND ORDINANCES

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Indian River County, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

SECTION #7: EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Department of State.

This ordinance was advertised in the Press-Journal on the 24th day of October, 2014, for a public hearing to be held on the 4th day of November, 2014, and on the 3rd day of November, 2014 for a second public hearing to be held on the 18th day of November, 2014, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

- Commissioner Wesley S. Davis _____
- Commissioner Joseph E. Flescher _____
- Commissioner Peter D. O'Bryan _____
- Commissioner Bob Solari _____
- Commissioner Tim Zorc _____

BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY

BY: _____
Chairman

ATTEST: Jeffrey R. Smith, Clerk of Court and Comptroller

BY: _____
Deputy Clerk

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This ordinance was filed with the Department of State on the following date: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Dylan Reingold, County Attorney

APPROVED AS TO PLANNING MATTERS

Stan Boling, AICP; Community Development Director