

Susan Lomas
Board Member

Marion Rayburn
Board Member

Jon Von Voorhis
Board Member

Regina Dunay
Chairwoman

Wade Fischer
Board Member

PUBLIC NOTICE AND PLANNING AND ZONING BOARD AGENDA MAY 12, 2014

WELCOME! We are very glad you have joined us for today's Planning and Zoning meeting. The Planning and Zoning Board is an advisory board to City Council comprised of citizen members who voluntarily and without compensation devote their time and talents to a variety of zoning and land development issues in the community. All P&Z recommendations are subject to final action by City Council. The results of today's meeting will be presented at the City Council meeting on **May 20, 2014** for approval of recommended actions. Any person desiring to appeal a recommended action of the Board should observe the notice regarding appeals below. **CAUTION:** Untimely filing by any appellant shall result in an automatic denial of the appeal.

The Planning and Zoning Board as the Local Planning Agency for the City Of Edgewood will meet at 405 Larue Avenue, Edgewood, Florida, to consider the items of business listed herein at the time and date indicated below.

Monday May 12, 2014 6:30 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF MINUTES
 - December 9, 2013 – Regular P&Z Meeting
4. NEW BUSINESS
 - a. **ORDINANCE 2014-03** - AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA AMENDING CHAPTER 134, "ZONING," ARTICLE V, "SUPPLEMENTAL DISTRICT REGULATIONS," DIVISION 2, "REQUIREMENTS FOR SPECIFIC USES," PROVIDING FOR ESTATE SALES AS A TEMPORARY ACCESSORY USES FOR RESIDENTIAL STRUCTURES; PROVIDING REGULATIONS RELATED TO PARKING FOR GARAGE SALES, YARD SALES AND ESTATE SALES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

d. **ORDINANCE 2014-04** - AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA RELATING TO MEDICAL MARIJUANA; AMENDING THE CODE OF ORDINANCES, CHAPTER 134, "ZONING;" PROVIDING DEFINITIONS; PROVIDING THAT MEDICAL MARIJUANA DISPENSARIES, NON-MEDICAL MARIJUANA SALES AND CANNABIS FARMS ARE PROHIBITED USES IN CERTAIN ZONING DISTRICTS; PROVIDING THAT MEDICAL MARIJUANA DISPENSARIES ARE A PERMITTED SPECIAL EXCEPTION USE IN THE INDUSTRIAL ZONING DISTRICT; PROVIDING ADDITIONAL STANDARDS AND CONSIDERATIONS FOR APPROVAL OF A SPECIAL EXCEPTION APPLICATION FOR A MEDICAL MARIJUANA DISPENSARY PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

5. COMMENTS/ANNOUNCEMENTS

FUTURE MEETINGS: *(SCHEDULE CONTINGENT UPON SUBMITTAL OF ITEMS THAT REQUIRE CONSIDERATION OF THE PLANNING & ZONING BOARD AS THE LOCAL PLANNING AGENCY FOR THE CITY OF EDGEWOOD)*

- June 9, 2014
- July 14, 2014
- August 11, 2014

GENERAL RULES OF ORDER

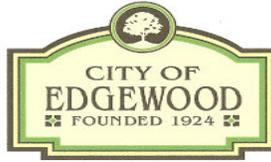
The Board is pleased to hear non-repetitive comments related to business before the Board; however, a five (5) minute time limit per person has been set by the Board. Large groups are asked to name a spokesperson. If you wish to appear before the Board, please fill out an Appearance Request/Lobbyist Registration Form and give it to the City Clerk. When recognized by the Chairman, state your name and address and speak directly into the microphone. The City is guided by ROBERTS RULES OF ORDER in governing the conduct of the meeting. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk at 407-851-2920 at least 24 hours in advance of the meeting.

WE ASK THAT ALL ELECTONIC DEVICES (IE. CELL PHONES, PAGERS) BE SILENCED DURING OUR MEETING!

Thank you for participating in your government!

APPEALS: According to Edgewood City Code Section 26-24 (2), "any person aggrieved by any recommendation of the Board acting either under its general powers or as a Board of Adjustment may file a notice of appeal to the City Council within seven (7) days after such recommendation is filed with the City Clerk.

You are welcome to attend and express your opinion. Please be advised that Section 286.0105, Florida Statutes state that if you decide to appeal a decision made with respect to any matter, you will need a record of the proceedings and may need to ensure that a verbatim record is made. In accordance with the American Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodation to participate in this proceeding, he or she should telephone the City Clerk at (407) 851-2920.



**Planning & Zoning Board
December 9, 2013**

Attendees:

Regina Dunay, Chairwoman
Susan Lomas, Board Member
Marion Rayburn, Board Member
Brian Leahy, Board Member
Jon Van Voorhis, Board Member

Staff:

Cinnamon Wild, Administrative Assistant
Ellen Hardgrove, AICP

Absent:

Drew Smith, City Attorney

CALL TO ORDER

Chairwoman Regina Dunay called the Planning & Zoning Board meeting to order at 6:30 p.m., followed by the Pledge of the Allegiance. Administrative Assistant Wild announced there is a quorum.

APPROVAL OF MINUTES

- November 11, 2013 Planning & Zoning Board Meeting Minutes

Board Member Lomas made the Motion to approve the November 11, 2013 minutes; Seconded by Board Member Leahy. Unanimously approved.

2013-03 – VAR- CARL & AMY PETERSON (FENCE HEIGHT) - 428 Oak Lynn Drive

Chairwoman Dunay referred to Planner Hardgrove, who provided highlights of her report dated 12/04/2013. Planner Hardgrove noted that there is an historic tree and protection of its root system is needed; therefore, requiring the installation of a fence.

2013-03 – VAR- CARL & AMY PETERSON (FENCE HEIGHT) - 428 Oak Lynn Drive

Planner Hardgrove reported that there are two (2) different types of requests. She said there are two lots on the west side of the property that are vacant; one lot has a historic tree on it. She said there is also a 16' driveway that will provide access. Planner Hardgrove said the recommendation is for placing the fence on the property line due to the size of the historic tree; staff recommends approval for the applicant due to the historic tree.

The second item regards the vacant lot that fronts Oak Lynn, and per code, the fence requires a 30' setback from Oak Lynn. Planner Hardgrove confirmed that the fence will be installed in front of the tree. Planner Hardgrove noted how the house is situated on the lot; stating technically, Oak Lynn is the front yard and this is why a variance is required.

In conclusion, staff is recommending approval of this. It was also noted by Planner Hardgrove that there are other houses in the neighborhood that have fences on the property line in their front yards. She noted how these are all non-conforming fences.

Planner Hardgrove stated how Mr. Peterson is taking the proper steps by requesting a variance as required by Code. Planner Hardgrove noted again the yard is a side yard. Planner Hardgrove noted that Staff is recommending approval based on conditions, because it's on the property line. Staff is recommending the following conditions:

Condition #1 Installation of a wrought iron fence, to preserve the view.

Condition #2 The fence will be placed along the driveway. There will need to be at least 20' of separation on either side.

It was noted by Chairwoman Dunay, and confirmed by Planner Hardgrove that there will be a fence on either side of the driveway. Chairwoman Dunay also questioned if there is a fence in the backyard; -the homeowner confirmed there is due to the pool. Planner Hardgrove also confirmed that the distance is being preserved due to fire trucks clearance (not an inclusive list).

Chairwoman Dunay noted City Attorney Smith's absence and stated that she wanted to speak with him about an issue, brought to her by a neighbor. She confirmed she informed the neighbor she could not discuss the applicant's request until after the P&Z meeting. Chairwoman Dunay noted this for the record (ex parte). Planner Hardgrove asked for any additional questions or comments from the Board, there were none. The Homeowner Mr. Peterson came forward and stated he is in agreement with the recommendations of staff. Mr. Peterson mentioned he has no objections and will comply with the recommendations.

Board Member Rayburn stated that she thought the improvements done so far to the property look great. Planner Hardgrove also noted that there are six (6) criteria for meeting a variance and the applicant met all six (6) criteria for variance approval.

There was discussion among the board and applicant regarding installation of the fence and protection of the root system of the historic tree.

Board Member Leahy made the Motion to approve based on the conditions set forth in Planner Hardgrove's report; Seconded by Board Member Rayburn. Unanimously approved 5/0.

2013-03 – VAR- CARL & AMY PETERSON (FENCE HEIGHT) - 428 Oak Lynn Drive

Chairwoman Dunay noted that P&Z's recommendation will be provided to Council at the next Council meeting, Administrative Assistant Wild confirmed the next Council Meeting will be on December 17, 2013.

Administrative Assistant Wild noted that there were 211 letters mailed out with no responses, and 6 returned back to City Hall. She said staff received the sign affidavit; the sign was posted properly and timely on site.

Planner Hardgrove noted that they will have 12 months to act on this variance and after that time the variance will expire.

NEW BUSINESS

None.

COMMENTS/ANNOUNCEMENTS

None.

ADJOURNMENT:

With no further business or discussion, the Planning and Zoning Board meeting adjourned at 6:44 p.m.

Regina Dunay, Chairwoman

ATTEST

Bea L. Meeks, MMC, CPM
City Clerk

42 exceeding these requirements shall be deemed to be an open air market as defined by this
43 chapter, and shall be permitted only in accordance with the requirements for open air
44 markets.

45 (2) Parking. Parking shall be controlled by the operator of the garage sale, yard sale or estate
46 sale so as not to create any traffic hazards on adjacent streets. In the event any code
47 enforcement officer or police officer observes a traffic hazard causes by parking for the
48 garage sale, yard sale or estate sale, the operator of the garage sale, yard sale or estate
49 sale shall be required by code enforcement or police officers to cease all sales activity
50 until the parking is controlled so as to not create a traffic hazard. Failure to comply with
51 a notice to cease sales activity until parking is controlled as provided herein may result in
52 issuance of a civil citation or other code enforcement action.

53 (3) No permit required. No building permit or other permit shall be required to conduct a
54 garage sale, or yard sale or estate sale.

55 **SECTION 3: Codification:** Section 2 of this Ordinance shall be codified and made part
56 of the City of Edgewood Code of Ordinances.

57
58 **SECTION 4: Control:** In the event of a conflict or conflicts between this ordinance and
59 other ordinances, this ordinance controls.

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61 **SECTION 5: Severability:** It is the intent of the City Council of the City of Edgewood,
62 and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of
63 this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such
64 invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the
65 remaining provisions of this Ordinance.

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67 **SECTION 6: Effective Date:** This Ordinance shall become effective upon final passage
68 and adoption.

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70 **ADOPTED** by the City Council of the City of Edgewood, Florida, this ____ day of
71 _____, 2014.

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73 _____
74 John Dowless, Council President

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76 *ATTEST:*
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78 _____
79 Bea Meeks, MMC
80 City Clerk

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46 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE**
47 **CITY OF EDGEWOOD, FLORIDA THAT:**
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49 **SECTION 1.** Chapter 134, “Zoning,” Article IV, “District Regulations,” of the City of
50 Edgewood Code of Ordinances is hereby amended as follows (note: strikethrough text indicates
51 deletions, underline text indicates additions, ellipses (***) identify text that remains unchanged
52 and that is not reprinted herein):
53

54 **DIVISION 6. –P-O PROFESSIONAL OFFICE DISTRICT**
55

56 * * *

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58 **Sec. 134-317. - Uses prohibited.**
59

60 The following uses shall be prohibited in the P-O district:
61

62 (1) Any business, except a medical or dental clinic or pharmacy, which
63 displays merchandise for sale at retail or wholesale, or any business requiring the
64 physical handling of merchandise to be sold at retail or wholesale on the premises.
65

66 (2) Any use conducted either partially or totally outside a building or structure
67 except for parking areas.
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69 (3) Veterinary establishments.
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71 (4) Medical Marijuana Dispensaries.
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73 (5) Non-medical Marijuana Sales.
74

75 (6) Cannabis Farm.
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77 ~~(4)(7)~~ Other uses which are similar to those listed above, and which are not
78 specifically permitted in this division and which the prohibition thereof would
79 maintain the intent and authority and directive of the city council, which shall be
80 determined after public notice and public hearing.
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84 **DIVISION 7. –C-1 RETAIL COMMERCIAL DISTRICT**
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88 **Sec. 134-347. - Uses prohibited.**
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90 The following uses shall be prohibited in any C-1 retail commercial district:
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- 92 (1) Title loan stores.
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94 (2) Check cashing, payday advance stores, or other similar businesses.
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96 (3) Labor pool offices.
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98 (4) Bail bond offices.
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100 (5) Tattoo, body piercing, massage parlors and fortunetelling shops.
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102 (6) Soup kitchens.
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104 (7) Runaway and related emergency shelters; homeless shelters.
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106 (8) Convalescent facilities.
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108 (9) Residential social service facilities; welfare, food stamp, and other social
109 service offices and institutional facilities.
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111 (10) Treatment and recovery facilities.
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113 (11) New and used automobile and boat sales.
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115 (12) Medical Marijuana Dispensaries.
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117 (13) Non-medical Marijuana Sales.
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119 (14) Cannabis Farm.
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121 ~~(11)~~(15) Other similar uses consistent with this subsection.
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123 ~~(12) — New and used automobile and boat sales.~~
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125 ~~(13)~~(16) Any use or activity which is not in full compliance with all the
126 requirements and standards set forth in this division.
127
128 ~~(14)~~(17) Uses listed in section 134-403, except uses listed at section 134-
129 403(1), or section 134-404 of the C-3, wholesale commercial district (article IV,
130 division 9 of this chapter).

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132 **DIVISION 10. –I INDUSTRIAL DISTRICT**

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136 **Sec. 134-437. – Uses Prohibited.**

137 The following uses shall be prohibited in any I Industrial district:

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- (1) Non-medical Marijuana Sales.
- (2) Cannabis Farm

Sec. 134-438. – Special Exception uses.

Medical Marijuana Dispensaries. Medical Marijuana Dispensaries shall be allowed as a special exception use upon application, hearing and approval as provided in this Code of Ordinances. An application for special exception use for a Medical Marijuana Dispensary may be denied, approved or approved with conditions. In considering an application for special exception pursuant to this section, planning and zoning board and the city council shall consider the following criteria:

- (1) Compatibility of the proposed facility with the surrounding uses.
- (2) The size of the lot on which the proposed facility will be located.
- (3) The number of persons to be residing in the proposed facility.
- (4) The amount of traffic generated by the proposed facility.
- (7) The general health, safety and welfare of the community.

In addition to all other requirements and conditions, the applicant shall comply with all the following conditions contained herein. No special exception for a Medical Marijuana Dispensary shall be approved unless the applicant has shown by competent substantial evidence its ability to comply with each of the conditions contained herein.

- (1) Loitering. A Medical Marijuana Dispensary shall provide adequate seating for its patients and business invitees and shall not allow patients or business invitee to stand, sit (including in a parked car), or gather or loiter outside of the building where the dispensary operates, including in any parking areas, sidewalks, right-of-way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart. The Medical Marijuana Dispensary shall post conspicuous signs on at least three sides of the building that no loitering is allowed on the property.
- (2) No drive through service. No Medical Marijuana Dispensary shall have a drive through or drive in service aisle. All dispensing, payment for and receipt of products shall occur from inside the Medical Marijuana Dispensary.
- (3) Alcoholic Beverages. No consumption of alcoholic beverages shall be allowed on the premises on which a Medical Marijuana Dispensary is located, including the parking areas and sidewalks.
- (4) Separation Distances. No Medical Marijuana Dispensary shall operate within two thousand five hundred (2,500) feet of any pre-existing school, day care facility, public park or another Medical Marijuana Dispensary.

184 (5) Compliance with Other Laws. All Medical Marijuana Dispensaries
185 shall at all times be in compliance with all federal, state and local laws and
186 regulations.

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188 Each application for a special exception shall be accompanied by a site plan
189 incorporating the regulations established herein. The site plan shall be drawn to
190 scale indicating property lines, rights-of-way, and the location of buildings,
191 parking areas, curb cuts and driveways. Said site plan shall be submitted to and
192 considered by the planning and zoning board and the city council as provided for
193 in article II of this chapter prior to the granting of a building permit. Upon such
194 approval, said site plan becomes a part of the building permit and may be
195 amended only by action of the city council after recommendation by the planning
196 and zoning board.

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198 (1) Loitering. A Medical Marijuana Dispensary shall provide adequate
199 seating for its patients and business invitees and shall not allow patients or
200 business invitee to stand, sit (including in a parked car), or gather or loiter
201 outside of the building where the dispensary operates, including in any
202 parking areas, sidewalks, right-of-way, or neighboring properties for any
203 period of time longer than that reasonably required to arrive and depart.
204 The Medical Marijuana Dispensary shall post conspicuous signs on at
205 least three sides of the building that no loitering is allowed on the
206 property.

207 (2) No drive through service. No Medical Marijuana Dispensary
208 shall have a drive through or drive in service aisle. All dispensing,
209 payment for and receipt of products shall occur from inside the Medical
210 Marijuana Dispensary.

211 (3) Alcoholic Beverages. No consumption of alcoholic beverages shall
212 be allowed on the premises on which a Medical Marijuana Dispensary is
213 located, including the parking areas and sidewalks.

214 (4) Separation Distances. No Medical Marijuana Dispensary shall
215 operate within two thousand five hundred (2,500) feet of any pre-existing
216 school, day care facility, public park or another Medical Marijuana
217 Dispensary.

218 (5) Compliance with Other Laws. All Medical Marijuana Dispensaries
219 shall at all times be in compliance with all federal, state and local laws and
220 regulations.

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224 **SECTION 2.** Chapter 134, “Zoning,” Article I, “In General,” of the City of Edgewood
225 Code of Ordinances is hereby amended as follows (note: strikethrough text indicates deletions,
226 underline text indicates additions, ellipses (***) identify text that remains unchanged and that is
227 not reprinted herein):

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229 **Sec. 134-1. – Definitions.**

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Cannabis. Any plant or part of a 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

Cannabis Farm. Any property used in whole or in part for the growing or cultivation of Cannabis plants, whether or not such growing or cultivation is lawful under federal or state law.

Medical Marijuana Dispensary. A facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal and state laws.

Medical Use. The prescriptive use of any form of cannabis to treat a qualifying medical condition and the symptoms associated with that condition or to alleviate the side effects of a qualifying medical treatment.

* * *

Non-Medical Marijuana Sales. The purchase, sale, transfer or delivery of marijuana, cannabis, cannabis-based products or cannabis plants when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law.

* * *

SECTION 3. CODIFICATION. It is the intent of the City Council of the City of Edgewood that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provision of this Ordinance.

SECTION 4. SEVERABILITY. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 5. CONFLICTS. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

