

ORDINANCE NO. 2017-10

AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA, AMENDING CERTAIN SECTIONS OF APPENDIX A (COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE) OF THE CODE OF ORDINANCES OF THE CITY OF TARPON SPRINGS, FLORIDA; BY AMENDING ARTICLE II, OF APPENDIX A, TO CREATE SECTION 24.07 PROHIBITION ON THE SITING OF MEDICAL CANNABIS DISPENSARIES IN ALL ZONING DISTRICTS EXCEPT THE HB, HIGHWAY BUSINESS DISTRICT TO AMEND SECTION 25.12 HB, HIGHWAY BUSINESS DISTRICT TO ALLOW MEDICAL CANNABIS DISPENSARIES AND TO CREATE SECTION 27.00 SUPPLEMENTAL REGULATIONS FOR SITING OF MEDICAL CANNABIS DISPENSARIES; AND PROVIDING FOR SEVERABILITY; AND FOR AN EFFECTIVE DATE.

WHEREAS, on November 8, 2016, Florida voters approved a constitutional amendment (Use of Cannabis for Debilitating Medical Conditions - Amendment 2) to allow for broader medical use of any kind of Cannabis (including euphoric strains) within the State; and

WHEREAS, despite the approval of Amendment 2, the activities it permits remain illegal under Federal law; and

WHEREAS, Amendment 2 allows the medical use of Cannabis for individuals with debilitating medical conditions as determined by a licensed Florida physician, allows caregivers to assist patients' medical use of Cannabis, and directs the Department of Health to register and regulate centers that produce, distribute and dispense Cannabis for medical purposes by promulgating regulations and issuing identification cards to patients and caregivers; and

WHEREAS, Amendment 2 goes into effect on January 3, 2017, and the Florida Legislature has until July 3, 2017, to create regulations governing the implementation of Amendment 2; and

WHEREAS, with the approval of Amendment 2, the Board of Commissioners believes it is in the best interests of the citizens of Tarpon Springs to have in place land development regulations regarding the dispensing of medical cannabis; and

WHEREAS, the Board of Commissioners has determined that given the potential impacts from the dispensing of medical Cannabis on the surrounding area, said centers and uses shall only be permitted within the HB, Highway Business zoning district; and

WHEREAS, the Board of Commissioner has determined that it is in the public health, safety and welfare interest to consider location, site, operational requirements,

and other development standards in regard to the location and operation of medical cannabis dispensaries;

WHEREAS, the Board of Commissioner finds the adoption of this Ordinance is in the public interest by serving to promote and protect public health, safety, and welfare and otherwise serves a municipal purpose for the City of Tarpon Springs; and,

WHEREAS, the Planning and Zoning Board acting as the Local Planning Agency (LPA) at an advertised public hearing found the proposed amendments consistent with the City's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS AS FOLLOWS:

SECTION 1 – Recitals. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative finding of facts of the Board of Commissioners.

SECTION 2 Purpose and Intent

The purpose and intent of this Ordinance is to promote the health, safety and general welfare of the residents of the City of Tarpon Springs through the regulation of Medical Cannabis Dispensaries and Facilities. This Ordinance is intended to regulate the sale and distribution of Medical Cannabis to ensure a supply of Medical Cannabis to patients who are qualified to use and possess cannabis for medical use, pursuant to Florida law, while promoting compliance with other state laws which regulate cannabis. Nothing in this Ordinance shall prohibit an entity authorized by state law to dispense Medical Cannabis from making deliveries of Medical Cannabis to the residence or business of an authorized individual or healthcare facility as permitted by relevant state law, subject to the applicable requirements of this Ordinance. Nothing in this Ordinance is intended to promote or condone the sale, distribution, possession or use of cannabis in violation of any applicable state or federal law. Compliance with the requirements of this Ordinance shall not provide a defense to any criminal prosecution under any applicable law. This Ordinance is only applicable in the City of Tarpon Springs.

SECTION 3 That Appendix A, Article II, Section 24.07 of the Code of Ordinances of the City of Tarpon Springs, Florida, shall be amended to read as follows:

§ 24.07 - Prohibition on Location of Medical Cannabis Dispensaries.

The dispensing of medical cannabis is expressly prohibited in all zoning districts except for the HB, Highway Business District.

SECTION 4 – That Appendix A, Article II, Section 25.12 of the Code of Ordinances of the City of Tarpon Springs, Florida, shall be amended to read as follows:

§ 25.12 - HB Highway Business District.

(B) Permitted Uses

(16) Medical Cannabis Dispensary and/or Medical Cannabis Facility

~~(16)~~(17) Personal Service Establishments

~~(17)~~ 18 Post Offices

~~(18)~~(19) Repair Service Establishments

~~(19)~~(20) Retail Food Establishments

~~(20)~~(21) Retail Nurseries and Garden Supplies

~~(21)~~(22) Retail Sales Establishments

~~(22)~~(23) Schools of Special Education

~~(23)~~(24) Self-Service Gasoline Stations

~~(24)~~(25) Service Stations

~~(25)~~(26) Shopping Centers

~~(26)~~(27) Theaters, Indoor

~~(27)~~(28) Transportation Terminals

~~(28)~~(29) Vehicle Repair (Minor and Major)

~~(29)~~(30) Vehicle Sales and Rentals

SECTION 5 – That Appendix A, Article II, Section 27.00 of the Code of Ordinances of the City of Tarpon Springs, Florida, shall be amended to read as follows:

§ 27.00 – SUPPLEMENTAL REGULATIONS FOR SITING OF MEDICAL CANNABIS DISPENSARIES

27.10 Definitions

Certificate of Approval shall mean a certificate issued pursuant to this Ordinance by the Planning and Zoning Department, officially authorizing an Applicant to operate a Medical Cannabis Dispensary or Facility pursuant to this Ordinance. A Certificate of Approval generally authorizes an Applicant to establish and operate a Medical Cannabis Dispensary or Facility pursuant to this Ordinance.

Derivative Products shall mean products derived from Medical Cannabis, including but not limited to, oil or consumable products containing or derived from Medical Cannabis.

Medical Cannabis Dispensary: A site, operated by an entity authorized by State law, registered with the Florida Department of health, and holding all necessary licenses and permits from the State of Florida, and acting in accordance with State law and local regulations that possesses or dispenses cannabis, products containing cannabis or THC containing derivatives, related supplies, or educational materials to qualifying patients or their personal caregivers for medical use. This definition excludes any cultivation or processing (including development of related products such as food, tinctures, aerosols, oils, or ointments) or distribution of medical cannabis.

Medical Cannabis Facility: A lot or parcel, a building, or a space inside a multi-tenant/user building that is legally operated as a medical cannabis dispensary facility.

Medical Cannabis: Means cannabis as defined in Florida Statutes Section 893.02 (3) and "low-THC cannabis" as defined in Florida Statutes Section 381.986 (1) (b), including items containing THC containing cannabis derivatives.

27.20 Location of Medical Cannabis Dispensaries and Facilities

- (A) No Medical Cannabis Dispensary or Facility may be located in any zoning classification other than the Highway Business zoning classification. No Medical Cannabis Dispensary or Facility may be located within 500 feet of any pre-existing residential land use property, or any portion of a pre-existing mixed use land use category utilized as residential, nor 500 feet of any pre-existing church, school, cemetery, child care facility, or public recreation area.
- (B) No Medical Cannabis Dispensary or Facility establishment may be located within 1,500 feet of any other pre-existing Medical Cannabis Dispensary or Facility, unless such is an expansion of an existing Medical Cannabis Dispensary or Facility, regardless of whether or not such other Medical Cannabis Dispensary or Facility is located within the City or within an adjacent jurisdiction.
- (C) The distance requirements hereunder shall be measured along a straight line, from the nearest property line of the church, school, child care facility, public recreation area, residential committed property or the main entrance of the pre-existing Medical Cannabis Dispensary or Facility, to the main entrance of the Medical Cannabis Dispensary or Facility, disregarding intervening structures. However, in a multi-tenant or multi-user building, such as a shopping center or office building, such distance requirement shall be measured from the nearest portion of the building or structure utilized by the pre-existing church, school, child care facility, public recreation area, or Medical Cannabis Dispensary or Facility, to the main entrance of Medical Cannabis Dispensary or Facility, disregarding intervening structures.

(D) Nothing in these regulations shall be construed to permit the operation of any business or the performance of any activity prohibited under any provision of law.

27.21 Operational Requirements for Medical Cannabis Dispensaries and Facilities
Any Medical Cannabis Dispensing Facility operating under a Certificate of Approval shall comply with the following operational standards.

- (A) A Medical Cannabis Dispensary or Facility shall not dispense from its premises Medical Cannabis between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver Medical Cannabis to qualified patients 24 hours each day.
- (B) No Medical Cannabis Dispensary or Facility shall allow any cannabis to be smoked, ingested or otherwise consumed on the premises.
- (C) No Medical Cannabis Dispensary or Facility shall allow the sale, service, or consumption of any type of alcoholic beverages on the premises including in the surrounding rights-of way.
- (D) There shall be no outdoor displays, sales, promotions, or activities of any kind permitted on the premises on the exterior of the Medical Cannabis Dispensary or Facility building, including the surrounding rights-of-way. All activities and business shall be conducted within the confines of the permanent building containing the Medical Cannabis Dispensary or Facility.
- (E) All deliveries to the Medical Cannabis Dispensary or Facility shall be made during regular operating hours while Medical Cannabis Dispensary or Facility personnel are present.
- (F) With the application, the applicant shall submit a security plan demonstrating compliance with Section 381.986, Florida Statutes, and all other applicable statutes and state administrative rules. In addition to proving compliance with all state requirements, the security plan shall, at a minimum, provide the following:
 - 1. Fully operational lighting and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft, both within the premises and in the surrounding rights-of-way;
 - 2. A silent security alarm that notifies law enforcement or a private security agency that a crime is taking place;
 - 3. A vault, drop safe or cash management device that provides minimum access to the cash receipts; and
 - 4. A security camera system capable of recording and retrieving an image which shall be operational at all times during and after business hours. The security cameras shall be located:
 - (i) At every ingress and egress to the dispensary, including doors and windows;
 - (ii) On the interior where any monetary transaction shall occur; and
 - (iii) At the ingress and egress to any area where Medical Cannabis is stored.

- (G) The configuration of the facility shall include a waiting area that provides adequate seating without requiring waiting outside of the facility building.
- (H) The Medical Cannabis Dispensary or Facility shall employ cash and inventory controls for all stages of operation on the premises, and during transitions and delivery.
- (I) The Medical Cannabis Dispensary or Facility shall store all Medical Cannabis in a secured, locked room or a vault.
- (J) The Medical Cannabis Dispensary or Facility shall require each employee or contractor to wear a photo identification badge at all times while on the premises.
- (K) The Medical Cannabis Dispensary or Facility shall report to the City Police Department within 24 hours after it is notified or becomes aware of the theft, diversion, or loss of Medical Cannabis.
- (L) The Medical Cannabis Dispensary or Facility shall require the following prior to dispensing of Medical Cannabis:
 1. The employee who dispenses Medical Cannabis or a Cannabis delivery device shall enter into the Florida Department of Health Compassionate Use registry his or her name or unique employee identifier.
 2. The employee who dispenses Medical Cannabis or a Cannabis delivery device shall, prior to dispensing any order of Medical Cannabis or a Cannabis delivery device, verify in the compassionate use registry that a qualified ordering physician has ordered the Medical Cannabis and/or a specific type of a Cannabis delivery device for the patient.
 3. The employee who dispenses Medical Cannabis or a Cannabis delivery device shall verify that the patient has an active registration in the Florida Department of Health Compassionate Use registry, the patient or patient's legal representative holds a valid and active registration card, the order presented matches the order contents as recorded in the registry, and the order has not already been filled.
 4. The employee who dispenses Medical Cannabis or a Cannabis delivery device shall, prior to dispensing the Medical Cannabis or Cannabis delivery device, confirm the identity of the authorized patient or caregiver, and obtain the signature of the authorized patient or caregiver to whom the order is dispensed.
 5. The employee who dispenses Medical Cannabis or a Cannabis delivery device shall, upon dispensing the Medical Cannabis, or Cannabis delivery device, record in the registry the date, time, quantity, and form of Medical Cannabis and the type of Cannabis delivery device dispensed.
- (M) Customers, clients, patients or business invitees shall not be directed, encouraged or allowed to stand, sit (including in a parked car for any period of time longer than reasonably required for a person's passenger to conduct their official business and depart), or gather or loiter outside of the building where the Medical Cannabis Dispensary or Facility is operating.

including in any parking areas, sidewalks, rights-of-way, or neighboring properties. Pedestrian queuing or loitering at any time, including prior to business hours, outside of the building is prohibited.

- (N) Medical Cannabis dispensed by the facility shall be packaged in accordance with the United States Poison Prevention Packaging Act of 1970 and all other applicable state and federal laws. The packaging receptacle must have a firmly attached and legible label, which includes, at a minimum, the following information:
1. A statement that the THC meets the testing requirements for ensuring its THC level and that it is safe for consumption;
 2. The patient's name, name of the ordering physician and directions for usage;
 3. The name of the cultivation and dispensing facility from which the medical cannabis originated; and
 4. The batch number and harvest number from which the medical cannabis originated.
- (O) A Medical Cannabis Dispensary or Facility shall retain records of all testing required by Florida law, and shall retain samples of each homogenous batch of Medical Cannabis, inclusive of Derivative Products, dispensed by the facility, for at least 9 months in such a sufficient amount so as to enable inspection or testing by an authorized agency under state or local law.
- (P) Medical Cannabis dispensed by the facility shall comply with the Florida Drug and Cosmetic Act, Section 499.001, Florida Statutes et seq.
- (Q) The dispensing of Medical Cannabis shall be the sole use of the premises. No other goods or services shall be provided on the premises.

27.30 Certificate of Approval

- (A) It shall be unlawful for any person or entity to establish a Medical Cannabis Dispensing Facility in City of Tarpon Springs without first having obtained from the State of Florida approval to do so pursuant to the Compassionate Use Act or any other relevant law, and having obtained from the Planning and Zoning Department a Certificate of Approval to be operated in connection with such business.
- (B) Upon the effective date of this Ordinance, no Medical Cannabis Dispensary or Facility, as defined in this Ordinance, may operate in City of Tarpon Springs without first obtaining a Medical Cannabis Dispensing Facility Certificate of Approval issued by the Planning and Zoning Department. Certificates of Approval shall be granted only for Medical Cannabis Dispensing Facilities that satisfy the requirements of this Ordinance, including the payment of the applicable application fees.
- (C) At the commencement of the application process as set forth in Section 27-40, each application for a Medical Cannabis Dispensary or Facility a Certificate of

Approval shall be accompanied by a nonrefundable application fee set forth by resolution of the Board of Commissioners.

- (D) The Certificate of Approval shall be kept current at all times and shall be conspicuously displayed at all times in the premises to which they apply. The failure to maintain a current Certificate of Approval, for any location at which a Medical Cannabis Dispensary or Facility is located, shall constitute a violation of this Ordinance.
- (E) A Certificate of Approval issued by the Planning and Zoning Department pursuant to this Ordinance shall specify the date of issuance, the period of licensure, and the name of the Operator. A Certificate of Approval issued under this Ordinance shall expire five years after the date of its issuance if not renewed in accordance with Section 27-60.

27.40 Application for Certificate of Approval

(A) An Applicant for a new Certificate of Approval, pursuant to the Compassionate Use Act, any other applicable state law, and the provisions of this Ordinance, shall submit an application to the Planning and Zoning Department. At the time of any such application, the Applicant shall pay an application fee, as set forth in the fee schedule adopted by the Board of Commissioners from time to time, to defray the costs incurred for review of the application, as well as any other costs associated with the processing of the application.

(1) The Applicant shall include the following in its application:

- i. Payment of the application fee as set forth in the fee schedule established by the City.
- ii. If the Applicant is a business entity, information regarding the entity, including without limitation the name and address of the entity, its legal status and proof of registration with, or a certificate of good standing from, the Florida Secretary of State, as applicable;
- iii. If the Applicant is an individual, government issued identification including name, address and photograph of the individual;
- iv. Evidence of the State of Florida, Department of Health, Office of Compassionate Use's (or any successor agency of the State of Florida's) approval of the Operator to operate a Cannabis Dispensing Business pursuant to the Compassionate Use Act or any other relevant law;
- v. All documentation necessary to demonstrate compliance with the requirements identified in this Ordinance, including evidence that the Applicant continues to meet all requirements of Section 381.986(5)(b)(1), Florida Statutes.
- vi. All documentation the Applicant wishes to have considered.

27.50 Issuance of Certificate of Approval

A Certificate of Approval issued pursuant to this Ordinance does not eliminate the need for the Operator to obtain other required permits or licenses related to the operation of the Medical Cannabis Dispensary or Facility including, without limitation, any development approvals, business licenses or building permits required by this City's Code of Ordinances.

27.60 Renewal

- (A) Within 90 days prior to the expiration date of the Certificate of Approval, each Operator shall pay a nonrefundable renewal fee as set forth in the fee schedule adopted by Resolution from time to time, to defray the costs incurred by the City for review of the application and inspection of the proposed premises in accordance with this Ordinance, as well as any other costs associated with the processing of the application. The Operator is responsible for paying the renewal fee prior to expiration of the Certificate of Approval.
- (B) Renewal of an existing Certificate of Approval for a successive five year period shall be granted without requiring additional review pursuant to the Certificate of Approval Section 27.40. The applicant for renewal of a Certificate of Approval shall have the burden to demonstrate that the Medical Cannabis Dispensary or Facility has remained in compliance with the terms and conditions of its approval and has not been found in violation of this Ordinance. The applicant for renewal shall be required to attest that all information previously provided in its application for a Certificate of Approval is correct, or if any of this information has changed, shall be required to provide accurate updated information. The applicant for renewal shall have the burden to demonstrate the following:
- (1) The Medical Cannabis Dispensary or Facility has been operated in compliance with the terms and conditions of its approval; and
 - (2) The Medical Cannabis Dispensary or Facility has not been found in violation of this Ordinance or the Land Development Code.
- (C) Upon review of a complete application for renewal of an existing Certificate of Approval, the Planning and Zoning Department shall determine whether the renewal meets the criteria of subsection (b) of this section. If the application for renewal does not meet the requirements of subsection (b), the application for renewal shall be converted into an application for a new Certificate of Approval pursuant to Section 27.40.
- (D) A Certificate of Approval shall be revoked if an Operator fails to remit a renewal fee and complete application for renewal prior to the expiration of the Certificate of Approval. Notwithstanding the expiration and revocation, an Operator whose Certificate of Approval has been revoked for not more than 30 days may be reinstated upon the payment of a late fee, as may be set forth in the fee schedule adopted by from time to time.

27.70 Person or Entities Prohibited as Operators

- (A) No Certificate of Approval shall be issued to, held by, or renewed by any Applicant or Operator who fails to comply with the following requirements:
1. Maintain approval as a dispensing organization by the State of Florida, Department of Health, Office of Compassionate Use pursuant to the Compassionate Use Act, or any other applicable law.
 2. The Operator shall ensure that all owners, investors, and managers have successfully passed a level 2 background screening pursuant to Section 435.04, Florida Statutes and shall not have been convicted of any felonies involving fraud, false representation, or distribution of controlled substances.

27.80 Violations

It shall be unlawful for any person to violate any provision of this Ordinance or to operate a Medical Cannabis Dispensary or Facility without a valid City-issued Medical Cannabis Dispensary or Facility Certificate of Approval.

27.90 Enforcement and penalties

The City's code enforcement officers, law enforcement or any other person authorized to enforce City ordinances may enforce the provisions of this Ordinance.

SECTION 6 – SEVERABILITY

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

SECTION 7 – EFFECTIVE DATE

This Ordinance shall become effective upon final passage and adoption.

PASSED and ADOPTED this 18th day of April, 2017.

Chris Alahouzos
CHRIS ALAHOUZOS, MAYOR

David Banther
DAVID BANTHER, VICE MAYOR

Rea Sieber
REA SIEBER, COMMISSIONER

Susan Miccio-Kikta
SUSAN MICCIO-KIKTA, COMMISSIONER

Jacob Karr
JACOB KARR, COMMISSIONER

MOTION BY: COMMISSIONER: MICCIO-KIKTA
SECOND BY: VICE MAYOR: BANTHER

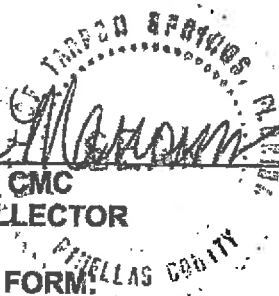
VOTE ON MOTION

COMMISSIONER KARR	<u>Yes</u>
COMMISSIONER MICCIO-KIKTA	<u>Yes</u>
COMMISSIONER SIEBER	<u>Yes</u>
VICE-MAYOR BANTHER	<u>Yes</u>
MAYOR ALAHOUZOS	<u>Yes</u>

ATTEST:

Irene S. Jacobs
IRENE S. JACOBS, CMC
CITY CLERK & COLLECTOR

Jay Daigneault
JAY DAIGNEAULT
CITY ATTORNEY



FIRST READING: March 21, 2017

SECOND READING: April 18, 2017