



CITY COUNCIL WORK SESSION MEETING
CITY OF NEW PORT RICHEY

NEW PORT RICHEY CITY HALL COUNCIL CHAMBERS
5919 MAIN STREET, NEW PORT RICHEY, FLORIDA

May 31, 2017
6:00 PM

AGENDA

ANY PERSON DESIRING TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL, WITH RESPECT TO ANY MATTER CONSIDERED AT ANY MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE LAW DOES NOT REQUIRE THE CITY CLERK TO TRANSCRIBE VERBATIM MINUTES; THEREFORE, THE APPLICANT MUST MAKE THE NECESSARY ARRANGEMENTS WITH A PRIVATE REPORTER (OR PRIVATE REPORTING FIRM) AND BEAR THE RESULTING EXPENSE. (F.S. 286.0105)

ORDER OF
BUSINESS

1. Call to Order - Roll Call

DISCUSSION ITEMS

2. Discussion on Medical Marijuana - Page 2
3. Adjournment

Agendas may be viewed on the City's website: www.citynpr.org This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990 and Section 286.26, Florida Statutes, all persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk, 727-853-1024, not later than four days prior to said proceeding.



TO: City of New Port Richey City Council

FROM: Debbie L. Manns, City Manager

DATE: 5/31/2017

RE: Discussion on Medical Marijuana - Page 2

SUMMARY:

This is a continuation of the discussion about how to accommodate medical marijuana dispensaries in the City. This follows the first work session held on April 25, 2017. This meeting has been advertised on the City's calendar and website.

Staff had anticipated presenting the State regulations implementing Amendment 2, however, the Legislature failed to approve a bill regulating medical marijuana in this year's legislative session. As of the writing of this staff report, it seems unlikely that a special session will be held to pass medical marijuana legislation. This will leave implementation of the voter-approved amendment to State health officials. The Department of Health has until July 3 to establish the regulations.

A map has been provided for discussion purposes, showing potential locations for medical marijuana dispensaries. It shows the locations of the City's commercial zoning districts (C-1, C-2, Highway Commercial, Office and Downtown). The Code allows dispensaries in the C-2 and Highway Commercial zoning districts. (This is important to note, as many at the last work session were unaware of current regulations.) The map also shows the areas in which a dispensary is currently prohibited, because the required 500-foot separation from day care centers, places of worship, public parks, library, recreation center, schools, other restricted personal service uses or adult uses.

The Land Development Code classifies cannabis dispensing/ processing/cultivation enterprises as "restricted personal service uses" which are defined as "commercial retail and service uses, including, blood plasma centers, body piercing establishments, check cashing stores, day labor establishments, pawn shops, tattoo parlors and cannabis dispensing/processing/cultivation enterprises which may tend to have a blighting and/or deteriorating effect upon surrounding areas and that may need to be dispersed from other similar uses to minimize their adverse impacts." Restricted personal services uses are established as a permitted use in the C-2 and Highway Commercial zoning districts, with development standards addressing setbacks, minimum lot area, minimum lot width, height maximum, parking and design criteria. The uses are subject to minimum 500-foot minimum separation distances as noted above.

In reviewing regulations from other jurisdictions, the following options are offered for consideration in the regulation of medical marijuana dispensaries:

- Maintaining current regulations allowing dispensaries "by right" in the C-2 and Highway Commercial Districts;
- Expansion of the areas where dispensaries are permitted "by right" and including in the Office and C-1 zoning districts (along with the C-2 and Highway Commercial Districts);
- Expansion of the areas where dispensaries are permitted "by conditional use" requiring a public hearing in the Office and C-1 districts;
- Amending the definition of restricted personal service uses, with the exclusion of medical marijuana;
- Limiting the number of dispensaries in the City;
- Maintaining a minimum 200-foot separation distance from other medical marijuana uses;
- Prohibiting the consumption of marijuana on the premises;
- Prohibiting outdoor vending machines;

- Limiting deliveries made to the dispensary to within regular operating hours;
- Prohibiting dispensary vehicles to be marked with identification from the dispensary;
- Requiring the posting of signs prohibiting loitering on the premises;
- Providing design guidelines addressing: building color palette favoring muted colors and not more than two complementary colors; prohibitions on security bars on windows; prohibitions on outdoor displays, sales, promotions or activities; prohibiting outdoor waiting or seating areas; and prohibitions of drive-through or drive-in service aisles;
- Establishing hours of operation (dispensing from the premises is prohibited by Florida Statutes between 9 pm and 7 am);
- Addressing “independent testing laboratory” uses and “cannabis delivery devices.”; and
- Evaluating the impacts of the regulations, following adoption and implementation.

Council Member Starkey and Staff met with representatives from The Green Solution, one of the seven Florida licensed marijuana businesses. They provided recent news articles regarding one of their competitors, Truelieve, for your information as well as a study on dispensing allocations. Staff has also attached adopted ordinances from the City of Tarpon Springs, Hillsborough County and Pasco County for comparison.

REQUESTED ACTION:

Staff recommends that City Council conduct a work session to discuss medical marijuana.

ATTACHMENTS:

Description	Type
☐ News article from Orlando Sentinel - May 10, 2017	Backup Material
☐ News article from Tampa Bay Times - May 11, 2017	Backup Material
☐ News article from Tampa Bay Times - May 16, 2017	Backup Material
☐ Study on Dispensary Allocation Numbers	Backup Material
☐ Tarpon Springs Ordinance	Backup Material
☐ Pasco County Ordinance	Backup Material
☐ Hillsborough County Ordinance	Backup Material
☐ Zoning with Buffered Uses	Backup Material

Medical marijuana that's smokable is being sold in Florida, despite objections

MAY 10, 2017, 5:05 PM

TALLAHASSEE — Even while Florida lawmakers have insisted they do not want patients to smoke pot, one of the state's seven licensed medical marijuana vendors Tuesday began selling whole-flower cannabis.

Florida law bans patients from smoking the substance, but doesn't prohibit vendors from selling marijuana buds meant for use in vaporizers — but which also can be smoked in joints, pipes or other delivery devices.

Trulieve, one of seven licensed medical marijuana operators in Florida, started selling the whole-flower product Tuesday, just days after lawmakers failed to reach agreement on a measure to carry out a voter-approved constitutional amendment legalizing marijuana for patients with a broad swath of debilitating conditions.

Quincy-based Trulieve's new product, first sold Tuesday, comes in canisters designed for use with vaporizer pens. But patients can easily use the substance in other ways, such as in joints, bongs or pipes — consumption methods off-limits under state law.



BAY BUZZ

The staff of the Tampa Bay Times

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Despite lawmakers' opposition, smokable medical pot being sold



Michael Van Sichter, Tampa Bay Times

Thursday, May 11, 2017 9:15am



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From the News Service of Florida's Dara Kam:

Even while Florida lawmakers have insisted they do not want patients to smoke pot, one of the state's seven licensed medical-marijuana vendors on Tuesday began selling whole-flower cannabis.

Florida law bans patients from smoking the substance, but doesn't prohibit vendors from selling marijuana buds meant for use in vaporizers --- but which also can be smoked in joints, pipes or other delivery devices.

Trulieve, one of seven licensed marijuana operators in Florida, started selling the whole-flower product on Tuesday, just days after lawmakers failed to reach agreement on a measure to carry out a voter-approved constitutional amendment legalizing marijuana for patients with a broad swath of debilitating conditions.

Trulieve CEO Kim Rivers told The News Service of Florida on Wednesday her company has sold whole-leaf products in different forms --- all designed to be ingested by vaporizers --- for nearly a year. Those products, however, were ground up, unlike the new bud-like product that can be smoked.

Quincy-based Trulieve's new product, first sold on Tuesday, comes in canisters designed for use with vaporizer pens. But patients can easily use the substance in other ways, such as in joints, bongs or pipes --- consumption methods off-limits under state law.

Rivers said whole-leaf products are critical for patients seeking the "entourage effect" that results from consumption of whole-flower marijuana, as opposed to processed cannabis products, such as oils or other derivatives.

11
May

0

Comments



THE BUZZ

From the staff of the Tampa Bay Times

NSF: Health officials look to halt smokable marijuana



Michael Van Sickler, Tampa Bay Times

Tuesday, May 16, 2017 9:20am

The News Service of Florida's Dara Kam:

The Florida Department of Health on Monday ordered a medical-marijuana operator to stop selling a “whole flower” product sold for use in vaporizers but which can easily be smoked, saying the product is not permitted.

Quincy-based Trulieve started selling “Entourage,” a whole flower product meant to be used in the Volcano vaporizer, last week.

The department's cease-and-desist letter to Trulieve came after The News Service of Florida reported Wednesday about the sales of the whole flower product, which can easily be smoked in pipes, bongs, or joints --- all off-limits to patients under Florida's current medical-marijuana laws. “Licensed dispensing organizations have a responsibility to ensure their product is not one that can easily be transitioned into a smokable form. Therefore, whole flower products are not permitted,” state Office of Compassionate Use Director Christian Bax wrote to Trulieve on Monday. Current law bans “smoking” of medical marijuana but includes an exception that allows patients to use vaporizers to consume cannabis products. Smoking is defined as “burning or igniting a substance and inhaling the smoke.” The “Entourage” products, released by Trulieve last week, come in “small, wire mesh bags” sold in vaporizer cups. The mesh caps affixed to the tops of the bags “can be removed with minimal effort” by purchasers, according to the letter. “Given the above facts, Trulieve is hereby ordered to immediately cease and desist sale of its Entourage product,” Bax wrote. In a statement, Trulieve CEO Kim Rivers said Monday the company was “surprised by the letter” but is “immediately and completely complying with the department's wishes while evaluating our options.” Rivers told the News Service last week she believed the product was legal and that her company had been selling whole-flower products for nearly a year. “We feel very strongly that having products available that allow patients to have a choice and to benefit from the entourage effect, also available to physicians to make recommendations to patients, is critical. So



A Trulieve dispensary on Dale Mabry Highway in Tampa

Tampa Bay Times

if that means we're pushing the envelope, we've had a form of whole-flower vaporizer available from the day we've opened. This has always been part of our product line and will continue to be in the future," Rivers said last week. Lawmakers during the annual legislative session that ended last Monday were unable to reach consensus on a measure to implement a voter-approved constitutional amendment that legalized medical marijuana for a broad swath of patients with debilitating illnesses. But they were in nearly universal agreement on at least one thing: Patients shouldn't be able to smoke pot products. Key legislators contacted by the News Service last week about the sale of whole flower products that could be smoked were taken by surprise. John Morgan, the Orlando trial lawyer who largely bankrolled what was known as Amendment 2, has pledged to sue the state over the smoking issue, which he says was tacitly approved in the constitutional amendment approved by more than 71 percent of voters in November. Patients and advocates maintain that the medicinal effects of whole flower consumption outweigh that of processed products, such as oils or other derivatives, including those inhaled by "vaping." But the Department of Health apparently isn't sold on that argument. The state's marijuana operators are allowed to seek permission to sell "ground cannabis plant material" meant to be vaped, Bax acknowledged in Monday's letter.

"However, as conveyed to Trulieve in a June 28, 2016 meeting on this matter, dispensing organizations may not dispense easily breached products containing whole flower," he wrote.

Bax also chided Trulieve for recommending the Volcano vaporizer while not selling it onsite. While the vaporizer is available on Trulieve's website, that's not good enough because the purchase of delivery devices outside of a dispensing organization is banned by state law, according to Bax.

"The department reminds Trulieve that all sales, possession and use of cannabis outside of the provision" of Florida laws "are a potential criminal act," he concluded.



Commenting Guidelines



Abuse Policy

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Municipal Dispensary License Allocation: Florida¹

Economic and Social Considerations

Synopsis: This report describes the benefits and costs that should be considered by Florida’s city and county planners as they prepare their cannabis dispensary licensing rules. As cannabis policy and planning experts, the Marijuana Policy Group makes the following recommendations:

- **Phased Approach:** Based upon past experience, municipalities should use an incremental approach to issuing dispensary licenses. This mitigates the cost of early-stage errors in license criteria and processing. In general, it is easier for authorities to issue additional licenses over time, than to revoke licenses from previously issued licensees.
- **Optimal Number of Dispensaries:** The optimal number of dispensaries depends upon the number of patients likely to register, the local area population, and the required scale of operation for dispensaries to remain profitable. The average resident ratio among similar states (with laws similar to Amendment 2) is one dispensary per 67,222 residents (1:67,222). This ratio is found to be “optimal” by the MPG for cities and counties in Florida.
- **Risks of Unprofitable Dispensaries:** Unlike conventional business, cannabis business failure creates risks because the product is still prohibited by federal law. Small and struggling cannabis entities are more likely to sell (or “divert”) into illegal markets (e.g., minors and out-of-state smuggling). For example, struggling entities can utilize their license to legally cultivate or purchase cannabis, and then re-sell to illegal markets, if they cannot survive in Florida’s legal market.
- **The Minimum Effective Scale Ratio:** As a second rational approach to setting standards for dispensary numbers, it is helpful to note that the minimum effective scale for a dispensary is approximately 600 patients. Under Amendment 2, the minimum population-to-patient ratio in Florida should be no more than one dispensary for each fifty-thousand residents (1:50,000) with the optimal ratio at 1:67,222.
- **The Failure Rate:** The percentage of companies expected to become unprofitable in the regulated market is 61% if the allocation ratio is 1:30,000. Expected failures decline to 32% if the ratio is 1:50,000, and to only 13% if the ratio is 1:67,222.

¹ The Marijuana Policy Group (MPG) is a Denver-based economics and policy consulting firm dedicated to cannabis economics and policy. This memo provides a quantitative assessment of the benefits and challenges related to cannabis dispensary permitting and licensing. The MPG is nationally recognized for its role in shaping the Colorado regulated cannabis market. Since 2014, the MPG has served as the lead cannabis economist for the State of Colorado, providing detailed market and economic analysis that informs state legislators and policymakers. MPG experts have also advised private sector clients for location, investment, and operations – this experience helps the MPG to bring private-sector understanding into the public-policy forum in an articulate manner. The MPG now operates in 13 states and two foreign countries.

Note: Results and findings are solely based upon MPG research. Quotations or citations of the report findings must include “The Marijuana Policy Group” as the original owner of this intellectual property.

- **Upper-Bound Sales:** The MPG finds no evidence to indicate an upper-boundary on the ability of dispensaries to service or supply customers. Single storefronts in Washington State, for example, were serving as many as 6,000 patrons in July 2016. It is therefore unlikely that a dispensary would experience “too many” patients to service.
- **Cole Memo Compliance:** Florida regulators should respect the priorities stated in the United States Department of Justice’s 2013 Cole Memorandum. This memorandum outlines the position of the federal government, and the conditions under which federal authorities will allow state-level rule on cannabis possession. Two of the eight priorities in the Cole Memorandum are to mitigate diversion to minors, and mitigate diversion out of the state. Proper allocation of licenses should be designed to ensure that licensees will remain compliant with state laws, and with federal guidelines.
- **Inexperienced Operators:** Due to increased risks associated with dispensary failures, regulators should prioritize license applicants who have demonstrated the ability to operate a successful cannabis business in the past.

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Background

Florida’s medical cannabis program is changing rapidly. The passage of Amendment 2 in November 2016 will increase substantially the size and scope of the program. This ballot measure represents the latest of three measures which altered the state’s approach to medical cannabis.

Program Evolution: 2014-2016

Under the *Compassionate Medical Cannabis Act*, passed in 2014, the Legislature permitted low-THC/high CBD, non-smokable cannabis to be dispensed and utilized for the treatment of a handful of medical conditions. However, due to the legal restrictions, limiting access and prescriptions, and by forbidding smokable products, few patients have chosen to obtain medical cannabis through legal channels.

On March 25, 2016, Florida Governor Rick Scott signed House Bill 307 into law. This law expanded access to medical cannabis, including high-THC products as an efficacious treatment for patients with terminal illnesses. The state has licensed six medical cannabis dispensing organizations, which are vertically integrated and authorized to cultivate, manufacture, and sell medical cannabis. However, the program remains nascent; as of August, 2016, the Florida Department of Health has just 87 registered cannabis patients.

The passage of Amendment 2 is likely to expand significantly the number of registered patients and potential dispensaries seeking to serve such patients. State and local authorities must prepare themselves for an onslaught of medical cannabis dispensary applications. Under current law (section 381.986(8)(b), Florida Statutes), each county and municipality is authorized to implement rules and regulations for permitting of retail cannabis dispensaries. The statute specifies that such regulations should be reasonable and tailored to protect the public health, safety, and welfare. Most city or county managers have not faced such a decision, and are uncertain how many dispensaries to permit in a certain locality. This document is designed to help these authorities to understand what has been done elsewhere, and what to expect if too many or too few dispensaries are permitted in specific localities.

State-Level Licensing and Restrictiveness

The MPG collected state-level medical cannabis program data for 22 states where some form of medical cannabis is allowed. Each state chose a regulatory system that is influenced by local sentimentality toward cannabis. Despite the disparity among different state and county rules, most impose restrictions on medical cannabis programs through 1) Limitations on the scope of medical conditions treatable using medical cannabis and the medical prescription (“recommendation”) process; and 2) Rules to limiting dispensary numbers.

Restrictions on Condition Types – and the Capture Rate

Certain states restrict use by limiting the types of conditions that are allowed to be treated using cannabis. Illinois, for example, has such restrictive conditions that there are only 7,000 approved medical cannabis patients, in a state with 12.8 million residents. The corresponding patient to population ratio – called the “Capture Rate” – is therefore just 5 people per 10,000, or 0.05%.

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Most states have fewer restrictions on allowed medical conditions, and higher Capture Rates, than Illinois. Colorado, Maine, and Oregon allow most types of conditions, including “chronic pain,” to be recommended for treatment using cannabis. As a result, these states have much higher capture rates. The rate in Colorado is 1.94%, in Oregon, it is 1.83%, and in Maine it is 3.42%, the highest in the dataset. Table 1 provides a listing for selected states (22 different states where information was available), of the current patient count, compared to the resident population, to provide a *capture rate* for each state program.

Table 1: Medical Cannabis State Populations and Eligible Patient Populations, based upon allowed medical conditions for medical cannabis.

State	State population (2015)	Patient numbers	Current through	Capture Ratio
Maine	1,329,328	45,520	6/16/2016	3.42%
Michigan	9,922,576	203,889	6/18/2016	2.05%
Colorado	5,456,574	106,066	5/31/2016	1.94%
California	39,144,818	715,133	6/16/2016	1.83%
Oregon	4,028,977	73,605	6/6/2016	1.83%
Arizona	6,828,065	97,938	5/27/16	1.43%
Rhode Island	1,056,298	14,459	6/15/2016	1.37%
Montana	1,032,949	13,288	5/31/2016	1.29%
New Mexico	2,085,109	24,902	6/3/2016	1.19%
Hawaii	1,431,603	14,074	6/1/2016	0.98%
Nevada	2,890,845	18,599	5/31/2016	0.64%
D.C.	672,228	3,707	6/3/2016	0.55%
Vermont	626,042	2,936	6/27/2016	0.47%
Massachusetts	6,794,422	25,980	5/31/2016	0.38%
Connecticut	3,590,886	10,861	6/12/2016	0.30%
Delaware	945,934	1,490	6/15/2016	0.16%
Alaska	738,432	1,071	5/31/2016	0.15%
New Jersey	8,958,013	7,956	6/15/2016	0.09%
New Hampshire	1,330,608	780	7/1/2016	0.06%
Illinois	12,859,995	7,000	6/1/2016	0.05%
Minnesota	5,489,594	1,486	6/10/2016	0.03%
New York	19,795,791	4,688	6/9/2016	0.02%
Average:				0.92%

Source: MPG Calculations based upon publically-available state patient and population data. Patient data was sourced from the Marijuana Policy Project.

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Florida State Estimated Capture Rates

Under HB 307/SB 460

Although HB 307/SB 460 has added access medical cannabis for the terminally ill, it is estimated that the patient-count will remain low given the restrictions that remain. Based upon the new regulations, the MPG estimates that the state’s patient Capture Rate will grow from current levels to approximately 12,000 patients.

The most binding constraints to access include the low-THC requirement for several of the qualifying conditions, difficulty for doctors to legally recommend the drug, and a cumbersome / costly path to become a registered cannabis patient. In total, the MPG estimates the Capture Rate under existing legislation to be approximately six-tenths of one percent (0.06%).

Under Amendment 2

Upon passage of Amendment 2, the number of eligible conditions will expand to include more prevalent indications, and the use of high-THC, smokable products would be allowed, making the Florida law similar to laws in approximately 7 other states.

Using these states for guidance, the MPG constructed an estimated capture rate for Florida. The estimated capture rate for the state under Amendment 2 is 1.21%. The results are shown below, in Table 2.

Table 2: Florida-Specific Patient Population - Based upon MPG Estimated Capture Rates

Florida Estimated Patient Population	
Sample Average	0.92%
Average (Programs similar to Florida):	1.21%
Florida Population (2015)	20,271,272
<i>Estimated Florida Patient Count:</i>	
Using Sample Average (0.92%)	186,575
Using Similar Program Ave (1.21%)	244,472
Using Upper Bound (2.2%)	445,968

Source: MPG Calculations

While the overall sample average capture rate was 0.92%, the average for states who have deployed a program that is *similar* to Florida’s, is 1.21%. This higher rate reflects the exclusion of certain highly-restrictive states (e.g., New Jersey, New York, and Illinois).

Dispensary License Allocations

The passage of Amendment 2 will **lead to an onslaught** of cannabis dispensary applications, and city and county planners must be prepared to handle such applications. Cannabis dispensaries and storefronts are perceived by many planners to **carry increased risks** compared to typical merchandise stores. These stores sell **products that are prohibited under federal law**, and they tend to hold **large quantities of cash** and high-value products. Accordingly, these stores can become burdensome on law enforcement resources. Additionally, community leaders in other states have expressed concern that numerous

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cannabis dispensaries **increase the risk of blight** and may reduce property values for neighboring communities.

In order to mitigate these risks and the burden on law enforcement, state and municipal authorities have placed limitations upon the number of dispensary operations in a given area. The first and most common limitation is population-based, where a fixed number dispensary licenses are allowed within a specific population center.

Experience from Other Industries

Rationing and allocation of licenses to certain types of private businesses is not new. Certain states with a more pious outlook continue to limit liquor store licensees. Utah, for example, limits storefronts to 1:44,000 residents.² Other regional limits are often requested by private business due to high startup costs. Hospital developers require a setback that limits competition for a period of time – in order to ensure they can survive and provide medical services. Pure public goods, such as fire stations and parks, are allocated to meet community needs, while balancing the costs and benefits of additional service outlets.

Cannabis dispensaries are privately-funded entities that provide services to a specific population segment. Therefore, the benefits of increased access to these entities is balanced against the potential costs of having too many outlets and subsequent failing businesses (along with considerations for the health, safety, and wellbeing of the public including increased risk of crime and burdens on law enforcement). While zoning rules can help to navigate the location of these entities, the number of entities can be directly controlled through license allocations.

Experience from Other States

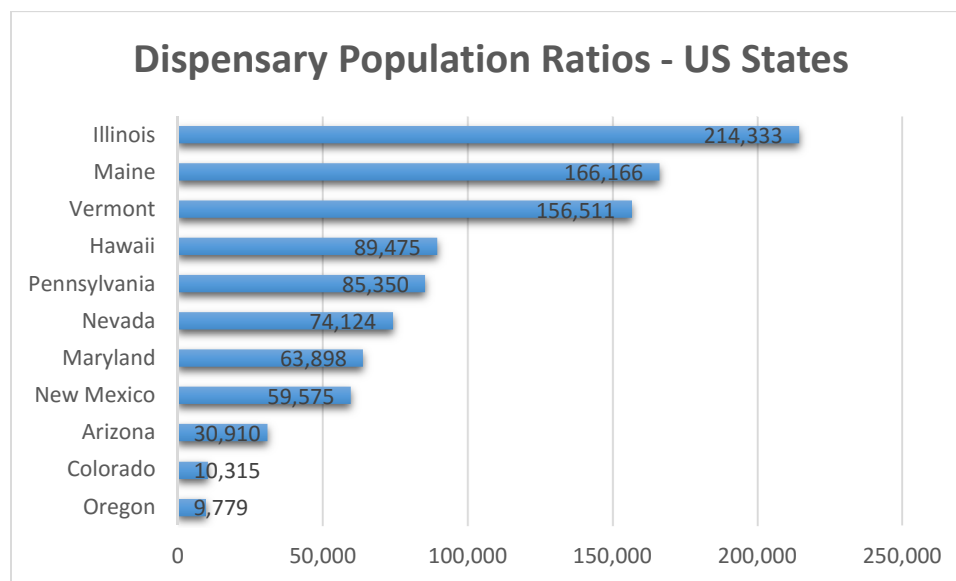
Of the 22 states from which MPG collected data, three states place no explicit limit upon the number of dispensing licenses: Colorado, New Mexico, and Oregon. Colorado and Oregon provide licenses to any applicant who can meet the qualifications to be an operator, while New Mexico takes into consideration the need for additional dispensaries on an annual basis. Since two of these states have legalized cannabis for anyone over 21 years of age, their policies should be viewed differently from states with medical programs only.

Among medical-only states, there is a gap between two types of dispensary allowances. Many states have systems that allow 1 dispensary for every 60,000 to 80,000 residents. The MPG compared these states with the program in Florida outlined in Amendment 2 – the most similar states are Arizona, New Mexico, Maryland, Nevada, Pennsylvania, and Hawaii. Those states had an average of 67,222 residents per dispensary. See Figure 0-1 below, for a graphical depiction of dispensary ratios.

² Most state have liquor store ratios that average 1 for every 3,000 residents.

Note: Results and findings are solely based upon MPG research. Quotations or citations of the report findings must include "The Marijuana Policy Group" as the original owner of this intellectual property.

Figure 0-1: Ratio of State Resident Population to Cannabis Dispensaries for Selected US States (2015/2016)



Source: MPG Calculations based upon publicly-available state patient and population data.

Two states stand out for the extremely “low” population to dispensary ratios: Colorado and Oregon. However these ratios can be misleading because most of these licensees are allowed to sell recreational (adult-use) cannabis from the same location.³ The ability to sell adult-use as well as medical cannabis means that these locations are not relying solely upon patients to sustain their business, as dispensaries in medical-only states do.

Case of Oregon Dispensaries

The history of Oregon’s medical program offers some insights as a medical-only state that converted into an adult-use state. In Oregon, no *a-priori* limit was placed on dispensary licensing. As a result, the industry faced a “boom/bust” scenario.

In 2014 and 2015, some Oregon towns incurred periods of under-supply, and then over-supply, eventually leading to dispensary failures.⁴ In 2015, pre-existing dispensaries benefitted by an interim law passed by the Oregon legislature, allowing medical dispensaries to sell cannabis to any adult over 21 years of age. At the same time, no recreational retail licenses were issued, giving pre-existing dispensaries exclusive rights to sell recreational cannabis to adults. Starting in January 2017, medical dispensaries must choose whether to sell exclusively to recreational or medical markets.

According to an article by the *Guardian*, Southeast Portland had approximately 12,000 medical card holders, and 136 medical dispensaries during calendar year 2015. This meant there were just 88 patients per dispensary, on average – leading to closures, license transfers, and product diversion. After October 2015, many dispensaries were revived, as their client base was expanded to any adult over 21 years of

³ Stores and dispensaries are allowed to sell both products, so long as the area can be easily distinguished between medical and recreational retail. Most stores have a large orange line down the floor to indicate each section.

⁴ See for example: <https://www.theguardian.com/us-news/2015/nov/21/oregon-cannabis-legalization-medical-marijuana-dying-market>.

age. In general, the Oregon program is perceived as one that was fraught with uncertainty, leading to general discontent among industry members.

Dispensary Economics – Minimum Effective Scale

The Marijuana Policy Group has unique access to operating information for small and large vendors, both for medical and adult-use markets. The MPG can utilize their unique experience and insights to calculate – in a clear way – the so-called “minimum effective scale” required to sustain a medical cannabis operation. Clearly, cities and the state wish to have a well-organized and functional dispensary system, one that does not create negative incentives for failing operators.

Approach: We use the State of Florida capture rate that was estimated above (1.21%) to illustrate some basic economics related to the dispensary licensees – and to compute the share of “failing” dispensaries under different scenarios. We find that in Florida under Amendment 2, the minimum effective scale is one dispensary for every 50,000 residents. However, given the risk associated with failing dispensaries, the “optimal” ratios is one dispensary for every 67,222 residents.

If the estimated capture rate is used, then on average, each dispensary would serve either 813 patients using the 1:67,222 ratio, or 605 patients using the 1:50,000 ratio.

Demand by Patients: Previous demand studies conducted by the MPG show that medical patients typically use cannabis on a near daily basis. Those consumers are estimated to demand 1.6 grams of flower (or its equivalent in non-flower products) per day of use.⁵ The average use rate is 29 days per month. Thus, total demand by weight for these customers is expected to be 1.6 g per day * 29 days per month = 44.6 grams of cannabis per month – or 1.66 ounces of cannabis per month.

The average price of medical cannabis flower in Colorado is \$5.05 per gram. Typically, medical cannabis is purchased in portions of 1 ounce at a time.⁶ If the dispensary ratios are 1:67,222, then a typical dispensary will serve 813 patients, and these dispensaries can be expected to have average revenues of approximately \$190,600 per month, under these assumptions.

On average, the cost of wholesale cannabis inputs account for 50% of total sales value (i.e., there is a 100% markup on product).⁷ Thus, net revenues on average would be approximately \$95,300 per month. While rent and payroll expenses can vary widely, we can make some basic assumptions in order to provide context and draw a line of profitability.

⁵ See “Market Size and Demand for Colorado” (2014), produced by MPG and commissioned by the Colorado Marijuana Enforcement Division. This study supplied a deep assessment of market demand (by weight) for cannabis flower. The study found that heavy users consume almost 3 times as much cannabis per day than irregular users.
<https://www.colorado.gov/pacific/sites/default/files/Market%20Size%20and%20Demand%20Study%2C%20July%2009%2C%202014%5B1%5D.pdf>

⁶ The price of illicit cannabis, according to “ThePriceofWeed.com” – a crowdsourcing site for product pricing, equals \$7.92 per gram for medium quality cannabis in Florida. This price is expected to decline, as it did in Colorado, under a regulated market.

⁷ The same logic applies to vertically-integrated firms, who grow and sell the product. These firms implicitly pay wholesale prices for their own cannabis, because they could have sold their product at the wholesale price. This is a well-known economic concept regarding implicit versus explicit pricing.

Note: Results and findings are solely based upon MPG research. Quotations or citations of the report findings must include “The Marijuana Policy Group” as the original owner of this intellectual property.

Table 3: Example Accounting for Florida Dispensaries - by Population Ratio

Cost and Profits: Typical Dispensary Operation			
Assumptions / Estimates:	Minimum	Below Minimum	Optimal
<i>Dispensary Ratio:</i>	1:50,000	1:30,000	1:67,222
<i>Patient Capture Rate:</i>	1.21%	1.21%	1.21%
<i>Number of Patients per Dispensary</i>	605	363	813
Revenues and Costs:			
Total Estimated Revenues	\$142,008	\$85,205	\$190,921
Costs			
COGS (Cost of Goods Sold)	\$71,004	\$42,602	\$ 95,461
Rent (or imputed rent)	\$15,000	\$15,000	\$15,000
Payrolls (including payroll taxes & insurance)	\$25,000	\$15,000	\$30,000
Utilities, cleaning, internet and other basic services	\$5,000	\$5,000	\$5,000
Accounting, legal, consulting, and professional services	\$6,000	\$6,000	\$6,000
Total Estimated Costs:	\$122,004	\$83,602	\$151,461
EBITA (Earnings before Interest, Taxes, and Amortization)	\$ 20,004	\$1,602	\$39,461
Income Taxes (assuming 280E Compliance)	\$19,881	\$11,929	\$26,729
Income Taxes (under regular conditions)	\$5,601	\$449	\$11,049
Net Profit (Monthly)			
<i>Under 280E</i>	\$123	(\$10,326)	\$12,732
<i>Under Regular Conditions</i>	\$14,403	\$1,154	\$28,412

*Source: MPG Calculations based upon state captures rates and spending profiles.

Table 3 shows what a Florida state dispensary license holder can expect financially under various dispensary to population ratios. If there exists one dispensary for every 67,222 residents, then net profits after taxes (assuming the owner somehow maneuvers around certain applicable IRS regulations)⁸ are \$31,896 per month on average, or \$382,752 per year. Under Section 280E of the IRS Code, profits would be \$211,392 for the year.

In contrast, if the ratio were 1:30,000 – then the license holder would *lose* approximately \$120,000 under 280E, or earn just \$13,212 under normal operating conditions. Profits are “normal” compared to the at-risk capital if the ratio is 1:50,000. In this case, annual after-tax profits would be \$1,475 under Section 280E, and would be \$172,835 under regular business conditions.

⁸ Section 280E of the IRS Code prohibits cannabis vendors from claiming any expenses, except for the cost of the cannabis product itself. For more information see: <http://www.thedailybeast.com/articles/2016/02/18/feds-slap-70-tax-on-legal-marijuana-businesses.html>

These profit estimates do not include the initial cost of investment, called “at risk capital”. The initial investment expense to open a dispensary is expected to equal approximately \$200,000, depending upon the location, building, staff, and licensing process.

Dispensary Failure Rates Under Three Scenarios

Under an allocation ratio of 1:50,000 residents, the MPG estimates that approximately 32% of the licensees will struggle or become unprofitable, and would present increased risks for enforcement and regulators. An allocation closer to the average among MPG’s sample (1:67,222) results in slightly fewer dispensaries, as well as a higher success rate, effectively shifting the failure rate down from 32% to 13% (i.e. only 1 in 8 licensees fail). In contrast, if more licenses are permitted, then assuming the same capture rate, a higher share of those licensees must be failures, since the total spending on cannabis is effectively “capped” by the number of patients. For example, if a ratio of 1:30,000 is used, more than half of the licensees would be expected to fail or be in danger of failing. Under this regime, the average dispensary teeters between a gain of \$1,039 per month if they do not comply with 280E, or a loss of \$10,379 per month, if they comply. Only 39% of dispensaries are expected to be sustainable under this scenario, and 61% of dispensaries become “high risk” failing entities.

Table 4 below shows the relative number of dispensaries under different allocation schemes:

Table 4: Number of Dispensaries and Expected Failing Stores under different license allocation schemes.

Dispensary Failure Rate			
Population Ratio	Number of Dispensaries	Failure Rate	Number of Store Failures
1:30,000	676	61%	412
1:50,000	405	32%	130
1:67:222	302	13%	39
*Based upon 2015 Florida population, and MPG fail-rate estimates.			

The expected failure rate is 61% under a 1:30,000 ratio. This rate falls to approximately one-third (32%) if fewer licenses are issued, to bring the dispensary population in-line with the state population (405 stores). Under this scenario, the number of failed stores falls from 412 to 130, for a 68% reduction in failed licensees. Under a ratio of 1:67,222, the failure rate falls to 13%, and the number of failed stores falls from 130 down to 39. The MPG believes that 1:67,222 provides an “optimal” balance between access of store locations and risks of store failures, given the estimated parameters for Florida, under passage of Amendment 2. It is also important to note that, because the six currently licensed organizations in Florida also offer statewide delivery, patients will have additional access to medicine (in addition to retail outlets). This suggests that rural and remote populations can still be served, in some manner, even when store density is not high.

Regulatory Risks from Failing Dispensaries

In general, the free market system is an effective mechanism that allocates resources to their best use. It rewards efficient operators and it eventually pushes inefficient or ineffective operators out of the market through closures or consolidation.

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The free market system works best for the sale and distribution of innocuous goods and services. But there are special risks and considerations when the market is a “Schedule 1” narcotic. Most of these risks are related to product *diversion and crime*. An itemized list of considerations is below:

- Struggling cannabis vendors have an incentive to divert sales to illegal markets if they cannot compete in the regulated market. In order to survive, struggling operators are more likely to allow sales to unauthorized users or to divert some of their products for sale outside of the region, or outside of the state (ex-state diversion).
- The diversion of cannabis to minors or to other states are listed as the Federal Government’s “priorities and concerns” in relation to the state-level sale and distribution of cannabis products. These concerns are prominently described in the 2013 “Cole Memorandum.”
- Struggling vendors are less likely to pay for laboratory testing, for proper packaging, and for proper safety standards in the workplace. Profitable operators have an incentive to maintain their good-standing with state licensing agents, and are more likely to maintain higher levels of safety, quality-control, packaging, and monitoring, compared to poorly-funded organizations.
- Tax compliance and promptness of payment for license fees are generally higher for well-funded and well-organized licensees, compared to struggling and near-bankrupt licensees.⁹ Near-bankrupt operators have “less to lose” compared to profitable enterprises, and therefore are therefore less likely to comply with the rules and regulations. This effect has been documented in studies of entrepreneurial behavior and attitudes among small-business owners.
- Until federal laws change, almost all cannabis dispensaries are cash-based operations. This raises the risk of crime and burglaries targeted toward dispensary locations. This, in turn, creates an incremental burden for local law enforcement and potential threats to public safety.

Summary

The passage of Amendment 2 will fundamentally alter Florida’s medical cannabis program. City and county planners throughout the state will be faced with a number of decisions that will ultimately determine the success of medical cannabis operations in their respective communities. This report is intended to assist government administrators as they begin to consider cannabis dispensary licensing rules. MPG’s recommendations, based on other medical cannabis states’ experiences and data-driven economic analysis, provides Florida municipalities with a targeted rulemaking framework that will enable a well-functioning medical cannabis market.

MPG’s calculated “optimal ratio” of one dispensary per 67,222 residents (1:67,222) has been customized to Florida’s specific patient population and regulatory structure. The ratio ensures that the majority of licensed medical cannabis dispensaries in Florida will have a sufficient medical patient customer base, based upon an estimated Capture Rate of 1.21%, to create a profitable business environment for licensed actors. Reducing the number of “at-risk” or failing medical cannabis licensees is imperative for creating a medical cannabis market that mitigates regulatory risk in the form of diversion and crime. The

⁹ See, for example: Kamleitner, et. al. (2012). “Tax Compliance of Small Business Owners: A Literature Review and Conceptual Framework,” *International Journal of Entrepreneurial Behavior & Research* 18(3):330-351.

Note: Results and findings are solely based upon MPG research. Quotations or citations of the report findings must include “The Marijuana Policy Group” as the original owner of this intellectual property.

actions taken and rules enacted by city and county planners must be cautious, incremental, and should reflect the medical cannabis market unique to Florida, as the ultimate success or failure of the medical cannabis program is highly dependent upon the regulatory structure.

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12

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, MAYOR


DAVID BANTHER, VICE MAYOR


REA SIEBER, COMMISSIONER


SUSAN MICCIO-KIKTA, COMMISSIONER


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, CMC
CITY CLERK & COLLECTOR

APPROVED AS TO FORM:


JAY DAIGNEAULT
CITY ATTORNEY

FIRST READING: March 21, 2017

SECOND READING: April 18, 2017



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 19, 2016

Ms. Paula S. O'Neil
Clerk and Comptroller
The East Pasco Governmental Center
Pasco County
14236 6th Street, Suite 201
Dade City, Florida 33523

Attention: Marie Miller

Dear Ms. O'Neil:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your corrected electronic copy of Pasco County Ordinance No. 16-43, which was filed in this office on December 19, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

AN ORDINANCE BY THE PASCO COUNTY BOARD OF COUNTY COMMISSIONERS RELATING TO PUBLIC HEALTH AND SAFETY, ESTABLISHING A TEMPORARY MORATORIUM (365 DAYS) ON THE CULTIVATION, PROCESSING, OR DISPENSING OF CANNABIS; PROVIDING FOR ENFORCEMENT, VIOLATIONS AND PENALTY; APPLICABILITY; REPEALER; PROVIDING FOR SEVERABILITY, INCLUSION IN THE PASCO COUNTY LAND DEVELOPMENT CODE, AND AN EFFECTIVE DATE.

WHEREAS, in 2014, the Florida Legislature enacted Section 381.986, F.S., known as the "Compassionate Medical Cannabis Act of 2014;" and

WHEREAS, in 2016 the Florida Legislature enacted the "Right to Try Act," codified at Section 499.0295, Florida Statutes. This act amended the Compassionate Use Act and legalized the cultivation, production, and dispensing of "Medical Cannabis" and derivative products by a licensed dispensing organization to certain patients; and

WHEREAS, to date, the Department of Health has authorized six "Dispensing Organizations," as defined by state law, throughout the state of Florida; and

WHEREAS, on November 8, 2016, Florida voters approved the Amendment 2 ballot initiative, amending the Florida Constitution to legalize the cultivation, production, and dispensing of Medical Cannabis for a broader population of eligible patients; and

WHEREAS, the Amendment requires the Department of Health to issue regulations necessary to implement the Amendment and enforce restrictions in the Amendment "to ensure the availability and safe use of medical marijuana by qualifying patients." The Amendment requires the Department to promulgate regulations no later than six (6) months after the effective date of the Amendment; and

WHEREAS, it is anticipated that the regulations required of the Department will be initiated and authorized by the Florida Legislature in its upcoming 2017 session; and

WHEREAS, the cultivation, processing, and dispensing of cannabis as contemplated by Amendment 2 represent new land uses not currently authorized or provided for in the County's current regulations, and as new uses are not adequately addressed. The current county regulations do not provide for such uses as contemplated by Amendment 2 in any zoning district, and providing for such uses will

require amendment of the County's Land Development Code. Collateral regulations, such as a permitting/licensing system, may be appropriate in conjunction with amendment of the Land Development Code to provide for such uses contemplated by Amendment 2; and

WHEREAS, during the period of the moratorium, the Board finds that county staff should formulate and propose potential zoning districts and collateral regulations to provide for some or all of the uses contemplated by Amendment 2 within Pasco County;

WHEREAS, the Board hereby directs County staff to determine the zoning districts in which cultivation, processing, and/or dispensing of cannabis as contemplated by Amendment 2 are appropriate within Pasco County, and to study whether collateral regulations including a permitting/licensing system will protect and advance the public safety, health, and welfare; and

WHEREAS, the Board of County Commissioners finds and declares a need to impose a temporary moratorium on the cultivation, processing, or dispensing cannabis as contemplated by Amendment 2 within Pasco County, to allow the Department of Health to promulgate rules to implement Amendment 2, and to allow Pasco County time to create appropriate local regulations to provide for such uses, which are currently not authorized in any zoning district.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PASCO COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. AUTHORITY.

This Ordinance is enacted pursuant to Chapter 125, Fla. Stat. (2016), and under the home rule powers of the County in the interest of the health, peace, safety and general welfare of the people of Pasco County.

SECTION 2. LEGISLATIVE FINDINGS OF FACT.

The foregoing Whereas clauses, incorporated herein, are true and correct. The Board finds and declares that in the best interest of the general public there exists a need to enact an ordinance regulating the establishment of land uses related to the cultivation,

processing, or dispensing of cannabis in Pasco County as contemplated by Amendment 2. The Board further finds that in order for County staff to examine and make recommendations to the Board as to the criteria to be considered, if any, by the Board for the establishment such land uses, it is necessary to place a moratorium on the establishment such land uses beginning on the effective date of this Ordinance. All pending applications, if any, are subject to this Ordinance.

SECTION 3. INTENT AND PURPOSE.

It is the purpose and intent of this Ordinance to promote the health and general welfare of the residents of Pasco County through the analysis of upcoming Department of Health regulations implementing Amendment 2, and thorough consideration of criteria for approving the location of the following land uses within Pasco County: cultivation, processing, or dispensing of cannabis.

SECTION 4. TEMPORARY MORATORIUM IMPOSED.

The County hereby imposes a temporary moratorium on the use of any property for the cultivation, processing, or dispensing of cannabis as contemplated by Amendment 2, or the issuance of any permits authorizing the construction, or siting of a facility for the same. This moratorium is imposed pursuant to the County's police powers to protect the public health, safety and welfare of the community at large.

SECTION 5. DURATION OF MORATORIUM.

This moratorium shall remain in effect for 365 days from the effective date of this Ordinance or until such time as repealed by the County, whichever occurs first, and may be extended by resolution of the Board to the extent permitted by law.

SECTION 6. ENFORCEMENT, VIOLATIONS, AND PENALTY.

This moratorium may be enforced by any law or code enforcement officer. Any products or equipment found in connection with violation of this Ordinance may be

seized and held by the enforcing entity as evidence to be used in any further proceeding.

(a) Methods of enforcement. The requirements of this moratorium may be enforced as follows:

- (1) By citation for civil penalties pursuant to the authority granted by Section 125.69, Fla. Stat., Chapter 162, Part II, Fla. Stat. and/or Section 1-11 of the Pasco County Code of Ordinances. Each day of the violation shall constitute a separate offense, punishable by a fine not to exceed \$500.00 per count, or by imprisonment in the county jail not to exceed 60 days, by both such fine and imprisonment to the limits as set forth in Section 125.69, Fla. Stat., or if enforcement is pursued under Chapter 162, Fla. Stat., the fines shall be as set by the Board of County Commissioners. The County may also seek entry of a court order requiring compliance with this ordinance.
- (2) By an action for injunctive relief, civil penalties, or both, through a court of competent jurisdiction;
- (3) By revocation or temporary suspension of necessary permits and/or certificates or occupancy and/or licenses; and
- (4) By any other process permitted at law or equity.

Use of one enforcement process or theory does not preclude the County from seeking the same, different, or additional relief through other enforcement methods.

(b) Persons responsible for violation. Persons responsible for violations include:

- (1) any person who owns, operates, or manages an enterprise by which cannabis is cultivated, processed, or dispensed;
- (2) the owner of the premises (or lessee, if the premises are leased) where such activities occur;
- (3) any person in physical control of the activities which may occur on the premises;

- (4) if a responsible person is a corporate entity, the officers, directors, members, or other principals of the entity are jointly and severally responsible for violations by the entity; and
- (5) any other person causing or contributing to a violation.

SECTION 7. APPLICABILITY.

This Ordinance shall be applicable in both the unincorporated and the incorporated areas of Pasco County, except to the extent that a municipality adopts its own ordinance in conflict with this Ordinance, or by resolution chooses to "opt out" of the moratorium. To the extent that this Ordinance is applicable within a municipality, the County and the municipality shall have concurrent authority and jurisdiction to apply and enforce this Ordinance within the entirety of their jurisdictional boundaries. In addition to law enforcement officers who have the authority to enforce these provisions within their jurisdictions, municipal code compliance officers are specifically authorized and designated to enforce these provisions within the city limits of their jurisdiction to the extent such authorization/designation is required by law. County code compliance officers may enforce these provisions within the municipalities pursuant to a valid interlocal agreement.

SECTION 8. REPEALER.

Any Ordinance provisions in conflict herewith are hereby repealed only to the extent of such conflict.

SECTION 9. SEVERABILITY.

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding. In addition, this Ordinance will automatically sunset upon the effective date of any state or federal law that expressly preempts local government regulation of the subject matter and restrictions contained in this Ordinance.

SECTION 10. INCLUSION IN LAND DEVELOPMENT CODE.

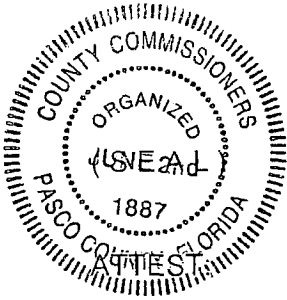
It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pasco County Land Development Code, and that the sections of this Ordinance may be renumbered or re-lettered and the word "Ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 11. EFFECTIVE DATE.

This Ordinance shall be transmitted to the Department of State by the Clerk to the Board by electronic mail within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon confirmation by the Department of State of its receipt.

[next page]

ADOPTED with a quorum present and voting this 13th day of December, 2016.



BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

APPROVED
IN SESSION

DEC 13 2016

PASCO COUNTY
BCC

By: Paula S. O'Neil
PAULA S O'NEIL, Ph.D., CLERK &
COMPTROLLER

By: Mike Moore, CHAIRMAN

ORDINANCE 17- 6

AN ORDINANCE TITLED THE HILLSBOROUGH COUNTY MEDICAL MARIJUANA LICENSING ORDINANCE; PROVIDING FOR SHORT TITLE AND AUTHORITY; PROVIDING FOR INTENT AND PURPOSE; PROVIDING FOR FINDINGS; PROVIDING FOR DEFINITIONS; PROVIDING PROCEDURES FOR THE APPROVAL OF MEDICAL MARIJUANA DISPENSING BUSINESSES AND MEDICAL MARIJUANA DISPENSING FACILITIES; PROVIDING FOR APPROVAL OF MEDICAL MARIJUANA DELIVERY BUSINESSES; PROVIDING FOR REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR APPLICABILITY AND EFFECTIVE DATE.

WHEREAS, the Florida Legislature enacted legislation legalizing marijuana for medical uses; and

WHEREAS, pursuant to Article 8 of the Florida Constitution and Section 125.66, Florida Statutes, Hillsborough County possesses the police powers to enact ordinances in order to protect the health, safety, and welfare of the County's citizens; and

WHEREAS, a comprehensive state licensing and regulatory framework for the cultivation, processing, and dispensing of Medical Marijuana 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 Medical Marijuana Dispensing Facilities may be determined by local ordinance; and

WHEREAS, Medical Marijuana Dispensing Facilities licensed pursuant to the law have begun dispensing medical marijuana within unincorporated Hillsborough County; and

WHEREAS, potential adverse impacts on the health, safety, and welfare of residents and businesses from secondary effects associated with the distribution of Medical Marijuana exist, potentially including: trespassing, theft, fire hazards, increased crime in and about a Medical Marijuana Dispensing Facility, robberies, negative impacts on nearby businesses, and nuisance problems; and

WHEREAS, certain of the above potential adverse impacts are accentuated by the current difficulties experienced by Medical Marijuana Dispensing Facilities in obtaining banking services necessitating such businesses to operate on a cash basis; and

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

WHEREAS, there is a need to adopt requirements for the identification and regulation of businesses carrying out the delivery of Medical Marijuana within unincorporated Hillsborough County; and

WHEREAS, there is a need to adopt health, safety, and welfare regulations to avoid adverse impacts on the community which may arise from the distribution of Medical Marijuana; and

WHEREAS, there is a need to ensure that the population of the unincorporated County will have access to the best qualified Medical Marijuana Dispensing Businesses, while at the same time maintaining competition in the industry; and

WHEREAS, other Florida jurisdictions that allow Medical Marijuana Dispensing Facilities have implemented effective regulatory and enforcement systems that address the adverse impacts that such facilities could pose to public safety, health, and welfare; and

WHEREAS, an effective regulatory system governing the Delivery and Dispensing of Medical Marijuana, as provided for in this ordinance, will address potential adverse impacts to the public health, welfare, and safety consistent with Florida law; and

WHEREAS, it is not the purpose or intent of this section to restrict or deny access to Medical Marijuana as permitted by Florida law, but instead to enact reasonable restrictions intended to protect the public health, safety, and welfare; and

WHEREAS, Hillsborough County has determined it is in the public interest to adopt this ordinance pursuant to its police powers and Section 381.986, Florida Statutes, as well as other applicable state laws and provisions of the Florida Constitution, to protect the health, safety, and welfare of the public;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, THAT THERE IS HEREBY ADOPTED "THE HILLSBOROUGH COUNTY MEDICAL MARIJUANA LICENSING ORDINANCE", AS SET FORTH HEREIN, TO BE INCORPORATED INTO THE HILLSBOROUGH COUNTY CODE OF ORDINANCES:

SECTION 1. RECITALS. The above recitals are true and correct and incorporated herein as though fully set forth below.

SECTION 2. ADOPTION OF MEDICAL MARIJUANA LICENSING REGULATIONS. Article XV "Medical Marijuana Licensing Regulations" of Chapter 10 "Businesses" is hereby enacted to read as follows:

ARTICLE XV. – MEDICAL MARIJUANA LICENSING REGULATIONS

Sec. 10-503. Title.

This Ordinance shall be known and may be cited as the "Medical Marijuana Licensing Ordinance."

Sec. 10-504. Legislative findings and authority.

- (a) The recitals set forth in the whereas clauses are incorporated herein. The BOCC finds and declares that there exists a need to enact an ordinance requiring the licensing and regulation of Medical Marijuana Dispensing Facilities and Medical Marijuana Delivery Businesses.
- (b) This Ordinance is enacted pursuant to Section 125.66, Florida Statutes, and Section 381.986, Florida Statutes, and under the home rule powers of Hillsborough County and is in the best interest of the health, peace, safety and general welfare of the people of Hillsborough County.

Sec. 10-505. - Purpose and intent.

The purpose and intent of this Ordinance is to promote the health, safety and general welfare of the residents of Hillsborough County through the regulation of Medical Marijuana Dispensing Facilities and Medical Marijuana Delivery Businesses. This Ordinance is intended to regulate the sale and distribution of Medical Marijuana to ensure a supply of Medical Marijuana to patients who are qualified to use and possess marijuana for medical use, pursuant to Florida law, while promoting compliance with other state laws which regulate marijuana. Nothing in this Ordinance shall prohibit an entity authorized by state law to dispense Medical Marijuana from making deliveries of Medical Marijuana to the residence or business of an authorized individual or health care 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 marijuana 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 unincorporated area of Hillsborough County.

Sec. 10-506. - Definitions.

- (a) The following words or phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section:

Applicant shall mean any person or entity that has submitted an application pursuant to this Ordinance. If the Applicant is an entity and not a natural person, Applicant shall identify all persons who are the managers, officers, directors, contractual agents, partners, and licensors of such entity, as well as all members, shareholders, or investors holding an ownership interest of 5% or more of such entity.

Caregiver shall mean the legal representative authorized to purchase and receive Medical Marijuana on behalf of a qualified patient.

Certificate of Approval shall mean a certificate issued pursuant to this Ordinance by the Department, officially authorizing an Applicant to operate a Medical Marijuana Dispensing Facility pursuant to this Ordinance. A Certificate of Approval generally authorizes an Applicant to establish and operate a Medical Marijuana Dispensing Facility pursuant to this Ordinance, but does not authorize the Dispensing of Medical Marijuana at any physical location within the Jurisdiction until a Premises Authorization, as defined herein, has been issued for such location. Each authorizes the issuance of a single Premises Authorization at any one time.

Code Enforcement Officer shall mean any employee designated as a code enforcement officer pursuant to Section 125.69, Florida Statutes or Section 162.21, Florida Statutes.

Department means the Department designated by the County Administrator to administer the mandates of this Ordinance.

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

Dispensing shall mean the retail sales of Medical Marijuana, but does not include making deliveries of Medical Marijuana to the residence or business of an authorized individual, or to a health care facility, as permitted by state law.

Employee shall mean a person authorized to act on behalf of the Medical Marijuana Dispensing Facility, whether that person is an employee or a contractor, and regardless of whether that person receives compensation.

Investor shall mean any person or entity holding an ownership interest of 5% or more who is entitled to share in the profits of the Applicant, or any Lender. The term shall not include any employees who share in the profits of the Applicant pursuant to an employee profit sharing program.

Lender shall mean any person or entity who has provided funds to an Applicant with the expectation of receiving from the Applicant repayment or the receipt from the Applicant of anything of value. The term Lender shall include any person who owns, directly or indirectly, 20% or more of any entity which qualifies as a Lender, but does not include any bank, credit union, or other financial institution created under federal or state law.

Medical Director shall mean a physician licensed pursuant to Chapters 458 or 459, Florida Statutes, designated under Florida law and specifically identified as responsible for the supervision of the dispensing activities conducted by the Medical Marijuana Dispensing Facility.

Medical Marijuana has the meaning given to it by Section 893.02(3), Florida Statutes, and shall include all forms of medical marijuana or low-THC marijuana, including Derivative Products.

Medical Marijuana Delivery Approval shall mean the approval granted to a Medical Marijuana Delivery Business to authorize the delivery of Medical Marijuana within unincorporated Hillsborough County.

Medical Marijuana Delivery Business shall mean any business making deliveries of Medical Marijuana to an authorized individual or to a health care facility, as permitted by state law.

Medical Marijuana Dispensing Business shall mean a business entity licensed to dispense Medical Marijuana pursuant to applicable state laws and that is engaged in the retail sale of Medical Marijuana within unincorporated Hillsborough County.

Medical Marijuana Dispensing Facility shall mean any establishment where Medical Marijuana is permitted to be dispensed at retail pursuant to any applicable state law and in accordance with this Ordinance.

Operator shall mean the person or entity to whom a Certificate of Approval or Medical Marijuana Delivery Approval has been issued pursuant to this Ordinance.

Owner shall mean any person, including any individual or other legal entity, with a direct or indirect ownership interest of five (5) percent or more in the applicant, which interest includes the possession of stock, equity in capital, or any interest in the profits of the applicant.

Premises shall mean the building, within which a *Medical Marijuana Dispensing Facility* is permitted to be operated, including the property on which the building is located.

Premises Authorization shall mean a document issued by the Department to the Operator, authorizing the Operator to conduct Medical Marijuana Dispensing Facility operations at a single, specifically approved physical location.

Qualified registered patient/qualified patient shall mean a person who has been added to the state's registry of lawful recipients of Medical Marijuana by a physician licensed under Florida law,

and authorized to receive Medical Marijuana, in accordance with Florida Statutes and all applicable rules.

State shall mean the State of Florida.

- (b) In addition to the definitions contained in subsection (a), 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 reference.

Sec. 10-507. - Certificate of Approval required.

Upon the effective date of this Ordinance, no Medical Marijuana Dispensing Business, as defined in this Ordinance, may operate in Hillsborough County without first obtaining a Medical Marijuana Dispensing Facility Certificate of Approval issued by the Department. Certificates of Approval shall be granted only for Medical Marijuana Dispensing Facilities that satisfy the requirements of this Ordinance, including the payment of the applicable application fees.

Sec. 10-508. - Application process and requirements.

- (a) It shall be unlawful for any person or entity to establish a Medical Marijuana Dispensing Business or operate a Medical Marijuana Dispensing Facility in Hillsborough County 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 Department a Certificate of Approval, and having obtained a Premises Authorization for the Medical Marijuana Dispensing Facility to be operated in connection with such business.
- (b) Each application for a Medical Marijuana Dispensing Facility Certificate of Approval shall be accompanied by a nonrefundable application fee set forth by resolution of the BOCC.
- (c) The Certificate of Approval and Premises Authorization 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, or to maintain a current Premises Authorization for any location at which a Medical Marijuana Dispensing Facility is located, shall constitute a violation of this Ordinance.
- (d) A Certificate of Approval issued by the 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 10-512.

Sec. 10-509. - Medical Marijuana Dispensing Facilities Established Prior to Approval of this Ordinance.

- (a) Upon the effective date of this Ordinance, each Medical Marijuana Dispensing Business operating in the unincorporated County shall be required to obtain a Certificate of Approval and Premises Authorization for each Medical Marijuana Dispensing Facility.
- (b) Medical Marijuana Dispensing Facilities which have been lawfully established prior to the effective date of this Ordinance shall be required to apply for a Certificate of Approval and renewal thereof, and issuance of a Premises Authorization. A Certificate of Approval shall be granted to a lawfully established Medical Marijuana Dispensing Facility upon the

Applicant's demonstration of compliance with the requirements of Sec. 10-510, and Sec. 10-513.

- (c) Medical Marijuana Dispensing Facilities which have been lawfully established prior to the effective date of this Ordinance shall also be required to comply with this Ordinance.

Sec. 10-510. – 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 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 County 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 County.
- 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.

Sec. 10-511. – 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 Marijuana Dispensing Facility including, without limitation, any development approvals or building permits required by this Code and the Land Development Code.

Sec. 10-512. - 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 Department 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) The applicant for renewal of a Certificate of Approval shall have the burden to demonstrate that the Medical Marijuana Dispensing 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 Marijuana Dispensing Facility has been operated in compliance with the terms and conditions of its approval; and
2. The Medical Marijuana Dispensing 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 Department shall determine whether the renewal meets the criteria of subsection (b) of this section.

(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.

(e) Any Premises Authorization issued under this Ordinance shall be deemed to expire on the date upon which the Certificate of Approval pursuant to which it is issued expires. Any Premises Authorization shall be deemed automatically renewed upon the renewal of the Certificate of Approval pursuant to which it is issued.

(f) In the event a Certificate of Approval is not renewed, the County Administrator shall provide notification that it has become available and shall award the Certificate of Approval in accordance with this Ordinance.

Sec. 10-513. - Persons 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.

Sec. 10-514. - Operational requirements for Medical Marijuana Dispensing Facilities.

Any Medical Marijuana Dispensing Facility operating under a Certificate of Approval shall comply with the following operational standards.

- (a) A Medical Marijuana Dispensing Facility shall not dispense from its premises Medical Marijuana or a cannabis delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver Medical Marijuana to qualified patients 24 hours each day.
- (b) No Medical Marijuana Dispensing Facility shall allow any marijuana to be smoked, ingested or otherwise consumed on the premises.
- (c) No Medical Marijuana Dispensing 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 Marijuana Dispensing 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 Marijuana Dispensing Facility.
- (e) All deliveries to the Medical Marijuana Dispensing Facility shall be made during regular operating hours while Medical Marijuana Dispensing Facility personnel are present.
- (f) With the application for Premises Authorization, 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, including:
 - a. A silent security alarm that notifies law enforcement or a private security agency that a crime is taking place;
 - b. A vault, drop safe or cash management device that provides minimum access to the cash receipts; and
 - c. 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 marijuana is stored.
 - (iv) The configuration of the facility shall include a waiting area that provides adequate seating without requiring waiting outside of the facility building.
- (g) The Medical Marijuana Dispensing Facility shall employ cash and inventory controls for all stages of operation on the premises, and during transitions and delivery.
- (h) The Medical Marijuana Dispensing Facility shall store all Medical Marijuana in a secured, locked room or a vault.
- (i) The Medical Marijuana Dispensing Facility shall require each employee or contractor to wear a photo identification badge at all times while on the premises.
- (j) The Medical Marijuana Dispensing Facility shall report to the Hillsborough County Sheriff's Office and the Department within 24 hours after it is notified or becomes aware of the theft, diversion, or loss of Medical Marijuana.
- (k) The Medical Marijuana Dispensing Facility shall implement an alcohol and drug-free workplace policy.
- (l) Notwithstanding other provisions of the Land Development Code, signage for a Medical Marijuana Dispensing Facility shall be limited as follows:
 - 1. Graphics, logos and symbols shall be prohibited;
 - 2. Neon shall be prohibited;
 - 3. Signs shall not be internally illuminated; and
 - 4. Signage not reference the word "marijuana" or otherwise use language that openly advertises the presence of marijuana on the premises.
- (m) It shall be unlawful for any Medical Marijuana Dispensing Facility in unincorporated Hillsborough County to employ any person who has not successfully passed a level 2 background screening pursuant to Section 435.04, Florida Statutes.
- (n) The Medical Marijuana Dispensing Facility shall require the following prior to dispensing of Medical Marijuana:
 - 1. The employee who dispenses Medical Marijuana 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 Marijuana or a cannabis delivery device shall, prior to dispensing any order of Medical Marijuana or a cannabis delivery device, verify

- in the compassionate use registry that a qualified ordering physician has ordered the Medical Marijuana and/or a specific type of a cannabis delivery device for the patient.
3. The employee who dispenses Medical Marijuana 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 Marijuana or a cannabis delivery device shall, prior to dispensing the Medical Marijuana 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 Marijuana or a cannabis delivery device shall, upon dispensing the Medical Marijuana, or cannabis delivery device, record in the registry the date, time, quantity, and form of Medical Marijuana and the type of cannabis delivery device dispensed.
- (o) 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 Marijuana Dispensing 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.
- (p) Medical Marijuana 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 marijuana originated; and
 4. The batch number and harvest number from which the medical marijuana originated.
- (q) A Medical Marijuana Dispensing Facility shall retain records of all testing required by Florida law, and shall retain samples of each homogenous batch of Medical Marijuana, 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.
- (r) Medical Marijuana dispensed by the facility shall comply with the Florida Drug and Cosmetic Act, Section 499.001, Florida Statutes et seq.
- (s) The dispensing of Medical Marijuana and authorized cannabis delivery devices shall be the sole use of the premises. No other goods or services shall be provided on the premises.
- (t) Each Medical Marijuana Dispensing Facility shall comply with all applicable requirements of state and federal law, and shall comply with the following requirements:

1. Conform to all applicable building statutes, codes, ordinances, and regulations, whether federal, state, or local;
2. Conform to all applicable fire statutes, codes, ordinances, and regulations, whether federal, state, or local;
3. Conform to all applicable health statutes, codes, ordinances, and regulations, whether federal, state, or local; and
4. Conform to all applicable zoning and development regulations, including but not limited to the County Land Development Code.

Sec. 10-515. – Requirements for ongoing compliance and inspections.

- (a) A valid Certificate of Approval and Premises Authorization issued pursuant to this Ordinance shall be prominently displayed in a common public area of the facility within ten (10) days of issuance.
- (b) In the event any information contained in the application materials submitted for a Certificate of Approval or Premises Authorization changes, an updated application must be filed with the Department within ten days of the change. Failure to do so will result in Certificate of Approval revocation and penalty as provided for in this Ordinance.
- (c) Whenever ownership or management of a Medical Marijuana Dispensing Facility is changed from the ownership and management approved at the time of approval of the Certificate of Approval, written notification of such change shall be provided by the Operator to the Department at least ten (10) days prior to the change. Adequate supplemental documentation shall be provided to demonstrate that all owners, investors, and managers have successfully passed a level 2 background screening pursuant to Section 435.04, Florida Statutes, and have not been convicted of any felonies involving fraud, false representation, or distribution of controlled substances. Ownership or management interests shall not be transferred until the requirements of this subsection have been satisfied.
- (d) A valid business tax receipt must be maintained by the facility.
- (e) Each Medical Marijuana Dispensing Facility shall be required to undergo an annual inspection by the Department for purposes of evaluating continued compliance with Sec. 10-513 and Sec. 10-514 of this Ordinance. At the time of the annual inspection, the Operator shall be required to provide a sworn or affirmed statement that identifies changes to the application materials previously submitted, if any, or that the previously submitted information remains correct, and provides confirmation that the Operator and facility remains in compliance with all requirements and standards of this Ordinance.
- (f) The Department may perform inspection(s) of a premises as necessary to determine whether or not the application submitted is accurate in all respects and to verify compliance with the requirements contained in Sec. 10-513 and Sec. 10-514 of this Ordinance.
- (g) Any code enforcement officer, law enforcement officer, or any other persons authorized to enforce County ordinances must be allowed access for inspections of the Medical Marijuana Dispensing Facility premises at any time a staff person is present, for the purposes provided in this section. Failure to allow for inspection of the premises at any time by a code enforcement officer, law enforcement officer, or any other person authorized to enforce ordinance violations at any time a staff person is present shall be a violation of this Ordinance.

Sec. 10-516. – Premises Authorization Requirements

- (a) After obtaining a Certificate of Approval, and prior to dispensing Medical Marijuana, an Operator shall select a location for its Medical Marijuana Dispensing Facility, and provide notice to the Department of the proposed facility location, identify the Certificate of Approval the proposed location will be associated with, and request issuance of Premises Authorization for such location. Such request shall be provided a minimum of 10 days prior to the dispensing of any Medical Marijuana from the location, and shall identify the location of the Medical Marijuana Dispensing Facility from which dispensing will occur.
- (b) Premises Authorization shall be granted for any location which complies with the requirements of this Ordinance and has demonstrated compliance with the County Land Development Code and all other applicable requirements.
- (c) Amendment of a Certificate of Approval and Premises Authorization solely to change the location of a Medical Marijuana Dispensing Facility shall not be denied so long as all other conditions for the issuance of a Certificate of Approval have been met and the new location complies with all premises requirements set forth in this Ordinance and all applicable Land Development Code requirements.

Sec. 10-517. - Inspection of approved premises and issuance of Premises Authorization.

- (a) During business hours and other times of apparent activity, all approved premises shall be subject to inspection by the Administrator of this Ordinance, the Fire Chief, the Building Official, County Sheriff, or the authorized representative of any of them, for the purpose of investigating and determining compliance with Sec. 10-513 and Sec. 10-514 of this Ordinance and the applicable fire and building codes. Where any part of the premises requiring inspection for purposes of this subsection consists of a locked area, such area shall be made available for inspection, without delay, upon reasonable request.
- (b) Medical Marijuana may not be dispensed pursuant to a Certificate of Approval until the proposed premises have been inspected to determine compliance of the premises pursuant to subsection (a), and has issued Premises Authorization.
- (c) The Department shall, within 10 days of receipt of a request for Premises Authorization, and after inspection of the premises to be utilized in accordance with this section, notify the Certificate holder that it may begin dispensing Medical Marijuana at that premises and issue a Premises Authorization to the Certificate holder, or provide to the Operator written notice detailing the reasons the selected location does not comply with this Ordinance. A Premises Authorization issued pursuant to this Ordinance shall specify the Certificate of Approval pursuant to which it is issued, all information set forth on the Certificate of Approval, and the physical location of the premises approved, once such approval is received.

Sec. 10-518. –Medical Marijuana Delivery by Medical Marijuana Delivery Businesses.

Upon the effective date of this Ordinance, no Medical Marijuana Delivery Business, as defined in this Ordinance, may deliver Medical Marijuana within unincorporated Hillsborough County 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 a Medical Marijuana Delivery Approval issued by the Department in accordance with the following requirements.

- (a) Each application for a Medical Marijuana Delivery Approval shall be accompanied by a nonrefundable application fee in the amount of \$50. The application fee is in addition to the \$50 renewal fee due upon renewal of the Medical Marijuana Delivery Approval every five (5) years. Any changes to the application fees authorized by this Ordinance may be accomplished by resolution of the BOCC without the need to amend this Ordinance.
- (b) A Medical Marijuana Delivery Approval issued by the Department pursuant to this Ordinance shall specify the date of issuance, the period of licensure, and the name of the Medical Marijuana Delivery Business. A Medical Marijuana Delivery Approval issued under this Ordinance shall expire five (5) years after the date of its issuance.
- (c) Renewal of an existing Medical Marijuana Delivery Approval shall be automatic for successive five year periods upon payment of required fees to the Department.
- (d) Within the 30 days prior to the expiration date of an existing Medical Marijuana Delivery Approval, each Operator shall pay a nonrefundable renewal fee as set forth in the fee schedule adopted from time to time, to defray the costs incurred by the Department for review of the application, 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 Medical Marijuana Delivery Approval.
- (e) A Medical Marijuana Delivery Approval shall be revoked if an Operator fails to remit a renewal fee prior to the expiration of the Certificate of Approval. Notwithstanding the expiration and revocation, an Operator whose Medical Marijuana Delivery Approval has been revoked for not more than 30 days may be reinstated upon the payment of a late fee, as set forth in the fee schedule adopted from time to time.
- (f) An Applicant for a new Medical Marijuana Delivery Approval, or a Medical Marijuana Delivery Business seeking to change the ownership of an existing Medical Marijuana Delivery Approval, pursuant to the Compassionate Use Act, any other applicable state law, and the provisions of this Ordinance, shall submit an application to the Department and shall provide the following information and documentation:
 - 1. 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 Medical Marijuana Delivery Business pursuant to the Compassionate Use Act or any other relevant law;
 - 2. Identifying information, including license plate numbers and vehicle identification numbers, for each vehicle which will be engaged in the vehicle delivery of Medical Marijuana within the unincorporated county.
 - 3. Evidence that the Applicant continues to meet all requirements of Section 381.986(5)(b)(1), Florida Statutes; and
 - 4. Evidence that each employee or agent who will be engaged in the vehicle delivery of Medical Marijuana within the unincorporated county has successfully passed a level 2 background screening pursuant to Section 435.04, Florida Statutes.
- (g) The Medical Marijuana Delivery Business shall have a continuing obligation to update the above required documentation to ensure that at no time a Medical Marijuana Delivery

Business operates in unincorporated Hillsborough County utilizing personnel who have not met the requirements of subparagraph (f)(4) or utilizes a vehicle for which information has not been submitted as required by subparagraph (f)(2).

Sec. 10-519. - Grounds for Certificate of Approval or Medical Marijuana Delivery Approval revocation.

(a) The Department may revoke or refuse to renew a Certificate of Approval or Medical Marijuana Delivery Approval for any of the following reasons, after notice and opportunity to cure is given:

(b) For revocation of a Certificate of Approval, the Applicant or Operator, or his or her agent, manager, or employee, have violated, do not meet, or have failed to comply with any of the terms, requirements, or provisions of this Ordinance or with any applicable state law or regulation, and only if such failure materially impacts the accessibility, availability, or safety of the Medical Marijuana, or impacts the safety of persons at the Medical Marijuana Dispensing Facility.

1. The Department shall provide notice of any of the above deficiencies accompanied by a 30 calendar day period in which to cure such deficiencies.

2. Within 30 days of receipt of a notice of deficiencies, the Operator shall submit to the Department a plan to correct such deficiencies.

3. The Operator must execute the plan within 30 days of the date the plan was submitted to the Department.

4. If a plan is not timely submitted, or the plan is not timely executed, the Department may proceed to revoke the Certificate of Approval.

5. Notwithstanding the foregoing, upon a finding by the Department for good cause shown that the continued operation of the Medical Marijuana Dispensing Facility presents an imminent and immediate grave threat to the public health or safety, the Department may issue an emergency order directing the Operator to temporarily cease sales at that location pending resolution of the deficiency.

(c) If dispensing fails to occur within 18 months of a Certificate of Approval being issued, the Certificate shall be revoked.

(d) For revocation of a Medical Marijuana Delivery Approval, the Applicant or Operator, or his or her agent, manager, or employee, have violated, do not meet, or have failed to comply with any of the terms, requirements, or provisions of this Ordinance or with any applicable state law or regulation, and only if such failure materially impacts the accessibility, availability, or safety of the transport and delivery of Medical Marijuana within the unincorporated county.

1. The Department shall provide notice of any of the above deficiencies accompanied by a 30 calendar day period in which to cure such deficiencies.

2. Within 30 days of receipt of a notice of deficiencies, the Operator shall submit to the Department a plan to correct such deficiencies.

3. The Operator must execute the plan within 30 days of the date the plan was submitted to the Department.

4. If a plan is not timely submitted, or the plan is not timely executed, the Department may proceed to revoke the Medical Marijuana Delivery Approval.

5. Notwithstanding the foregoing, upon a finding by the Department for good cause shown that the continued operation of the Medical Marijuana Delivery Business presents an imminent and immediate grave threat to the public health or safety, the Department may issue an emergency order directing the Operator to temporarily cease delivery within the unincorporated county pending resolution of the deficiency.

Sec. 10-520. – Review of Certificate of Approval or Medical Marijuana Delivery Approval denial or revocation.

- (a) The Department shall provide written notice, with proof of delivery, of the denial of any new or renewal Certificate of Approval or Medical Marijuana Delivery Approval, or revocation of an existing approval, specifying in writing the grounds for the denial or revocation.
- (b) The applicant for Certificate of Approval or Medical Marijuana Delivery Approval whose application has been denied (except for an incomplete application) may request a formal review of the denial before the Department's assigned hearing officer if the applicant asserts that the denial was erroneous.
 - 1. The applicant must submit a written request for review indicating the specific alleged error or errors made by the Department along with any and all facts and documents that support the applicant's position that the decision to deny the application was in error. The request must be received by the Department within ten (10) business days of the delivery date of the denial notice.
 - 2. The review shall be performed by an independent hearing officer appointed by the County to perform license reviews and hearings. The hearing officer shall review the applicant's request and all supporting documents to determine if by the preponderance of the evidence, sufficient cause exists to grant a hearing on the request. In the event the applicant's request and supporting documents do not state a prima facie case that error has occurred, the hearing officer may summarily dismiss the request and notify the applicant in writing of the dismissal. Whenever, in the opinion of the hearing officer, an applicant's request and supporting documentation establishes a prima facie case of error, a hearing will be set and conducted for the hearing officer to rule upon the matter. The standard of review shall be whether, based on clear and convincing evidence, the facts support the denial.
- (c) The holder of a Certificate of Approval, or Medical Marijuana Delivery Approval, whose approval has been revoked may request a hearing before the assigned hearing officer.
 - 1. The applicant must submit a written request for hearing, which must be received by the Department within ten (10) business days of the delivery date of the revocation notice.
 - 2. A hearing will be set and conducted by an independent hearing officer appointed by the County to perform reviews and hearings. The standard of review shall be whether, based on clear and convincing evidence, the facts support the revocation.
- (d) The County Administrator shall adopt a policy establishing review and hearing procedures. Reviews and hearings will be conducted in accordance with that policy. In addition to other

powers of the hearing officer as set forth under the County Administrator's policy, the hearing officer shall have the power to issue subpoenas for the production of documents and attendance of witnesses at a hearing, upon the written request of either the Department or applicant or approval holder. The decision of the hearing officer shall be final.

Sec. 10-521. - Violations.

It shall be unlawful for any person to violate any provision of this Ordinance or to operate a Medical Marijuana Dispensing Facility without a valid County-issued Medical Marijuana Dispensing Facility Certificate of Approval and Premises Authorization.

Sec. 10-522. - Service of notice; public records.

- (a) Any notice required by this Ordinance shall be in writing and sent by certified mail or hand delivery to the mailing address set forth on the application for the Medical Marijuana Dispensing Facility Certificate of Approval, except that notices for Code violations shall be provided in the manner prescribed in Chapter 14 of this Code. The mailing address included in the application shall be considered the correct mailing address. It shall be the obligation of the holder of the Medical Marijuana Dispensing Facility Certificate of Approval to provide the Department with notification of its updated address for notice purposes.
- (b) Any information contained in any application or submission under this Ordinance is subject to the public records law, Chapter 119, Florida Statutes, unless specifically exempted by law.

Sec. 10-523. - Enforcement and penalties.

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

- (a) Any violations of this Ordinance may be prosecuted in any or all of the following manners:

1. Pursuant to the provisions of Section 125.69, Florida Statutes, any person violating these provisions may be subject to prosecution in the name of the State in the same manner as misdemeanors are prosecuted; and, upon conviction, such person shall be punished by a fine not to exceed \$500.00, or by imprisonment in the County jail not to exceed 60 days, or by both such fine and imprisonment;
2. In addition to or in lieu of any other remedy, any person who violates this section may be subject to administrative actions as authorized in Chapter 162, Florida Statutes, (Parts I and/or II) and outlined in Hillsborough County Code of Ordinances and Laws, Part A, Chapter 14, as amended.
3. A Hearing Master may be appointed and shall have jurisdiction to conduct hearings and decide if a person has failed to comply with any of the relevant provisions in this Ordinance. A Hearing Master shall have all of the powers granted to them by Resolution of the BOCC.
4. Nothing contained herein shall prevent the County from taking such other lawful action in law and equity as may be necessary to remedy any violation of, or refusal to comply with, any part of this Ordinance, including, but not limited to, pursuit of injunctive and/or declaratory relief and/or injunction, or other equitable relief in a court of competent jurisdiction, or initiating an action to recover any and all damages that may result from a violation of, or refusal to comply with, any part of this Ordinance.
5. Each day of a continuing violation shall constitute a separate violation

(b) Nothing contained herein shall prevent the County from taking such other lawful action in law and equity as may be necessary to remedy any violation of, or refusal to comply with, any part of this Ordinance, including but not limited to:

1. Revocation of the Certificate of Approval for the Medical Marijuana Dispensing Business, or revocation of the approval for the Medical Marijuana Delivery Business, in accordance with this Ordinance; or
2. Initiating any action to recover any and all damages that may result from a violation of or refusal to comply with any part of this Ordinance; or
3. Utilizing any other action or enforcement method allowable by law.

Sec. 10-524. - No County liability; indemnification; no defense.

- (a) By accepting a Certificate of Approval and Premises Authorization issued pursuant to this Ordinance, the Operator waives any claim concerning, and releases the County, its officers, elected officials, employees, attorneys and agents from, any liability for injuries or damages of any kind that result from any arrest or prosecution of business owners, Operators, employees, clients, or customers of the Operator for a violation of state or federal laws, rules, or regulations.
- (b) By accepting a Certificate of Approval and Premises Authorization issued pursuant to this Ordinance, all Operators, jointly and severally if more than one, agree to indemnify, defend, and hold harmless the County, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims, and demands on account of any injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the Medical Marijuana Dispensing Facility that is the subject of the Certificate of Approval and Premises Authorization.
- (c) The issuance of a Certificate of Approval and Premises Authorization pursuant to this Ordinance shall not be deemed to create an exception, defense, or immunity for any person in regard to any potential criminal liability the person may have under state or federal law for the cultivation, possession, sale, distribution, or use of Medical Marijuana.

Sec. 10-525. – Severability.

If any section, subsection, sentence, clause, phrase or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

STATE OF FLORIDA }
COUNTY OF HILLSBOROUGH }

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board at its regular meeting on the 7th day of March, 2017, by a vote of 7 voting yes and 0 voting no, as the same appears in record in Minute Book 490 of the Public Records of Hillsborough County, Florida

WITNESS my hand and official seal this 9th day of March, 2017.

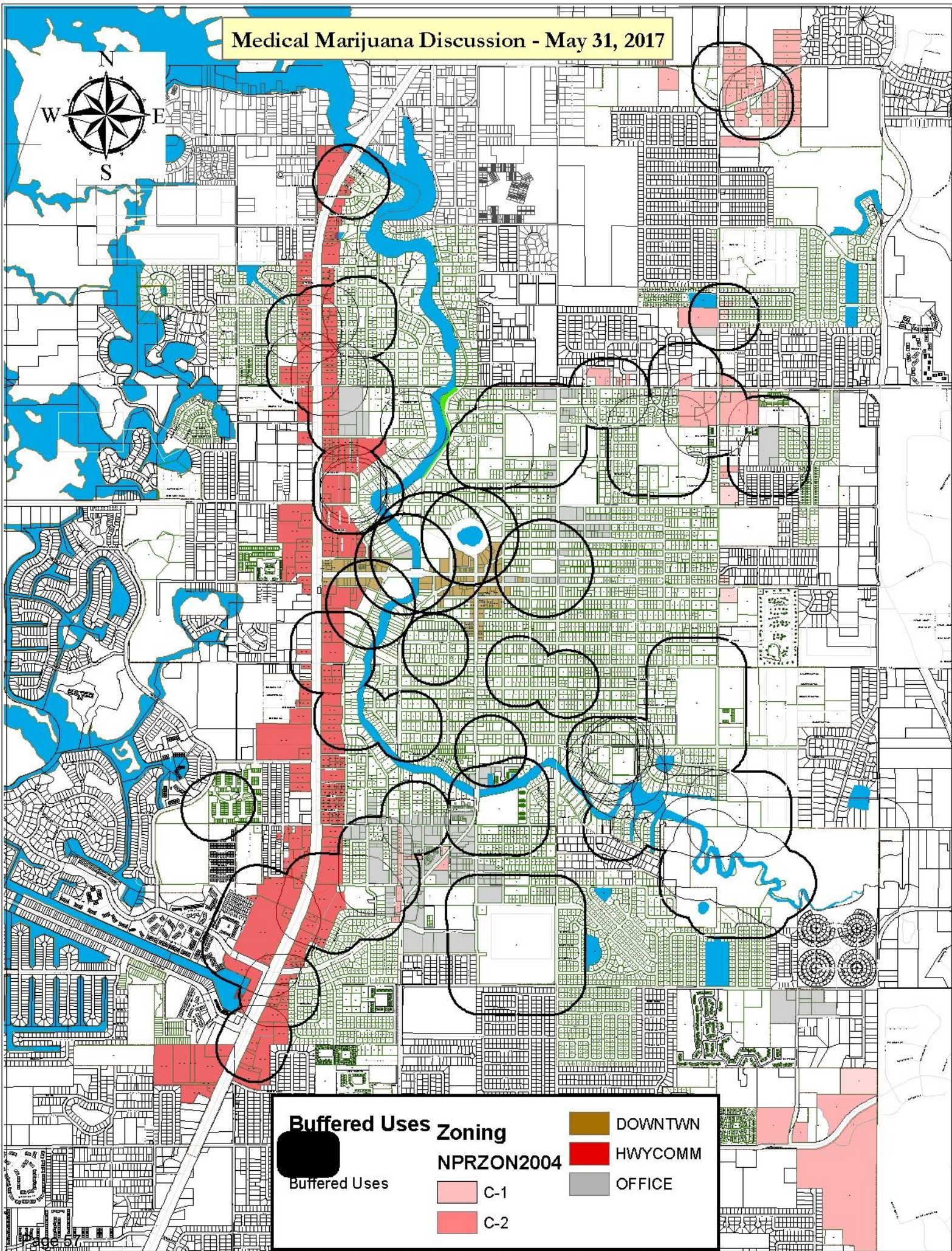
PAT FRANK
CLERK OF THE CIRCUIT COURT

BY: M. J. O'K. Di
Deputy Clerk



Approved By County Attorney
As To Form and Legal Sufficiency:

By: J. H. S.
Assistant County Attorney



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Buffered Uses

Zoning

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