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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 2003-067, AS AMENDED, AS FOLLOWS: **ESTABLISHING REGULATIONS RELATED TO MEDICAL MARIJUANA DISPENSING FACILITIES AND SUNSETTING THE MEDICAL MARIJUANA MORATORIUM**, AMENDING **ARTICLE 1, GENERAL PROVISIONS**; CHAPTER I, DEFINITIONS AND ACRONYMS; **ARTICLE 2, DEVELOPMENT REVIEW PROCEDURES**: CHAPTER B, PUBLIC HEARING PROCESS; **ARTICLE 4, USE REGULATIONS**: CHAPTER B, USE CLASSIFICATION; PROVIDING FOR: INTERPRETATION OF CAPTIONS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; A SAVINGS CLAUSE; INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND, AN EFFECTIVE DATE.

WHEREAS, in 2014, the Florida Legislature enacted a separate but significantly more narrow medical marijuana law, the "Compassionate Medical Cannabis Act of 2014," codified in Section 381.986, Florida Statutes, which authorizes a limited number of nurseries to cultivate, process, and dispense low-THC cannabis to qualified patients and operate as "dispensing organizations;" and

WHEREAS, on November 8, 2016, Florida voters approved an amendment to the Florida Constitution entitled "Use of Marijuana for Debilitating Medical Conditions" ("Amendment 2"); and

WHEREAS, Amendment 2 legalizes the medically certified use of marijuana throughout the State of Florida and authorizes the cultivation, processing, distribution, and sale of marijuana, and related activities, by licensed "Medical Marijuana Treatment Centers;" and

WHEREAS, on June 23, 2017, the Florida Legislature amended numerous provisions of Section 381.986, Florida Statutes to expand compassionate use of medical marijuana including how local governments regulate Medical Marijuana Treatment Center (MMTC) dispensing facilities; and provided additional regulation of the Department of Health with regard to medical cannabis; and

WHEREAS, Florida Statute, Chapter 2017-232, allows local governments to ban or establish limited regulations for permitting and siting MMTC dispensing facilities; and

WHEREAS, the Board of County Commissioners has determined it is not appropriate to ban MMTC dispensing facilities; and

WHEREAS, Chapter 2017-232 does not permit local governments to place more restrictive regulations on MMTC dispensing facilities than its ordinances for permitting or for determining the locations for pharmacies licensed under Chapter 465, Florida Statutes; and

WHEREAS, Chapter 64-4 "Compassionate Use" of the Florida Administrative Code has been enacted to regulate the Department of Health with regard to the requirements for dispensing organizations, including procedures for application, review, approval, inspection, and authorization of dispensing organizations, and the Department of Health has commenced its application and review process; and

1 **WHEREAS**, due to the historical prohibition of marijuana, Palm Beach County does not
2 currently have any land development regulations governing the use of real property for the
3 purposes of cultivating, processing, distributing, or selling marijuana, or related activities, and
4 such uses are not permissible within the unincorporated area; and

5 **WHEREAS**, Chapter 2017-232 provides that MMTC dispensing facilities may not be
6 located within 500 feet of a public or private elementary, middle or secondary school unless the
7 city or county approves the location through a formal proceeding open to the public at which the
8 city or county makes a finding that the location promotes the public health, safety and general
9 welfare of the community; and

10 **WHEREAS**, the Land Development Regulation Commission has found these
11 amendments to the ULDC to be consistent with the Palm Beach County Comprehensive Plan;
12 and

13 **WHEREAS**, the BCC hereby elects to conduct its public hearings on this Ordinance at
14 9:30 a.m.; and

15 **WHEREAS**, the BCC has conducted public hearings to consider these amendments to
16 the ULDC in a manner consistent with the requirements set forth in Section 125.66, Florida
17 Statutes.

18

19 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
20 **PALM BEACH COUNTY, FLORIDA, as follows:**

21 **Section 1. Adoption**

22 The amendments set forth in Exhibits listed below, attached hereto and made a part
23 hereof, are hereby adopted.

24

25 **Section 2. Interpretation of Captions**

26 All headings of articles, sections, paragraphs, and sub-paragraphs used in this
27 Ordinance are intended for the convenience of usage only and have no effect on interpretation.

28

29 **Section 3. Repeal of Laws in Conflict**

30 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
31 repealed to the extent of such conflict.

32

33 **Section 4. Severability**

34 If any section, paragraph, sentence, clause, phrase, word, map, diagram, or any other
35 item contained in this Ordinance is for any reason held by the Court to be unconstitutional,

36 inoperative, void, or otherwise invalid, such holding shall not affect the remainder of this
37 Ordinance.

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Section 5. Savings Clause

All development orders, permits, enforcement orders, ongoing enforcement actions, and all other actions of the Board of County Commissioners, the Zoning Commission, the Development Review Officer, Enforcement Boards, all other County decision-making and advisory boards, Special Masters, Hearing Officers, and all other County officials, issued pursuant to the regulations and procedures established prior to the effective date of this Ordinance shall remain in full force and effect.

Section 6. Inclusion in the Unified Land Development Code

The provisions of this Ordinance shall be codified in the Unified Land Development Code and may be reorganized, renumbered or re-lettered to effectuate the codification of this Ordinance.

Section 7. Providing for an Effective Date

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the 28th day of September, 2017.

SHARON R. BOCK, CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

By: 
Deputy Clerk

By: 
Paulette Burdick, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: 
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the 28th day of September, 2017.

EXHIBIT A

MEDICAL MARIJUANA DISPENSING FACILITY
SUMMARY OF AMENDMENTS

(Updated 6/20/17)

Part 1. ULDC, Art. 1.1.2.M.30, Medical Marijuana Dispensing Organization [Related to Definitions] (page 69 of 110), is hereby amended as follows:

CHAPTER I DEFINITIONS & ACRONYMS

Section 2 Definitions

M. Terms defined herein or referenced in this Article shall have the following meanings:

~~30. Medical Marijuana Dispensing Organization — means an organization approved by the Florida Department of Health to cultivate, process, and dispense low-THC cannabis or medical cannabis pursuant to Fla. Stat. § 381.986.~~

[Renumber Accordingly]

Part 2. ULDC, Art. 2.B.2.G.2, Applicability [Related to Type 2 Waivers] (page 28 of 88), is hereby amended as follows:

CHAPTER B PUBLIC HEARING PROCESS

Section 2 Conditional Uses, Development Order Amendments, Unique Structures and Type II Waivers

G. Type II Waivers

2. Applicability

Requests for Type II Waivers shall only be permitted where expressly stated within the ULDC. [Ord. 2011-016] [Ord. 2012-027]

Table 2.B.2.G - Summary of Type II Waivers

Type II Waiver Summary List
....
<u>Art. 4.B.2.C.32.h, Medical Marijuana Dispensing Facility</u>
[Ord. 2012-027] [Ord. 2016-016] [Ord. 2016-020] [Ord. 2017-007]

3. Standards

When considering a Development Order application for a Type II Waiver, the BCC shall consider the standards indicated below and any other standards applicable to the specific Type II Waiver as contained in this Code. A Type II Waiver, which fails to meet any of the standards, shall be deemed adverse to the public interest and shall not be approved. [Ord. 2011-016] [Ord. 2012-027]

- a. The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the Zoning district or Overlay; [Ord. 2010-022] [Ord. 2011-016] [Ord. 2012-027]
- b. The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and, [Ord. 2010-022] [Ord. 2012-027]
- c. The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties. [Ord. 2010-022] [Ord. 2012-027]
- d. For the purpose of Medical Marijuana Dispensing Facility in Art. 4.B.2.C.34.h, the BCC shall make the determination that the location of a medical marijuana dispensing facility promotes the health, safety and welfare of the community.

Part 3. ULDC Art. 4.B.2.C.34, Retail Sales, is hereby amended as follows:

CHAPTER B SUPPLEMENTAL USE STANDARDS

Section 2 Commercial Uses

C. Definitions and Supplementary Use Standards

34. Retail Sales

a. Definition

An establishment providing general retail sales or rental of goods, but excluding those uses specifically classified as another use type.

Notes:

Underlined indicates **new** text.

~~Stricken~~ indicates text to be **deleted**. ~~Stricken-and-italicized~~ means text to be totally or partially relocated. If being relocated destination is noted in bolded brackets [Relocated to:].

Italicized indicates text to be relocated. Source is noted in bolded brackets [Relocated from:].

.... A series of four bolded ellipses indicates language omitted to save space.

EXHIBIT A

MEDICAL MARIJUANA DISPENSING FACILITY SUMMARY OF AMENDMENTS

(Updated 6/20/17)

1 **b. Typical Uses**

2 Retail Sales may include but are not limited to clothing stores, bookstores, business
3 machine sales, food and grocery stores, window tinting, marine supply sales (excluding
4 boat sales), auto accessories and parts, building supplies and home improvement
5 products, monument sales, printing and copying, and pharmacies and medical marijuana
6 dispensing facilities. Uses shall also include the sale of bulky goods such as household
7 goods, lawn mowers, mopeds.

8
9 **h. Medical Marijuana Dispensing Facility**

10 **1) Definition**

11 A facility, operated by a Medical Marijuana Treatment Center (MMTC) in accordance
12 with the Florida Department of Health as a medical marijuana dispensing facility, that
13 dispenses medical marijuana to qualified patients or caregivers. A medical marijuana
14 dispensing facility does not prepare, transfer, cultivate or process any form of
15 marijuana or marijuana product.

16 **2) Location**

17 Medical marijuana dispensing facility shall not be located within 500 feet of an existing
18 Elementary or Secondary School, unless approved as a Type 2 Waiver.

19
20
21 **Part 4. ULDC Art. 4.B.2.D, Medical Marijuana Moratorium, is hereby deleted as follows:**

22 **CHAPTER B SUPPLEMENTAL USE STANDARDS**

23 **Section 2 Commercial Uses**

24 **~~D. Medical Marijuana Moratorium~~**

- 25 ~~1. The Board of County Commissioners of Palm Beach County does hereby impose a moratorium~~
26 ~~beginning on the effective date of this ordinance, upon the acceptance of zoning applications~~
27 ~~and all applicable requests for zoning approval for Medical Marijuana Treatment Centers and~~
28 ~~Medical Marijuana Dispensing Organizations in unincorporated Palm Beach County. While the~~
29 ~~moratorium is in effect the County shall not accept, process or approve any application relating~~
30 ~~to the zoning approval of a Medical Marijuana Treatment Center or Medical Marijuana~~
31 ~~Dispensing Organization. This moratorium does not prohibit the medical use of marijuana, low~~
32 ~~THC cannabis or medical cannabis by a qualifying patient as determined by a licensed Florida~~
33 ~~physician, pursuant to Amendment 2, Sec. 381.986, Fla. Stat., or other Florida law.~~
34 ~~2. This Ordinance shall expire upon the earlier of the following: one year from the effective date~~
35 ~~of this ordinance or upon the effective date of Unified Land Development Code amendments~~
36 ~~dealing with Medical Marijuana Treatment Centers and Medical Marijuana Dispensing~~
37 ~~Organizations.~~

Notes:

Underlined indicates **new** text.

~~Stricken~~ indicates text to be **deleted**. ~~Stricken and italicized~~ means text to be totally or partially relocated. If being relocated destination is noted in bolded brackets [**Relocated to:**].

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