

**PALM BEACH COUNTY  
PLANNING, ZONING AND BUILDING DEPARTMENT  
ZONING DIVISION**

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**UNIFIED LAND DEVELOPMENT CODE (ULDC) AMENDMENTS**

**TITLE: MEDICAL MARIJUANA DISPENSING FACILITIES – FIRST READING AND REQUEST TO ADVERTISE FOR ADOPTION HEARING**

**Staff Recommendation:** Staff recommends approval of First Reading and to Advertise for Adoption Hearing on September 28, 2017.

**LDRAB/LDRC:** Land Development Regulation Advisory Board (LDRAB) Recommendation and Land Development Regulations Commission (LDRC) Determination: Recommended approval of the proposed amendments on July 26, 2017. All proposed ULDC amendments were found to be consistent with the Comprehensive Plan.

**BCC Public Hearings:** July 27, 2017, Request for Permission to Advertise for First Reading on August 24, 2017: Approved (5-0).

**MOTION:** To approve on First Reading and Advertise for Adoption Hearing on September 28, 2017: 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.**

**EXHIBIT A – Medical Marijuana Dispensing Facility**

**BACKGROUND**

In 2014, FS 381.986 (the Compassionate Medical Cannabis Act of 2014) was passed legalizing strains of a low tetrahydrocannabinol (THC) and high cannabidiol (CBD) form of cannabis (low-THC cannabis) for medical use by patients suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms. The Florida Department of Health (DOH) therefore was responsible for the implementation of the Act and sought to establish rules for Dispensing Organizations. The Dispensing Organizations and their owners, managers, and employees were not subject to licensure and regulation under Chapter 465, FS, relating to pharmacies (Florida Senate Staff Analysis Senate Bill 8-A). Florida Statute 381.986 gave local jurisdictions the authority to regulate the number, location and permitting requirements for dispensaries.

In November 2016, Constitutional Amendment 2 was passed into law and established Article X, section 29 of the State Constitution. This section of the constitution became effective on January 3, 2017 allowing for the use of Medical Marijuana for debilitating conditions.

On December 7, 2016, the Board of County Commissioners (BCC) adopted a Zoning in Progress that would temporarily suspend applications to the Zoning Division for Medical Marijuana Treatment Centers (MMTC) or Dispensing Organizations.

On February 23, 2017, the BCC adopted the Medical Marijuana Moratorium (Ord. 2017-009) that established sun setting provisions upon one-year of effective date or adoption of Code amendments. The one-year moratorium would provide staff the time to research dispensing facilities, how other jurisdictions were regulating, and prepare for implementing language adopted by the state legislature or rule-making procedures prepared by the DOH.

On March 3, 2017 the Florida Legislature began the 2017 Legislative Session. The Florida Legislature sought to enact implementing language and had proposed several house and senate bills. However, legislators could not come into agreement on several issues related to the bills and nothing was passed at the time of adjournment.

On June 6, 2017 a Legislative Special Session was convened to address pending bills which did include the Medical Marijuana topic. An implementing bill was ultimately passed by the Legislature, amending FS 381.986.

**RESEARCH/ FINDINGS**

Prior to the 2017 Legislative Session, Staff conducted extensive research of both local and Florida jurisdictions proposed or adopted regulations for this use that included but not limited to Hollywood, Indian





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

3

4 **Section 5. Savings Clause**

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

11

12 **Section 6. Inclusion in the Unified Land Development Code**

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

16

17 **Section 7. Providing for an Effective Date**

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

20

21 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach  
22 County, Florida, on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

23

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

24

25

26

27

**EFFECTIVE DATE:** Filed with the Department of State on the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

EXHIBIT A

MEDICAL MARIJUANA DISPENSING FACILITY  
SUMMARY OF AMENDMENTS

(Updated 6/20/17)

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

4 CHAPTER I DEFINITIONS & ACRONYMS

5 Section 2 Definitions

6 M. Terms defined herein or referenced in this Article shall have the following meanings:  
7 ~~30. Medical Marijuana Dispensing Organization — means an organization approved by the~~  
8 ~~Florida Department of Health to cultivate, process, and dispense low-THC cannabis or medical~~  
9 ~~cannabis pursuant to Fla. Stat. § 381.986.~~  
10 [Renumber Accordingly]

11  
12  
13 Part 2. ULDC, Art. 2.B.2.G.2, Applicability [Related to Type 2 Waivers] (page 28 of 88), is hereby  
14 amended as follows:

15 CHAPTER B PUBLIC HEARING PROCESS

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

18 G. Type II Waivers  
19 ....  
20 2. Applicability  
21 Requests for Type II Waivers shall only be permitted where expressly stated within the  
22 ULDC.[Ord. 2011-016] [Ord. 2012-027]  
23

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]

24 3. Standards  
25 When considering a Development Order application for a Type II Waiver, the BCC shall  
26 consider the standards indicated below and any other standards applicable to the specific Type  
27 II Waiver as contained in this Code. A Type II Waiver, which fails to meet any of the standards,  
28 shall be deemed adverse to the public interest and shall not be approved. [Ord. 2011-016]  
29 [Ord. 2012-027]  
30 a. The Waiver does not create additional conflicts with other requirements of the ULDC, and  
31 is consistent with the stated purpose and intent for the Zoning district or Overlay; [Ord.  
32 2010-022] [Ord. 2011-016] [Ord. 2012-027]  
33 b. The Waiver will not cause a detrimental effect on the overall design and development  
34 standards of the project, and will be in harmony with the general site layout and design  
35 details of the development; and, [Ord. 2010-022] [Ord. 2012-027]  
36 c. The alternative design option recommended as part of the Waiver approval, if granted, will  
37 not adversely impact adjacent properties. [Ord. 2010-022] [Ord. 2012-027]  
38 d. For the purpose of Medical Marijuana Dispensing Facility in Art. 4.B.2.C.34.h, the BCC  
39 shall make the determination that the location of a medical marijuana dispensing facility  
40 promotes the health, safety and welfare of the community.

41 ....  
42  
43  
44 Part 3. ULDC Art. 4.B.2.C.34, Retail Sales, is hereby amended as follows:

45 CHAPTER B SUPPLEMENTAL USE STANDARDS

46 Section 2 Commercial Uses

47 C. Definitions and Supplementary Use Standards  
48 34. Retail Sales  
49 a. Definition  
50 An establishment providing general retail sales or rental of goods, but excluding those uses  
51 specifically classified as another use type.

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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.~~

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