

ORDINANCE NO. 2017-009

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 13, "LAND DEVELOPMENT CODE," ARTICLE III, "ZONING REGULATIONS," DIVISION 2, "ZONING CLASSIFICATIONS AND GENERAL REQUIREMENTS," BY ENACTING A NEW SECTION 13-321, "MEDICAL MARIJUANA TREATMENT CENTERS," IN ORDER TO PROVIDE FOR MEDICAL MARIJUANA TREATMENT CENTERS TO LOCATE IN THE MEDICAL SERVICES OVERLAY AREA SUBJECT TO SPECIAL LAND USE APPROVAL; PROVIDING FOR APPLICATION REQUIREMENTS, DEVELOPMENT CONDITIONS, AND PROCEDURES FOR DENIAL AND REVOCATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2014, the Florida Legislature enacted Section 381.986, Florida Statutes, entitled the "Compassionate Medical Cannabis Act of 2014" (the "Act"); and

WHEREAS, the Act authorized licensed physicians to order low-THC Cannabis for medicinal purposes ("Low-THC Cannabis") to qualified patients under specific conditions, primarily those suffering from cancer or severe or persistent seizures and muscle spasms; and

WHEREAS, the Act was amended by Chapter 2016-123, Laws of Florida, to include medical Cannabis; and

WHEREAS, the Act, as amended, designated the Florida Department of Health as the regulatory body to manage and implement the cultivation, processing, transportation, and dispensing of Low-THC Cannabis and medical Cannabis among authorized organizations and facilities; and

WHEREAS, the Florida Department of Health promulgated and adopted Chapter 64-4, Florida Administrative Code, to implement Section 381.986, Florida Statutes; and

WHEREAS, pursuant to Section 381.986, Florida Statutes, and Chapter 64-4, Florida Administrative Code, all authorized facilities, organizations, and physicians are required to comply with stringent requirements, including completed background checks for personnel and specific training for licensed physicians; and

WHEREAS, the State of Florida maintains the Compassionate Use Registry of qualified patients, in accordance with Section 381.986, Florida Statutes, and Rule 64-4.009, Florida Administrative Code; and

WHEREAS, Section 381.986(8), Florida Statutes, authorizes local governments to regulate the number, location, and other permitting requirements of Medical Marijuana facilities through zoning; and

WHEREAS, Amendment 2 to the Florida Constitution was approved on November 8, 2016, expanding the types of medical conditions for which licensed physicians may order medical marijuana as a treatment; and

WHEREAS, significant safety issues exist for any establishment involved in the cultivation, processing, or distribution of marijuana, as they maintain large drug inventories and are forced to deal in cash because their activities have not yet been sanctioned by federal law; and

WHEREAS, such businesses are inherently attractive targets for criminals, and therefore, it is essential that the City limit the permissible scope of such uses and regulate

them to ensure their compatibility with surrounding businesses and the community, and to protect and advance the public health, safety, and welfare; and

WHEREAS, other attributes of land uses dealing with marijuana, such as odors, must be regulated to minimize the impact on surrounding properties and uses and prevent the creation of attractive nuisances; and

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate, and propriety powers to enable municipalities to conduct municipal government, perform municipal functions, and render municipal services; and

WHEREAS, pursuant to the referenced provision of the Florida Constitution, a city may exercise any power for municipal powers except as otherwise provided by law; and

WHEREAS, Chapter 166, Florida Statutes, the “Municipal Home Rule Powers Act,” reinforces the authority granted under the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law, and to enact ordinances in furtherance thereof; and

WHEREAS, the City Commission has determined that it is advisable and in the public interest to consider certain distance separation requirements and other development standards in regard to the location and operation of Medical Marijuana Treatment Centers; and

WHEREAS, the City has the authority, pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Section 166.021, Florida Statutes, to adopt such provisions in order to protect the health, safety, and welfare of its residents.

CODING: Words in ~~strike through~~ type are deletions from existing text.
 Words in underline type are additions to existing text.
 Asterisks (***) indicate existing text not shown.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA AS FOLLOWS:

Section 1: Ratification. That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 13, “Land Development Code,” Article III, “Zoning Regulations,” Division 2, “Zoning Classifications and General Requirements,” by enacting a new Section 13-321, “Medical Marijuana Treatment Centers,” to read as follows:

(a) **Purpose.** The purpose of this Section is to establish requirements that regulate Medical Marijuana Treatment Centers in the interest of the public health, safety and general welfare and that ease the regulatory burden on the City. In particular, this Section is intended to regulate the cultivation, processing, sale and distribution, and use of medical marijuana to ensure a supply of medical marijuana to patients who qualify to obtain, possess, and use medical marijuana, or any other use of medical marijuana permissible under state law, while promoting compliance with other state laws that regulate marijuana. Nothing in this Section is intended to promote or condon the sale, distribution, possession, or use of marijuana in violation of any applicable state or federal law. Compliance with the requirements of this Section shall not provide a defense to criminal prosecution under any applicable law.

(b) **Definitions.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) **Applicant.** An individual or legal entity desiring to operate a Medical Marijuana Treatment Center within the City limits.

(2) **Business Operating Name.** The legal or fictitious name under which a Medical Marijuana Treatment Center conducts its business with the public.

(3) **Caregiver.** A person who is at least twenty-one (21) years old who has agreed to assist with qualifying patient’s medical use of marijuana and has a Caregiver Identification Card issued by the Department of Health. A caregiver may assist no more than five (5) qualifying patients at one time. An employee of a hospice provider, nursing or medical facility may serve as a caregiver to more than five (5) qualifying patients as permitted by the

Department of Health. Caregivers are prohibited from consuming marijuana obtained for the personal, medical use by the qualifying patient.

- (5) **Employee.** A person authorized to act on behalf of the Medical Marijuana Treatment Center, whether that person is an Employee or a contractor, and regardless of whether that person receives compensation.
- (6) **Farm.** The land, buildings, support facilities, machinery, and other appurtenances used in the production of farm and aquaculture products when such land is classified as agricultural pursuant to Section 193.461, Fla. Stat., as amended from time to time. For purposes of this Section, a Medical Marijuana Treatment Center shall not be deemed a farm.
- (7) **Identification Badge.** A tamperproof card issued by the City to the persons involved with a Medical Marijuana Treatment Center as evidence that they have passed the background checks and other requirements of this Section and are authorized to be present on the premises.
- (8) **Identification Card.** A document issued by the Department of Health that identifies a qualifying patient or a caregiver. If the Department of Health does not begin issuing Identification Cards by September 1, 2017, then a valid physician certification will serve as a patient Identification Card until the Department of Health begins issuing Identification Cards.
- (9) **Marijuana.** A substance that has the meaning given cannabis in Section 893.02(3), Fla. Stat., as amended from time to time, and means all parts of any plant of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.
- (10) **Medical Marijuana.** A substance that includes all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin **that is prescribed by a Florida licensed physician for medical use by a qualified patient** as provided in Article X, Section 29, of the Florida Constitution, and Section 381.986, Fla. Stat., as amended from time to time.
- (11) **Medical Marijuana Treatment Center.** Any facility licensed by the Florida Department of Health to acquire, cultivate, possess, process (including but not limited to development of related products such as food, tinctures,

aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense or store medical marijuana, products containing medical marijuana, related supplies, or educational materials, as authorized by State law. A Medical Marijuana Treatment Center may include retail sales or dispensing of medical marijuana. Medical Marijuana Treatment Center shall not be used as a physician's office to examine or consult with patients.

(12) **Owner.** Any person, including any individual or other legal entity, with a direct or indirect ownership interest of five percent (5%) or more in the Medical Marijuana Treatment Center, which interest includes the possession of stock, equity in capital, or any interest in the profits of the Medical Marijuana Treatment Center.

(13) **Physician.** A physician who is licensed to practice medicine in Florida.

(14) **Physician Certification.** A written document signed by a physician, stating that in the physician's professional opinion, the patient suffers from a debilitating medical condition, that the potential benefits of the medical use of marijuana would likely outweigh the potential health risks for the patient, and for how long the physician recommends the medical use of marijuana for the patient. A physician certification may only be provided after the physician has conducted a physical examination of the patient and a full assessment of the patient's medical history.

(15) **Qualifying/Qualified Patient.** A qualifying/qualified patient means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient Identification Card. If the Department of Health does not begin issuing Identification Cards by September 1, 2017, then a valid physician certification will serve as a patient identification card in order to allow a person to become a "qualifying patient" until the Department of Health begins issuing Identification Cards.

(c) **Location Requirements.** A Medical Marijuana Treatment Center shall only be permitted in the Medical Overlay Area as defined in Section 13-319, "Zoning Overlay Areas," and as a special land use, in accordance with Section 13-35, "Special Land Use," and the additional conditions outlined herein.

(d) **Special Land Use.** No special land use shall be issued hereunder unless and until the Premises/business and applicant have been granted special land use approval by the City Commission.

(1) **Application.** In addition to the standard development approval application requirements and meeting all of the requirements for a special land use, pursuant to Section 13-35, "Special Land Use," an application for a special land use hereunder shall:

a. Be a joint application by the property owner and the Owner of the Medical Marijuana Treatment Center;

b. Provide the business operating name and all Applicant and Owner information. If the Applicant/Owner is:

1. An individual, his or her legal name, aliases, home address and business address, date of birth, copy of driver's license or other state or federally issued identification;

2. A partnership, the full and complete name of the partners, dates of birth, copy of driver's license or other state or federally issued identification of all partners, and all aliases used by all of the partners, whether the partnership is general or limited, a statement as to whether or not the partnership is authorized to do business in the State of Florida and, if in existence, a copy of the partnership agreement (if the general partner is a corporation, then the Applicant shall submit the required information for corporate application in addition to the information concerning the partnership); or

3. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, copy of driver's licenses or state or federally issued identification cards of all officers, and directors, and all aliases used, the capacity of all officers, and directors, and, the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or not each corporation is authorized to do business in the State of Florida; or

4. Any other type of entity, the exact and complete name, the date of its formation or creation, evidence that the entity is in good standing, the legal names and dates of birth, copy of driver's licenses or other state or federally issued identification of all members, officers, and directors, and all aliases used, the capacity of all members, officers, and

directors, and the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or not each entity is authorized to do business in the State of Florida.

- c. The addresses required by this Section shall be physical locations and not post office boxes.
- d. A complete copy of the business' application for approval and licensure as a Medical Marijuana Treatment Center filed with the State of Florida and all related exhibits, appendices, and back up materials.
- e. Copies of any and all state and other licenses issued to the Applicant/Owner to engage in the medical marijuana business.
- f. A statement as to whether the Applicant or any Owner or Employee has previously received a Medical Marijuana special land use approval from the City.
- g. A statement as to whether the Applicant or any Owner holds other permits or licenses for a business in the City and, if so, the name(s) and location(s) of such other permitted or licensed establishment(s).
- h. A statement as to whether the Applicant or any Owner has been a partner in a partnership or an officer or director of a corporation whose permit or license issued for a business in the City has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation.
- i. A statement as to whether or not the Applicant or any Owner has lost any privilege or had any permit or license to do business revoked or suspended by any local, state or federal government and, if so, the nature of such privilege, permit or license and the reason for such revocation or suspension.
- j. A statement as to whether or not the Applicant or any Owner or Employee has been found guilty of or has pleaded guilty or nolo contendere to a felony relating to any business in this State or in any other State or Federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

- k. A statement as to whether or not the Applicant or any Owner, or Employee has been found guilty of, or has pleaded guilty or nolo contendere to a felony relating to a battery or physical violence on any person in this State or in any other State or Federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such case.
- l. A statement as to whether or not the Applicant or any Owner has filed a petition to have their respective debts discharged by a bankruptcy court having jurisdiction of such cases.
- m. Written documentation, acceptable to the Chief of Police, or his or her designee, that the Applicant, every Owner, and each Manager and Employee has successfully completed a Level 2 background screening as defined in Section 435.04, Fla. Stat., as amended from time to time, within the last twelve (12) months.
- n. A passport photograph of the Applicant, every Owner, and each Employee.
- o. A notarized, signed, and sworn statement that the information within the application is true, independently verifiable, and complete, and that the photocopies of the attached driver's licenses or other state or federally issued photo identifications are currently valid and true and correct copies of the originals.
- p. Be accompanied by a lease that identifies the specific use as a Medical Marijuana Treatment Center or proof of ownership of the premises on which the Medical Marijuana Treatment Center is proposed.
- q. Include a survey sealed by a Florida-registered land surveyor who is licensed by the State of Florida. The survey shall indicate the distance between the proposed Medical Marijuana Treatment Center and any other use as set forth below in Subsection (d)(2); and
- r. Include, in addition to obtaining and providing the list of all property owners within five hundred (500) feet of the proposed special land use, as required by Section 13-35, "Special Land Use," a certification, along with a copy of the notice, which certifies that notice of a public hearing was sent to those property owners no later than fourteen (14) days prior to each and every public hearing.

(2) Separation Requirements. A Medical Marijuana Treatment Center shall:

- a. Not be located within one thousand (1,000) feet of another Medical Marijuana Treatment Center;
- b. Not be located within five hundred (500) feet of an elementary, middle or secondary school;
- c. Not be located within the same tenant space as any Ambulatory Surgical Center, Assisted Living Facility, Clinic, Extended Congregate Care Facility, Hospice Facility, Hospital, Inpatient Rehabilitation Facility, Medical Office, Mental Health Facility, Pain Clinic, Nonresidential Licensed Service Provider, Nursing Home, Residential Licensed Service Provider, or Urgent Care Center.
- d. Be located in conformity with the provisions of this Section, however, the subsequent establishment of a use listed in Subsection (d)(2)b. above within five hundred (500) feet of an existing Medical Marijuana Treatment Center shall not cause a violation of this Subsection. Whenever a special land use for a Medical Marijuana Treatment Center has been lawfully approved and thereafter an elementary, middle or secondary school is established within a distance otherwise prohibited by law, the establishment of the such use shall not be cause for the revocation of the special land use approval; and
- e. Conform to the above separation requirements, and such distances shall be measured by the pedestrian travel from any point of ingress or egress to the Medical Marijuana Treatment Center to any point of ingress or egress to the uses identified in Subsections (d)(2)a. and (d)(2)b.

(3) Development Conditions.

- a. To provide adequate protection to the community and establish the legitimacy of the facility, the special land use application submission for Medical Marijuana Treatment Centers, must, in addition to the criteria set forth in Section 13-35, "Special Land Use," adhere to the following:
 1. **No Loitering.** Adequate seating for its patients and business invitees shall be provided at all times and the Medical Marijuana Treatment Center shall not allow patients or

business invitees to stand, sit (including in a parked vehicle or on a bicycle), gather, or loiter outside of the building where the Medical Marijuana Treatment Center operates, including: in any parking areas, sidewalks, rights-of-way, or neighboring properties for any period of time longer than reasonably required to arrive and depart. Signs shall be posted in a conspicuous location on all sides of that portion of a building occupied by the Medical Marijuana Treatment Center stating that no loitering is allowed on the property.

2. **Parking.** Any parking demand created shall not exceed the supply of parking spaces legally available within the parking areas allocated on the site plan as required by the Land Development Code. An Applicant may be required to demonstrate that on-site traffic flow and parking will be sufficient to accommodate parking demands generated based on a current traffic and parking study prepared and certified by a licensed Traffic Engineer, if requested by the City.
3. **No Queuing of vehicles.** The Medical Marijuana Treatment Center shall ensure that there is no queuing of vehicles in the rights-of-way. The Medical Marijuana Treatment Center shall take all necessary and immediate steps to ensure compliance.
4. **No drive-thru service or take-out.** No Medical Marijuana Treatment Center shall have a drive-thru, drive-in, curbside pickup, take-out window or the like. All dispensing, payment for and receipt of products shall occur inside the building.
5. **Deliveries.** All deliveries received at the Medical Marijuana Treatment Center shall be made only while on-site security personnel are present.
6. **No vending machines.** No Medical Marijuana Treatment Center shall utilize any type of vending machines for the dispensing of medical marijuana and/or paraphernalia on-site or off-site.
7. **On-premises consumption of Medical Marijuana.** No consumption of medical marijuana is allowed on the premises

of a Medical Marijuana Treatment Center, including the alleys, parking areas, sidewalks, buildings and rights-of-way.

8. **No Alcoholic Beverages.** There shall be no sale or consumption of alcoholic beverages allowed on the premises on which a Medical Marijuana Treatment Center is located, including the alleys, parking areas, sidewalks, buildings, and rights-of-way.

9. **Display.** There shall be no outdoor display of any products, wares, merchandise, or paraphernalia. The Medical Marijuana Treatment Center's site plan shall clearly show that medical marijuana and paraphernalia, including related products or facsimile of products, are not visible from the rights-of-way. No medical marijuana or product of any kind shall be visible from any window or exterior glass door.

10. **Security.** Every Medical Marijuana Treatment Center shall incorporate safety measures to protect its property, employees and invitees during and after the Medical Marijuana Treatment Center's business hours, which measures, at a minimum, shall include installation of a security system and/or security personnel as approved and verifiable at all times, as deemed appropriate by the City's Chief of Police or his/her designee. The Applicant shall submit, at the time of application for the special land use, a security plan demonstrating compliance with Section 381.986, Fla. Stat., as amended from time to time, and all other applicable statutes and State administrative rules.

(a) In addition to proving compliance with all State requirements, the security plan shall, at a minimum, provide the following:

i. Fully operational lighting and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft, both on the premises and in surrounding rights-of-way, including:

1) a silent security alarm that notifies the Police Department that a crime is taking place; and

2) a vault, drop safe or cash management device that provides minimum access to the cash receipts; and

3) a security camera system capable of recording and retrieving, for at least forty-five (45) days, an image, which shall be operational at all times during and after business hours. The security cameras shall be located:

a. at every point of ingress and egress to the Medical Marijuana Treatment Center, including doors and windows;

b. on the interior where any monetary transaction shall occur;

c. at the ingress and egress to any area where medical marijuana is stored; and

d. inside the storage area where medical marijuana is stored; and

e. inside any area where medical marijuana is cultivated or processed.

ii. Traffic management and loitering controls.

iii. Cash and inventory controls for all stages of operation on the premises, and during transitions and on-site deliveries.

iv. On-site armed security personnel at all times.

(b) The Chief of Police, or his/her designee, shall review the Applicant's operational and security plan using Crime Prevention through Environmental Design (CPTED) principles. The Chief or his/her designee, may impose site and operational revisions as are deemed reasonably necessary to ensure the safety of

the Applicant, Owner(s), Employees, customers, adjacent property owners and residents, which may include items such as methods and security of display and storage of medical marijuana and cash, limitations on window and glass door signage, illumination standards, revisions to landscaping, and any other requirement designed to enhance the safety and security of the premises.

- (c) Commencing upon the first delivery of inventory to the Medical Marijuana Treatment Center, every Applicant, Owner, and Employee who is aware of any security breaches, security equipment malfunction or failure, theft, suspected theft, or loss of medical marijuana or medical marijuana based products which occurs at the Medical Marijuana Treatment Center shall, as soon as reasonably practicable, but not more than forty-eight (48) hours after learning of the breach, report same to the City Police Department and any other entity that requires reporting of such information or incidents.

11. Hours of Operation and Delivery Services. A Medical Marijuana Treatment Center shall only be allowed to operate between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and 7:00 a.m. and 5:00 p.m. on Saturdays and Sundays. All deliveries to the Medical Marijuana Treatment Center shall be made during regular operating hours while on-site security personnel are present.

12. Other activities. No Medical Marijuana Treatment Center Medical Director or doctors, physicians, agents, employees, representatives, contractors or the like, shall provide any medical, social or psychological counseling, diagnosis or advice to any patient or business invitee. A Medical Marijuana Treatment Center shall not be co-located with an Ambulatory Surgical Center, Assisted Living Facility, Clinic, Extended Congregate Care Facility, Hospice Facility, Hospital, Inpatient Rehabilitation Facility, Medical Office, Mental Health Facility, Nonresidential Licensed Service Provider, Nursing Home, Pain Clinic, Residential Licensed Service Provider or Urgent Care Center.

13. **Signage.** A Medical Marijuana Treatment Center shall post in a plainly visible location, at each entrance to the Medical Marijuana Treatment Center the following language:

ONLY INDIVIDUALS WITH LEGALLY RECOGNIZED MARIJUANA OR CANNABIS QUALIFYING PATIENT OR LEGAL REPRESENTATIVE IDENTIFICATION CARDS OR A QUALIFYING PATIENT'S LEGAL GUARDIAN MAY OBTAIN MEDICAL MARIJUANA FROM A MEDICAL MARIJUANA TREATMENT CENTER.

The required text shall be in letters one-half inch (1/2") in height in black and bold font.

All signage must comply with Subdivision V, "Regulations for the Use and Control of Signs," of the City's Land Development Code.

14. **On-site community relations contact.** The Medical Marijuana Treatment Center shall provide the Director of Sustainable Development, or his/her designee, and all property owners and tenants located within one hundred (100) feet of its building or tenant space, with the name, phone number, and e-mail address of an on-site community relations staff person to whom they can provide notice during business hours and after business hours to report operating problems. The Medical Marijuana Treatment Center shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or non-criminal complaints are made to the Police Department or other City Officials.

15. **Employment restrictions.** It shall be unlawful for a Medical Marijuana Treatment Center to employ any person who: (a) is not at least eighteen (18) years of age; and (b) has not passed a Level 2 background screening, as defined by Section 435.04, Fla. Stat., as amended from time to time.

16. **Persons allowed to enter the Premises.**

(a) **No underage entry.** It shall be unlawful for any Medical Marijuana Treatment Center to allow any person who is not at least eighteen (18) years of age

on the premises, unless that person is authorized by State law to purchase medical marijuana, whether as a qualified patient with a valid Identification Card or legal representative of a qualified patient with a valid Identification Card.

(b) **Entry by persons authorized by State law.** It shall be unlawful for any Medical Marijuana Treatment Center to allow any person on the premises during the hours of operation if that person is not authorized by State law to be there. Authorized persons, such as Owners, employees and qualified patients, and their legal representatives must wear their Identification Badge/Card, and authorized inspectors and authorized visitors must wear a Visitor Identification Badge and be escorted and monitored at all times by an employee who wears his or her Identification Badge.

17. **Maintenance of Premises.** A Medical Marijuana Treatment Center shall actively remove litter at least twice each day of operation on the premises, from the premises, the area in front of the premises, from any parking lot used by its patrons, and if necessary, on or from public sidewalks or right-of-way within one hundred (100) feet of the outer edge of the premises used by its patrons. Disposal of medical marijuana shall be in compliance with state law.

18. **Compliance with other laws.** Each Medical Marijuana Treatment Center shall at all times be in compliance with all federal, state and local laws and regulations, as may be applicable.

(a) A Medical Marijuana Treatment Center shall notify the City, in writing, within five (5) business days of receipt of any notice of violation or warning from the State or of any changes to its State licensing approvals.

(b) If a Medical Marijuana Treatment Center receives a notice of violation or warning from the State, it shall, no later than twenty (20) business days after receipt of the notice, provide a copy of the corrective action plan and timeframes and completion date to address the

identified issues to the City's Director of Sustainable Development, or his/her designee.

19. Prohibited activities.

(a) A Medical Marijuana Treatment Center shall not engage in any activity other than those activities specifically defined herein as a legally authorized part of the use.

(b) **Outside Cultivation Prohibited.** Outside cultivation of medical marijuana shall be prohibited. Areas of cultivation shall only be within a closed structure or greenhouse.

(c) **Gas Products.** Gas products (including, without limitation, CO2, butane, propane, and natural gas), or generators shall not be used within a closed structure or greenhouse used for the cultivation or storage of medical marijuana.

20. Access. Areas of cultivation must be restricted to authorized personnel only, eighteen (18) years of age or older. Such areas of cultivation shall be secured and locked at all times when not occupied by authorized personnel of the Medical Marijuana Treatment Center.

21. Odor and Air Quality. A complete air filtration and odor elimination filter and scrubber system shall be provided ensuring the use will not cause or result in the dissemination of dust. A complete air filtration and odor elimination filter and scrubber system shall be provided ensuring the use will not cause or result in the dissemination of dust, smoke, or odors beyond the confines of the building, or in the case of a tenant in a multi-tenant building, beyond the confines of the occupied space. A double door system shall be provided at all retail entrances to mitigate odor intrusion into the air outside the Medical Marijuana Treatment Center.

(e) Identification Badge required.

(1) Background Screening and Identification Badge. In connection with the approval of a special land use for a Medical Marijuana Treatment Center, the Chief of Police or his/her designee shall, upon verification of successful level 2 background screening of each person involved in the business at the time of filing the application, confirm that Identification Badges have been issued to each approved involved person, including the Owner and each Employee. Each person employed in the conduct of a Medical Marijuana Treatment Center, shall be screened and approved as set forth below and required to obtain an Identification Badge before the Medical Marijuana Treatment Center, receives any medical marijuana inventory or, for persons who become involved with the Medical Marijuana Treatment Center after such time, before having any involvement in the Medical Marijuana Treatment Center's activities. The Owner shall be required to provide the Chief of Police, or his/her designee, with an employee Identification Badge log at least ten (10) days prior to receiving medical marijuana inventory, and the log shall be dated and consist of the name of the employee, date of employment, and a copy of the required Identification Badge. The log shall be updated on a monthly basis and submitted to the Police Chief, or his/her designee, for verification purposes. The Owner shall maintain a copy of the current log on-site and make it accessible for inspection by the City. Any employees who are terminated or who no longer work at the Medical Marijuana Treatment Center, shall turn in their Identification Badge at the time of termination or expiration of employment. On the face of each Identification Badge, there shall be placed the following:

- a. A photograph of the Owner/ Employee;
- b. The name and address of the Medical Marijuana Treatment Center that the Owner/Employee represents or is employed by.

(2) Expiration.

- a. Owners shall be required to provide to the Chief of Police, or his/her designee, updated level 2 background screenings for themselves and all Employees annually.
- b. All Owners and Employees shall be required to obtain an updated Identification Badge annually.

(f) Procedures for Appeals of Denial and Revocation.

(1) Denial of the Initial Application.

- a. An appeal of an administrative official's interpretation of this Section may be appealed pursuant to the procedures set forth in Section 13-34, "Appeals."
- b. If an appeal is sought based on the findings or decisions made by a reviewing body pursuant to a specific application, such appeal is not ripe and shall not be reviewed by appeal until the application has been considered by the final reviewing body. An appeal from a decision made by the final reviewing body shall be handled exclusively by judicial review in the Seventeenth Judicial Circuit Court of Florida, and shall be filed within thirty (30) days from the date of the filing of the final reviewing body's written order with the City Clerk or his/her designee.
- c. Denials of the initial application shall bar any reapplication for a special land use for a Medical Marijuana Treatment Center by the same Applicant or Owner on the same premises for a period of one (1) year from the date of denial (when final). Except that a reapplication may not be barred when the Applicant or Owner makes a showing, through competent substantial evidence, that there has been an intervening change in the circumstances material to the decision regarding the former reason(s) for denial.

(2) Revocation of special land use approval.

- a. In the event that the Medical Marijuana Treatment Center is not used in accordance with the approval granted under this Section and Section 13-35, "Special Land Use," such special land use is subject to revocation. The City's Code Compliance Officers are vested with authority to initiate enforcement proceedings of the various provisions of the City's Ordinances and any other applicable state laws and regulations for the purpose of ensuring that every Medical Marijuana Treatment Center maintains continued compliance. Revocation of the special land use shall be effected as follows:
 1. Upon learning that a property is not being used in conformance with Florida law, the City's Land Development Code, or the conditions of the special land use, the Director of Sustainable Development, or his/her designee, shall notify the Owner of the Medical Marijuana Treatment Center, and property owner,

when applicable, of such noncompliance. Upon receiving such notice, the Owner, and the property owner when applicable, shall have thirty (30) days in which to comply with Florida law, the City's Land Development Code or conditions of the special land use.

2. If after thirty (30) days, the Owner and the property owner, when applicable, fail to comply, all violations shall be heard by the City's Special Magistrate pursuant to the City's code enforcement procedures.

3. A finding of guilt on any such violation of the Florida law, the City's Land Development Code or the conditions of the special land use, shall operate as an automatic revocation of the approval previous granted to the Owner of a Medical Marijuana Treatment Center.

4. Appeals sought from the Special Magistrate's finding(s) shall be handled exclusively by judicial review in the Seventeenth Judicial Circuit Court of Florida, and shall be filed within thirty (30) days from the date of the filing of the Special Magistrate's final written order with the City Clerk or his/her designee. During the pendency of the appeal process, operations of the Medical Marijuana Treatment Center must cease.

b. Revocation of the special land use for a Medical Marijuana Treatment Center shall bar any reapplication for a special land use for a Medical Marijuana Treatment Center by the same Applicant or Owner on the same premises for a period of one (1) year from the date of revocation (when final). Except that a reapplication may not be barred when the Applicant or Owner makes a showing, through competent substantial evidence, that there has been an intervening change in the circumstances material to the decision regarding the former reason(s) for revocation.

(g) **Transfer of Medical Marijuana Special Land Use Approvals Prohibited.** A special land use approval for a Medical Marijuana Treatment Center shall not be transferrable.

- (h) **Public Consumption of Marijuana or Medical Marijuana.** Nothing in this Section shall be deemed to permit the public consumption of any form of marijuana or medical marijuana. Further, it shall be unlawful for any person to smoke, ingest or consume marijuana, medical marijuana, cannabis, or low-THC cannabis as defined in Florida Statutes, in any form in any public building, on any public right-of-way, or in any public space within the City.
- (i) **Non-medical Marijuana Use Prohibited.** The acquisition, cultivation, possession, consumption, processing, transferring, transporting, selling, distributing, dispensing or storing of marijuana, or any combination of substances containing marijuana, as defined herein, is prohibited in all zoning districts within the City.
- (j) **Severability.** If any provisions of this Section, or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect any other provisions or applications of this Section which can be given effect without the invalid provision or application, and to this end the provisions of this Section are declared severable.

Section 3: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 4: Severability. That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 5: Codification. That the provisions of this Ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

Section 6: Effective Date. That this Ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS 23rd DAY OF MARCH, 2017.

PASSED SECOND READING THIS 13th DAY OF APRIL, 2017.

Rebecca A. Tooley, Mayor

Attest:

Leslie Wallace May, City Clerk

	<u>1st</u>	<u>2nd</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Rydell	<u>Nay</u>	<u>Nay</u>
Sarbone	<u>Aye</u>	<u>Aye</u>
Belvedere	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>

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CODING: Words in ~~strike through~~ type are deletions from existing text.
Words in underline type are additions to existing text.
Asterisks (***) indicate existing text not shown.