

ORDINANCE NO. 17 -

AN ORDINANCE OF THE COUNTY OF PINELLAS AMENDING THE PINELLAS COUNTY CODE SECTIONS 138-1, 833, 857, AND 972 AND ADDING SECTION 138-1378; PROVIDING FOR LEGISLATIVE FINDINGS OF FACT; PROVIDING FOR INTENT AND PURPOSE; PROVIDING FOR AUTHORITY; PROVIDING FOR LOCATION, ZONING, OPERATING CONDITIONS, AND NUMBER OF MEDICAL MARIJUANA DISPENSING FACILITIES AND TREATMENT CENTERS; PROVIDING FOR THE REPEAL OF PINELLAS COUNTY ORDINANCE NO. 17-05; PROVIDING FOR AREA EMBRACED; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, pursuant to Section 2.04 of the Pinellas County Charter the County shall have all special and necessary regulatory power to protect consumers in the County;

WHEREAS, medical marijuana dispensing facilities and treatment centers are new and unique uses which are not currently addressed by the Pinellas County Code;

WHEREAS, the Pinellas County Board of County Commissioners determines that it is in the best interest of its residents, businesses and visitors to enact sufficient zoning regulations to ensure their health, safety and welfare relating to the cultivation, possession, processing, transfer, transport, selling, distribution, and dispensing of medical marijuana;

WHEREAS, regarding medical marijuana dispensing facilities, section 381.986(8)(b), Fla. Stat., permits counties to "determine by ordinance the criteria for the number, location, and other permitting requirements that do not conflict with state law or department rule for all dispensing facilities of dispensing organizations located within the unincorporated areas of that county";

WHEREAS, regarding medical marijuana treatment centers, the 2017 State Legislature will be drafting legislation to comply with the requirements set forth in Amendment 2 which established Article X, Section 29 of the Florida Constitution, and the State Department of Health will be drafting administrative rules for treatment centers;

WHEREAS, an one hundred and eighty (180) day moratorium on the acceptance of applications for, the processing of, and the issuance of development permits, development orders or any other official action of Pinellas County permitting or having the effect of permitting new medical marijuana dispensing or treatment center facilities was adopted in Ordinance No. 17-05 by the Pinellas County Board of County Commissioners on January 24, 2017, and effective on

January 27, 2017, to allow time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the Pinellas County Code to address this new and unique use;

WHEREAS, the moratorium has provided an opportunity to consider appropriate regulatory standards for the location, zoning, operation, and number of medical marijuana dispensing facilities and treatment centers in unincorporated Pinellas County; and

WHEREAS, adoption of this Ordinance will further the health, safety and welfare of the citizens of Pinellas County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, that:

Section 1: Authority.

This Ordinance is enacted pursuant to Sec. 125.66, Fla. Stat. and under the home rule powers of the County in the interest of the health, peace, safety and general welfare of the people of Pinellas County and section 2.04(i) of the Pinellas County Charter.

Section 2: Intent and Purpose.

The County Commission finds and declares that it is in the best interest of the general public and there exists a need to enact an ordinance addressing the location, zoning and operation of medical marijuana dispensing facilities and treatment centers operating in Pinellas County. The County Commission further finds that the Pinellas County Sheriff and County staff shall monitor the operation of medical marijuana dispensing facilities and treatment centers, and make recommendations to the County Commission as to the effectiveness of this Ordinance.

Section 3: Section 138-1(b) of the Pinellas County Code is hereby amended to add the following definitions:

Dispensing organization means an organization approved by the State Department of Health to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to Section 381.986, Florida Statutes.

Freestanding building means an unattached building, standing alone, containing one business, rather than a row of stores or businesses with common roof and sidewalls.

Medical marijuana dispensing facility means a facility that is operated by an approved dispensing organization.

Medical marijuana treatment center means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Florida Department of Health, pursuant to Article X, Section 29 of the Florida Constitution.

Mobile vending means the restriction of the selling of goods or the providing of personal services from mobile vendors within Pinellas County; whether on private property, public property or rights-of-way. Mobile vending is also encompasses vehicle, daily, and seasonal vendors, as further defined below:

- (1) Vehicle vendor is an individual or group selling products from a self-contained truck, trailer, or self-propelled conveyance, independent with respect to water, sewer and power utilities, capable of moving or being moved, used for the preparation and/or sale of products.
- (2) Daily vendors is an individual or group which operate from a fixed location but vacate the location daily.
- (3) Seasonal vendors is an individual or group which operate from a fixed location, and do not vacate the premises completely on a daily basis, rather vacate during a portion of the year.

All other vendors of goods and services to the general public, whether mobile or not, which do not meet the definition of a mobile vending, shall be considered permanent business uses and shall fully comply with the requirements of the Pinellas County Code, set forth herein.

Section 4: Section 138-833 of the Pinellas County Code is hereby amended to read as follows:

Sec. 138-833. - Special exceptions.

Upon application to the board of adjustment and favorable action thereon, pursuant to article II, division 7 of this chapter, the following uses may be permitted in the C-2 district:

- (1) Concrete mixing and dispensing facilities (see section 138-240(11)).
- (2) Stand-alone retail, dispensing component of a medical marijuana dispensing facility or treatment center which is operated from within a completely enclosed building, subject to the performance standards in sec. 138-1378.

(23) See section 138-240 for other special exceptions which may be permitted in this district.

Section 5: Section 138-857(18) and (19) of the Pinellas County Code are hereby amended and added to read as follows:

Sec. 138-857. - Permitted uses.

Within any C-3, commercial, wholesale, warehousing and industrial support district, only the following uses shall be permitted:

* * * * *

- (18) Medical marijuana dispensing facilities or treatment centers which are operated from within completely enclosed buildings, subject to the performance standards in sec. 138-1378. The retail, dispensing component integrated into the medical marijuana dispensing facility or treatment center is permitted as an accessory use and shall not exceed twenty-five percent of the floor area of the principle use(s). A stand-alone retail, dispensing component of a medical marijuana dispensing facility or treatment center is not permitted.
- (189) Such other uses that would be similar to those listed in this section and which would be consistent with the definition of this district.

Section 6: Section 138-972(1) of the Pinellas Code is hereby amended to read as follows:

Sec. 138-972. - Permitted uses.

The following uses are permitted in the M-1 district:

- (1) Light industrial activities, including but not limited to:
- a. Light manufacturing and industry, except concrete and asphalt products and processing of fiberglass products (these operations are permitted in the M-2 district).
 - b. Food processing.
 - c. Ice plants.
 - d. Machine shops.
 - e. Bottling plants.
 - f. Tobacco processing.
 - g. Heavy equipment repair.
 - h. Shops, offices and storage for contractors.
 - i. Storage of products manufactured on site (see article VII, division 4).
 - j. Wholesale bakeries.
 - k. Lumberyards, including truss plants and similar operations.
 - l. Solid waste management facilities which are operated from within completely enclosed buildings. Prior to zoning clearance or site plan approval, applicants will be required to provide a statement of intent to comply with the waste stream reporting requirements as may be required by the County if determined to be applicable by Pinellas County Utilities Solid Waste Operations Department.
 - m. Medical marijuana dispensing facilities or treatment centers which are operated from within completely enclosed buildings, subject to the performance standards in sec. 138-1378. The retail, dispensing component integrated into the medical marijuana dispensing facility or treatment center is permitted as an accessory use and shall not exceed twenty-five percent of the floor area of the principle use(s). A stand-alone retail, dispensing component of a medical marijuana dispensing facility or treatment center is not permitted.

Section 7: Section 138-1378 of the Pinellas County Code is hereby added to read as follows:

Sec. 138-1378. – Medical marijuana dispensing facilities or treatment centers.

The operation of medical marijuana dispensing facilities or treatment centers shall comply with the following performance standards:

- (1) *Dispensing.* Dispensing by payment for and receipt of medical marijuana shall only be allowed within the facility of a properly registered medical marijuana dispensing facility or treatment center, except that this provision shall not be construed to prohibit delivery to a qualifying patient or caregiver registered with the State of Florida.
- (2) *No drive through service or mobile vending.* No medical marijuana dispensing facility or treatment center shall have a drive through or drive in service aisle. Medical marijuana shall not be dispensed, paid for and received via the method of mobile vending. All dispensing, payment for and receipt of products shall occur from inside the medical marijuana dispensing facility or treatment center; provided however, this provision shall not be construed to prohibit delivery of medical marijuana to a qualified patient, as permitted by state law or rule.
- (3) *On-site consumption of medical marijuana and alcoholic beverages.* The consumption of medical marijuana or alcoholic beverages is prohibited within a medical marijuana dispensing facility or treatment center, or anywhere on the premises outside of the facility, including, but not limited to the parking areas, sidewalks, or rights-of-way surrounding the facility.
- (4) *Sole use.* The sole use permitted on the premises of any medical marijuana dispensing facility or treatment center shall be limited to those uses permitted by Florida law and county regulations. No other goods or services shall be provided or sold, and no additional activities shall be conducted on the site which are not authorized by this section.
- (5) *Separation distances.* No medical marijuana dispensing facility or treatment center shall operate within Five Hundred (500) feet of any pre-existing school, religious facility, public library or public park, or One-Thousand (1000) feet between medical marijuana dispensing facilities or treatment centers, located in either unincorporated or incorporated Pinellas County.
 - a. Distance between medical marijuana dispensing facilities or treatment centers shall be measured by drawing a straight line between the front doors of the respective facilities.

- b. Distance between a medical marijuana dispensing facility or treatment center and a school, religious facility, or public library shall be measured by drawing a straight line from the nearest point of the respective structure to the front door of the medical marijuana dispensing facility or treatment center.
 - c. Distance between a medical marijuana dispensing facility or treatment center and a public park shall be measured by drawing a straight line from the boundary of the public park to the front door of the medical marijuana dispensing facility or treatment center.
- (6) Hours of operation. Medical marijuana dispensing facilities or treatment centers shall be allowed to operate only between the hours of 7:00 a.m. to 9:00 p.m., daily.
 - (7) Security. Every medical marijuana dispensing facility or treatment center shall meet the standards of and be certified as a Crime Prevention Through Environmental Design (“CPTED”) facility.
 - (8) Freestanding building. Medical marijuana dispensing facilities or treatment centers shall be located within a freestanding building only.
 - (9) Limitation on number of facilities. An entity approved and registered by the Florida Department of Health to operate medical marijuana dispensing facilities or treatment centers is limited to operating one medical marijuana dispensing facility or treatment center in a M-1 or C-3 zoned parcel, and one medical marijuana dispensing facility or treatment center in C-2 zoned parcel.
 - (10) Compliance with other laws. Medical marijuana dispensing facilities or treatment centers shall at all times be in compliance with all federal, state and local laws and regulations.

Section 8. Repeal of Ordinance No. 17-05

Upon the effective date of this Ordinance, Pinellas County Ordinance No. 17-05 is hereby repealed, and the hundred and eighty (180) day moratorium adopted is hereby terminated.

Section 9. 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.

Section 10. Area Embraced.

The provisions of this Ordinance shall be in effect in the unincorporated areas of Pinellas County.

Section 11. Inclusion in the Pinellas County Code.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

Section 12. Filing of Ordinance; Effective Date.

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing with the Department of State.