

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, CREATING CHAPTER 111 OF THE CODE OF ORDINANCES ENTITLED "MEDICAL MARIJUANA DISPENSARIES" TO ESTABLISH REGULATIONS AND GUIDELINES FOR SUCH USES; AND PROVIDING FOR A REPEALER PROVISION, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature passed and adopted Senate Bill 1030 known as the "Compassionate Medical Cannabis Act of 2014" which legalizes a limited form of medical marijuana known as "Charlotte's Web" to be prescribed by doctors to patients for treating certain medical conditions; and

WHEREAS, the Florida Department of Health is continuing to develop regulations for the January, 2015 implementation of the aforementioned Act; and

WHEREAS, the State of Florida placed on the November 4, 2014 ballot, Amendment 2 entitled the "Florida Right to Medical Marijuana Initiative" which would legalize the dispensing of additional strains of medical marijuana for medical purposes; and

WHEREAS, pursuant to Amendment 2, the Florida Department of Health would be responsible for regulating medical marijuana including but not limited to developing procedures related to medical marijuana treatment centers and institutes; and

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary 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

(Coding: Words in ~~struck-through~~ type are deletions from existing law; words underscored are additions.)

WHEREAS, within the above-referenced grant of powers, the City of Hollywood has the authority to regulate land development and the use of property within the City for the protection of the public, health, safety and welfare; and

WHEREAS, the City of Hollywood has determined that it is in the best interest of the citizenry and general public to regulate the location of medical marijuana dispensaries; and

WHEREAS, the City of Hollywood has the responsibility and authority to determine what uses are best suited to particular zoning categories as well as land use categories within the City; and

WHEREAS, the City Commission has determined that given the potential impact on the surrounding areas, that Medical Marijuana Dispensaries should only be allowed as a Special Exception at the following locations: (1) IM-1 Low Intensity Industrial and Manufacturing District located west of Interstate-95, east of the CSX Railroad, north of Sheridan Street and south of Stirling Road; and (2) IM-3 Medium Intensity Industrial and Manufacturing District located west of Interstate-95, east of State Road 7, north of Griffin Road and south Interstate-595; 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 Dispensaries; 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; and

WHEREAS, Section 166.041(3)(c)(2), Florida Statutes, requires that the local governing body shall hold two advertised public hearings on the proposed ordinance and at least one hearing shall be held after 5:00 PM, unless the local governing body, by a majority plus vote, elects to conduct that hearing at another time of day;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Chapter 111 of the Code of Ordinances entitled "Medical Marijuana Dispensaries" is hereby created as follows:

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 111: ADULT ENTERTAINMENT; ADULT BOOKSTORES AND MOVIES

CHAPTER 111. MEDICAL MARIJUANA DISPENSARIES.

§ 111.01 DEFINITIONS.

For the purpose of this Chapter, the following definition(s) shall apply unless the context clearly indicates or requires a different meaning.

Cannabis. See Marijuana definition below.

Marijuana. Any plant(s) or part of plant(s) of the genus Cannabis, whether growing or not, the seeds thereof; the resin extracted from any part of the plant(s); and every compound, manufacture, salt derivative, mixture, or preparation of the plant(s) or its resin.

Medical Marijuana Dispensary. A facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, Cannabis, Cannabis based products or Cannabis plant(s) are delivered, purchased, possessed, or dispensed and operated in accordance with all local, federal, and state laws. Medical Offices and/or physicians authorized by state law to order Cannabis, as defined in Florida Statutes for patients' medical use, shall not be deemed a Medical Marijuana Dispensary.

§ 111.02 Location of Medical Marijuana Dispensaries.

(A) No Medical Marijuana Dispensary shall be permitted to operate in the below locations unless such facility has been approved as a Special Exception by the Planning and Development Board pursuant to the criteria set forth in Article 5 of the Zoning and Land Development Regulations and the supplemental requirements set forth in Section 111.03 below. Those Medical Marijuana Dispensaries approved as a Special Exception, shall only be permitted in the following locations:

- (1) IM-1 Low Intensity Industrial and Manufacturing District, located west of Interstate-95, east of the CSX Railroad, north of Sheridan Street and south of Stirling Road; and
- (2) IM-3 Medium Intensity Industrial and Manufacturing District, located west of Interstate-95, east of State Road 7, north of Griffin Road, and south of Interstate-595.

(B) **Distance Requirements.** Medical Marijuana Dispensaries shall adhere to the following distance requirements which shall also be applicable from such establishments located outside the City limits:

- (1) There shall be a minimum of 500 linear foot distance separation requirement; however, a Medical Marijuana Dispensary shall not be located on the same property of any of the listed uses below. Any Medical Marijuana Dispensary, or any business selling Marijuana as a principle use, shall be separated from the following uses:
 - (a) Pain Management Clinics;
 - (b) Pharmacy ≤ 9,000 square feet;
 - (c) Social Service Facility;
 - (d) Medical Marijuana Dispensary;
 - (e) Zoning Districts that permit residential; and
 - (f) Substance Abuse and Rehabilitation Center.
- (2) There shall be a 1,000 linear foot distance separation requirement between a Medical Marijuana Dispensary and the following uses:
 - (a) Educational establishments;
 - (b) Day cares;
 - (c) Places of Worship; and
 - (d) Public Parks, including recreational buildings and community facilities.

All distance separations set forth above shall be measured linearly, from closest property line to closest property line, by an actual or imaginary straight line upon the ground or in the air. Any other provision of this code or the Zoning and Land Development Regulations to the contrary notwithstanding, there shall be no variances of the above distance requirements granted for any reason.

§ 111.03 Supplemental Requirements. In addition to the Special Exception criteria set forth in Article 5 of the Zoning and Land Development Regulations, an Applicant seeking a Special Exception must show by competent substantial evidence, that it has the ability to comply with the conditions set forth below:

- (1) The distance separation requirements set forth in Section 111.02 above have been met.
- (2) Loitering. Adequate seating for its patients and business invitees shall be provided at all times and the Medical Marijuana Dispensary 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 Dispensary 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 Dispensary of the building that no loitering is allowed on the property.

- (3) 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 Zoning and Land Development Regulations. 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.
- (4) Queuing of vehicles. The Medical Marijuana Dispensary shall ensure that there is no queuing of vehicles in the rights-of-way. The Medical Marijuana Dispensary shall take all necessary and immediate steps to ensure compliance.
- (5) No drive-thru service or take-out. No Medical Marijuana Dispensary 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 business premises.
- (6) No delivery service. No Medical Marijuana Dispensary shall conduct any form of off-site delivery service or mail order of Marijuana and/or marijuana paraphernalia.
- (7) No vending machines. No Medical Marijuana Dispensary shall utilize any type of vending machines for the dispensing of Marijuana an/d or marijuana paraphernalia on-site or off-site.
- (8) On premises consumption of Marijuana. No consumption of Marijuana is allowed on the premises on which a Medical Marijuana Dispensary is located, including the parking areas, sidewalks, buildings, and rights-of-way.
- (9) Alcoholic Beverages. There shall be no sale or consumption of alcoholic beverages allowed on the premises on which a Medical Marijuana Dispensary is located, including the parking areas, sidewalks, buildings, and rights-of-way.

- (10) Display. There shall be no outdoor display of any products, wares, merchandise, or paraphernalia. The Medical Marijuana Dispensary's site plan shall depict that Marijuana and paraphernalia including related products or facsimile of products are not visible from the rights-of-way.
- (11) Security. Every Medical Marijuana Dispensary shall incorporate safety measures to protect its property, employees and invitees during and outside of the dispensary'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 appropriate, by the City's Chief of Police or his/her designee.
- (12) Hours of Operation. A Medical Marijuana Dispensary 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 12:00 p.m. on Saturdays and Sundays.
- (13) Other activities. Other than dispensing of Marijuana as permitted herein, no Medical Marijuana Dispensary shall sell, market, dispense, provide, exchange, or otherwise vend any other services, product, or drug paraphernalia as defined by federal or state law. In addition, no Medical Marijuana Dispensary Medical Director or doctors, physicians, agents, employees, representatives, contractors or the like, shall provide any other medical, social or psychological counseling, diagnosis or advice to any patient or business invitee. No Medical Marijuana Dispensary may be associated with a Medical Office, Pain Management Clinic, Social Service Facility, or Substance Abuse or Rehabilitation Center.
- (14) Compliance with other laws. Each Medical Marijuana Dispensary shall at all times be in compliance with all federal, state and local laws and regulations, as may be applicable.

§ 111.04 Revocation of Special Exception. In the event that the Medical Marijuana Dispensary is not used in accordance with the applicable regulations or provisions of an approved Special Exception, such Special Exception is subject to revocation. Revocation of the Special Exception shall be effected as follows:

(A) Upon finding that a property is not being used in conformance with the applicable regulations, laws or provisions of the Special Exception, the Director of Planning shall notify the occupant of the property and property owner of such nonconformance. Upon receiving such notice, the occupant of the property and the property owner shall have 30 days in which to comply with the applicable regulations, laws or provisions of the Special Exception;

(B) If after 30 days, the occupant of the property and the property owner fail to comply with the applicable regulations, laws or provisions of the Special Exception, the Director of Planning shall request that the City's Planning and Development Board schedule a public hearing for purposes of determining whether the Special Exception should be revoked; and

(C) Upon receiving a request for a public hearing, the Planning and Development Board shall set such hearing and hold a public hearing to consider revocation of the Special Exception. The Director of Planning shall provide written notice to the occupant of the property and to the property owner of the scheduled public hearing. The occupant of the property and the property owner will have the opportunity to appear and be heard by the Planning and Development Board at the public hearing.

Section 2: That it is the intention of the City Commission and it is hereby ordained that the provisions of this section shall be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the sections of this Code may be renumbered to accomplish such intention.

Section 3: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 4: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That the City Commission, pursuant to Section 166.041(3)(c) F.S., elects, by a majority plus one vote, to conduct the second reading prior to 5:00 p.m. at a regularly scheduled City Commission public hearing.

CHAPTER 111 MEDICAL MARIJUANA DISPENSARY REGULATIONS

Section 6: That this Ordinance shall be in full force and effect immediately upon its passage and adoption.

Advertised _____, 2014.

PASSED on first reading this _____ day of _____, 2014.

PASSED AND ADOPTED on second reading this _____ day of _____, 2014.

PETER BOBER, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC, CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida, only.

JEFFREY P. SHEFFEL, CITY ATTORNEY