



# LDC TEXT AMENDMENT APPLICATION

### IMPORTANT INSTRUCTIONS TO ALL APPLICANTS:

You must schedule an appointment to submit this application by calling 813-277-1630.

All requirements listed on the submittal checklist must be met. **Incomplete applications will not be accepted.**

### Applicant Information

Agency / Department / Firm: Hillsborough County Attorney's Office

Contact Person: Johanna M. Lundgren

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E-mail: lundgrenj@hillsboroughcounty.org

FAX Number: (813) 272-5846

### Applicant's Representative (if different than above)

Name: County Attorney's Office

Daytime Phone: 813-272-5670

Address: 601 E. Kennedy Blvd., 27<sup>th</sup> Floor

City / State/Zip: Tampa, FL 33602

Email: lundgrenj@hillsboroughcounty.org

FAX Number: 813-272-5846

### Request Information

Land Development Code Section(s) proposed to be amended: 6.11.127

I HEREBY SWEAR OR AFFIRM THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION PACKET IS TRUE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE, AND AUTHORIZE THE REPRESENTATIVE LISTED ABOVE TO ACT ON MY BEHALF FOR THIS APPLICATION.

**Signature of Applicant:**

*Office Use Only*

Intake Staff Signature: \_\_\_\_\_ Intake Date: \_\_\_\_\_

Application Number: **17-0311** Receipt Number: \_\_\_\_\_

Submitted for LDC Amendment Round (Example: Round 2 2007) Special Amendment Round

Cut-off Deadline: \_\_\_\_\_ PC Workshop: 1/23/2017 PC Public Hearing: 2/13/2017

BOCC Workshop: 1/10/2017 1<sup>st</sup> Public Hearing: 2/9/2017 2<sup>nd</sup> Public Hearing: 3/7/2017

## Intent Statement

The proposed amendment to the Land Development Code regarding medical marijuana dispensing facilities amends the Code to establish zoning and land development regulations related to the location and permitting of establishments that dispense medical marijuana, in the interest of the public health, safety and general welfare. The County Attorney's Office prepared the amendment in coordination with Development Services Department staff. The proposed Land Development Code amendments will be accompanied by a separate ordinance providing for business licensing regulations for medical marijuana dispensing facilities. The proposed business licensing regulations are currently being prepared by the County Attorney's Office and will be placed on a future agenda. It is intended that both the Land Development Code amendments and business licensing regulations will become effective prior to the expiration of the moratorium on dispensing facilities (April 4, 2017). The proposed ordinance does the following:

- Establishes a requirement that medical marijuana dispensing facilities be located in the Commercial General (CG), Commercial Intensive (CI) and Manufacturing (M) zoning districts, and be approved through a conditional use permit.
- To receive a conditional use permit, an applicant seeking to locate a medical marijuana dispensing facility must demonstrate that it meets the following distancing requirements:
  - Be located at least 750 feet from certain community uses, including churches/synagogues, schools, child care centers, public libraries, community recreational facilities and parks.
  - Be located at least 750 feet from residentially zoned parcels
  - Be located at least 750 feet from any existing medical marijuana dispensing facility
  - Be located at least 750 feet from any property with a 4-COP or 4-COP-X Alcoholic Beverage Permit (state permits allowing beer, wine and liquor for sale for consumption both on and off the premises)

The regulations establish a parking requirement for the dispensing facility use, and propose to require medical marijuana dispensing facilities to be located as a sole use within a freestanding building, rather than in a multiple-occupant structure. Additionally, the sole use permitted on the premises of the facility shall be limited to the retail dispensing of medical marijuana, and cannabis delivery device sales, in accordance with state law. No other goods or services shall be provided. The amendment also provides for a procedure for the revocation of a conditional use for a medical marijuana dispensing facility by the Administrator, in the event that the applicant provided false or misleading information in its application for the permit.



1. “Medical Marijuana Dispensing Facility” means any establishment where low-THC or Medical Marijuana is permitted to be dispensed at retail pursuant to any applicable state law.
2. “Low-tetrahydrocannabinol cannabis” or “low-THC cannabis” means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization.
3. “Medical Marijuana” 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, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only for medical use by an eligible patient in accordance with any applicable state law.
4. “Medical use” means administration of a physician-ordered amount of low-THC cannabis or Medical Marijuana.
5. “Cannabis delivery device” means an object ordered by a physician for qualified patient use in accordance with state law, and used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing low-THC cannabis or Medical Marijuana into the human body.
6. “Certain community uses” shall include churches/synagogues, schools, child care centers, public libraries, community recreational facilities and parks.
7. For the purposes of this regulation, “residentially zoned” shall include districts expressly defined as residential in Part 12.01.00 of this Code and all mixed-use districts permitting residential uses. However, any portion of a mixed-use district developed with non-residential uses, or if undeveloped, which requires residential uses to be located in mixed-use buildings with non-residential uses, shall not be deemed residentially zoned.
8. “Freestanding Building” means an unattached building, standing alone, containing one business, rather than a row of stores or businesses with common roof sidewalls.

E. Zoning districts where Medical Marijuana Dispensing Facilities allowed by conditional use.

Dispensing of Medical Marijuana shall be permitted as a conditional use in the CG, CI and M zoning districts, only in accordance with the requirements of this article and the applicable zoning district.

F. Zoning requirements for dispensing facilities. Medical Marijuana Dispensing Facilities shall comply with the following requirements:

1. The distance from the proposed Medical Marijuana Dispensing Facility to certain community uses shall be 750 feet.
2. The distance from the proposed Medical Marijuana Dispensing Facility to residentially zoned property shall be 750 feet.
3. The distance from the proposed Medical Marijuana Dispensing Facility to any other Medical Marijuana dispensing facility shall be 750 feet.
4. The distance from the proposed Medical Marijuana Dispensing Facility to any property with a 4-COP or 4-COP-X Alcoholic Beverage Permit shall be 750 feet.

Distances required under this subsection shall be measured from property line to property line, along the shortest distance between property lines, without regard to the route of normal travel.

The applicant shall furnish a certified survey from a Florida registered engineer or surveyor, performed within 30 days prior to application submittal, indicating the distance between the proposed dispensing facility and any existing Medical Marijuana Dispensing Facility, certain community uses, residentially zoned properties, or any property with a 4-COP or 4-COP-X Alcoholic Beverage Permit within the applicable radius. In case of dispute, the measurement scaled by the Administrator shall govern.

5. Medical Marijuana Dispensing Facilities shall be located within a Freestanding Building only.
6. The sole use permitted on the premises of any Medical Marijuana Dispensing Facility shall be limited to the retail dispensing of Medical Marijuana in accordance with this section, and cannabis delivery device sales in accordance with Florida law. No other goods or services shall be provided or sold, and no additional activities shall be conducted on the site which are not specifically authorized by this section. Any code enforcement officer or any other persons authorized to enforce this section must be allowed access for inspections of the premises at any time a staff person is present.
7. Dispensing of, payment for, and receipt of Medical Marijuana shall only be permitted to occur inside the building. No Medical Marijuana Dispensing Facility shall have a drive-through or drive-in service aisle.
8. Consumption of Medical Marijuana or alcoholic beverages is prohibited within the Medical Marijuana Dispensing Facility and anywhere outside of the dispensing facility, including, but not limited to, in the parking areas, sidewalks, or rights-of-way surrounding the dispensing facility.

G. Expansion of Medical Marijuana Dispensing Facilities.

The expansion of the square footage of a Medical Marijuana Dispensing Facility shall require new applications for a Conditional Use Permit and Site Development Plan in accordance with this Section.

H. Site Development Requirements.

An application for a Medical Marijuana Dispensing Facility Conditional Use Permit shall be submitted concurrently with an application for a Site Development Plan for the site. Approval of a Medical Marijuana Dispensing Facility Conditional Use Permit shall be contingent upon the approval of the jointly submitted Site Development Plan.

1. The Site Development Plan for the premises for which a Medical Marijuana Dispensing Facility Conditional Use Permit has been approved shall automatically expire upon the revocation or expiration of the related Medical Marijuana Dispensing Facility Conditional Use Permit for the premises. Additionally, the Medical Marijuana Dispensing Facility Conditional Use Permit shall automatically expire upon the revocation or rescission of the related Site Development Plan for the premises.
2. Any change or expansion to an approved Site Development Plan for a Medical Marijuana Dispensing Facility shall require new applications for a Site Development Plan and Medical Marijuana Dispensing Facility Conditional Use Permit in accordance with this section.

I. Expiration Based on Discontinuance of Use.

An approval for a Medical Marijuana Dispensing Facility Conditional Use Permit shall expire if the Administrator determines that the dispensing of Medical Marijuana, once commenced in accordance with any applicable requirements of the Code of Ordinances and state law, has not occurred on the permitted premises for sixty (60) consecutive days, subject to the provisions below.

- 1.

For purposes of this regulation, expiration based on discontinuance of use shall be defined as the discontinuation of the principal activity or function comprising the Medical Marijuana Dispensing Facility

use, irrespective of the presence of dormant buildings, equipment or materials associated with the use. Facility maintenance for a Medical Marijuana Dispensing Facility use that is otherwise inactive shall not be deemed a continuation of the use. Upon notification by the Administrator that a property holding a Medical Marijuana Dispensing Facility Conditional Use Permit is in violation of this subsection, the following documentation, if applicable to the subject property, may be submitted as evidence that a Medical Marijuana Dispensing Facility use has occurred continuously during the relevant time period:

- i. The most current local and state records evidencing dispensing of Medical Marijuana on the premises in accordance with County Code and state law; and,
- ii. The most current records of electric usage, consumption, and payment of same for the property or establishment;
- iii. The most current records of water usage, consumption, and payment of same for the property or establishment; and
- iv. Any other documents or records that demonstrate continuity of the use during the relevant time period.

The documentation, collectively, must at a minimum demonstrate on going dispensing of Medical Marijuana in accordance with County Code and state law during the expiration period.

2. If documentation supporting continuity of the use is provided, the Administrator shall review and evaluate the documentation and shall advise the property owner and the holder of the Medical Marijuana Dispensing Facility Conditional Use Permit in writing of his/her determination. While the documentation is under review, the expiration period shall be tolled.
- J. Administrative Revocation of Medical Marijuana Dispensing Facility Conditional Use Permit based on material false statements or misrepresentations. Pursuant to Section 11.06.04(B) of this Code, the Administrator may revoke any Medical Marijuana Dispensing Facility Conditional Use Permit upon his or her determination that the application for the permit included false statements or misrepresentations of material facts upon which the approval of the permit was based.