LAND DEVELOPMENT CODE TEXT AMENDMENT STAFF REPORT

APPLICATION: LDC 17-0311  APPLICANT: County Attorney’s Office

BOCC PUBLIC HEARING DATES: February 9, 2017 and March 7, 2017

• Intended Purpose of Proposed Amendment

The proposed amendment to the Land Development Code regarding medical marijuana dispensing facilities will establish zoning and land development regulations related to the location and permitting of establishments that dispense medical marijuana. It is intended that the Land Development Code amendments will become effective prior to the expiration of the moratorium on dispensing facilities (April 4, 2017).

• Summary of Proposed Changes to Current Regulations

The proposed ordinance does the following:

- Provides that medical marijuana dispensing facilities shall be located in the Commercial General (CG), Commercial Intensive (CI) and Manufacturing (M) zoning districts, and be approved through a conditional use permit (an administrative permit).
- An applicant seeking to establish a medical marijuana dispensing facility must demonstrate that the location 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. 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 provides that a Conditional Use Permit for a medical marijuana dispensing facility shall expire if the dispensing of medical marijuana has not commenced on the permitted premises within eighteen (18) months of the date of the Conditional Use permit, and also provides for expiration of the permit upon discontinuation of the medical marijuana dispensing facility use. 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. The applicant must also obtain a Site Development Plan approval, if required, concurrent with the Conditional Use Permit; alternatively, the applicant may submit for the Conditional Use Permit upon presentation of documentation from Hillsborough County that a Site Development Plan is not required for the establishment of the facility.

• Implications of Proposed Amendment

There are no foreseen implications of the proposed amendment.
• Anticipated Cost to Development

  There are no foreseen implications of the proposed amendment.

• Anticipated Staff Resource Cost

  The amendment poses no additional costs for staff resources.

<table>
<thead>
<tr>
<th>Staff Recommendation</th>
<th>Approval</th>
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ATTACHMENTS:
Draft Text Amendment, and Location Maps
ORDINANCE NO. 17-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, AMENDING ORDINANCE 92-5, AS AMENDED, THE LAND DEVELOPMENT CODE; AMENDING ARTICLE 2, ZONING DISTRICTS, RELATING TO USES ALLOWED WITHIN ZONING DISTRICTS; AMENDING ARTICLE 6, DESIGN STANDARDS AND IMPROVEMENT REQUIREMENTS, RELATING TO MEDICAL MARIJUANA DISPENSING FACILITIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Hillsborough County, Florida, is authorized under Chapters 125, 162, 163, 177 and 380, Florida Statutes, to enact zoning and other land development regulations to protect the health, safety, and welfare of the citizens of Hillsborough County, Florida; and

WHEREAS, Sections 163.3201, 163.3202, 163.3204, 163.3211 and 163.3213, Florida Statutes, empower and require the Board of County Commissioners to implement adopted comprehensive plans by the adoption of appropriate land development regulations and specify the scope, content and administrative review procedures for said regulations; and

WHEREAS, Hillsborough County Ordinance 92-5, as amended, is the Hillsborough County Land Development Code (the “Land Development Code”); and

WHEREAS, the Hillsborough County City-County Planning Commission held a public meeting on February 13, 2017 regarding the proposed amendments to the Land Development Code; and

WHEREAS, in accordance with Section 125.66, Florida Statutes, the Board of County Commissioners has held duly noticed public hearings on the proposed amendments to the Land Development Code on February 9, 2017 and March 7, 2017, and has reviewed and considered all comments received during said public hearings, including the staff comments and reports; and

WHEREAS, adoption of this ordinance will further the protection of the health, safety and welfare of the citizens of Hillsborough County, Florida.
NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, THIS 7th DAY OF MARCH, 2017:

Section 1. This Ordinance is enacted to carry out the purpose and intent of and exercise the authority set out in the Local Government Comprehensive Planning and Development Regulation Act of 1985, Sections 163.3161 through 163.3215, Florida Statutes, as amended.

Section 2. The Hillsborough County Land Development Code is hereby amended as set forth in Exhibit “A”, attached hereto and incorporated herein by reference. Except as specifically amended herein, the Land Development Code, Ordinance 92-5, as amended, remains in full force and effect.

Section 3. If any section, paragraph, phrase, or word of this Ordinance is for any reason held to be unconstitutional or invalid, such holding shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional or invalid part.

Section 4. This Ordinance shall take effect upon filing with the Florida Department of State.

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH"

I, PAT FRANK, Clerk of the Circuit Court and Ex-Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an ordinance adopted by the Board at a duly noticed public hearing held on March 7, 2017, as the same appears of record in Minute Book ____ of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this ____ day of ____________, 2017.

PAT FRANK, CLERK OF CIRCUIT COURT

By: ________________________________
   Deputy Clerk

APPROVED BY COUNTY ATTORNEY

By: ________________________________
   Approved as to Form and
   Legal Sufficiency.
EXHIBIT “A”
PART 2.02.00 USES ALLOWED WITHIN ZONING DISTRICTS

Sec. 2.02.02 Allowable Uses In Zoning Districts

Table of Allowable Uses in Zoning Districts

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Article VI - DESIGN STANDARDS AND IMPROVEMENT REQUIREMENTS

PART 6.05.00. PARKING AND LOADING

Sec. 6.05.02 Parking and Loading Standards

E. Number of Required Off-Street Parking Spaces

<table>
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<th>USES</th>
<th>SPACES PER UNIT OF MEASURE</th>
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PART 6.11.00 – SPECIAL AND CONDITIONAL USES

Sec. 6.11.127. – Medical Marijuana Dispensing Facilities

A. Intent. Florida law, including Section 381.986, Florida Statutes, Section 499.0295 Florida Statutes, and Florida Administrative Code Chapter 64-4, currently provides for a comprehensive state licensing and regulatory framework for the cultivation, processing and dispensing of marijuana for medical uses. Additionally, the legal use of Medical Marijuana has been expanded by a constitutional amendment. The purpose of this section is to establish reasonable land development regulations for Medical Marijuana Dispensing Facilities in the interest of the public health, safety and general welfare. This section is intended to address the potential adverse impacts on the health, safety and welfare of residents and businesses from secondary effects associated with the distribution of Medical Marijuana, including trespassing, theft, robberies, loitering, nuisances, as well as crimes occasioned by Medical Marijuana Dispensing Facilities’ reliance on cash for sales transactions.

B. Applicability. The provisions of this section shall be applicable in the unincorporated areas of Hillsborough County. This section shall only be construed to allow the dispensing of low-THC cannabis and Medical Marijuana for medical use. The sale of cannabis or marijuana is prohibited in Hillsborough County except in accordance with this section and the Hillsborough County Code of Ordinances.

C. No more than one (1) Medical Marijuana Dispensing Facility Conditional Use Permit shall be issued for a single premises in which the dispensing of Medical Marijuana is to occur.

D. Definitions
Except as provided herein, all terms shall be defined in accordance with this chapter, as may be amended from time to time:

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.

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. 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.

6. 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.

7. 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. Alternatively, the applicant may satisfy this requirement by providing documentation from Hillsborough County that a Site Development Plan is not required and further improvements to the site are not necessary. If a concurrent Site Development Plan is required, the following shall apply:

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.

1. A Medical Marijuana Dispensing Facility Conditional Use Permit shall expire if the dispensing of Medical Marijuana has not commenced on the permitted premises within eighteen (18) months of the date of the Conditional Use permit.

2. 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.

   a 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.

b. 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.
LOCATION MAPS
Medical Marijuana Proposed Amendment Conditions (500 ft Exclusion Areas)

Development & Infrastructure Services

Legend

- Excluded Areas (500ft Buffers)*
- Existing Dispensaries

Zoning Districts

CI - Commercial Intensive (1,135.3 Acres)
M - Manufacturing (6,085.1 Acres)

City Limits

The total area within zones CI and M outside of the excluded areas = 7,220.4 acres.

*Excluded Areas are those areas within 500 feet of the following:
-Church/Parishionage (DOR Code 7100)
-Schools
-Child Care Facilities (DOR Code 7200)
-Restaurants
-Parks/Recreational Facilities
-Approved Licensed Establishments (ACED)
-Residential Zones (Zoning RDC, RM, RS, RSC)
-Existing Dispensaries

NOTE: Every reasonable effort has been made to ensure the accuracy of this map. Hillsborough County does not assume any liability arising from use of this map. The accuracy of this map should not be relied upon by the user for any purpose.

Source: This map has been prepared for the inventory of real property found within Hillsborough County and is compiled from recorded deeds, plats, and other public records. It has been based on BEST AVAILABLE data.

Uses of this map are hereby notified that the information provided, including but not limited to the Excluded Areas, are for verification of the information contained on this map.
The total area within zones CG, CI and M outside of the excluded areas = 8,203.2 acres.
Medical Marijuana Proposed Amendment Conditions
(750 ft Exclusion Areas)

Legend

- Excluded Areas (750ft Buffers)*
- Existing Dispensaries

Zoning Districts
- CG - Commercial General (486.7 acres)
- CI - Commercial Intensive (773.1 Acres)
- M - Manufacturing (5,267.1 Acres)
- City Limits

The total area within zones CG, CI, and M outside of the excluded areas = 6,527.0 acres.

*Excluded Areas are those areas within 750 feet of the following:
- Churches (DOR Code 7010)
- Schools
- Child Care Facilities (DOR Code 7200)
- Public Libraries
- Parks/Park Recreational Facilities
- Nursing Home/Board and Care Facilities (ACFP)
- Residential Zones (RDC, RMC, RSF, RSC)
- Existing Dispensaries

Locator Map

NOTE: Every reasonable effort has been made to ensure the accuracy of this map. Hillsborough County does not assume any liability arising from use of this map. This map is designed and produced by County GIS staff. Reference Maps and Data are compiled from recorded deeds, plats, and other public records. This map is not a Legal Description. The user is responsible for verifying the accuracy of the information contained in the map.

Hillsborough County
Tampa, FL 33649
(813) 272-5828
printrequests@hillsboroughcounty.org

Date: 01/19/2017          Path: W:\GIS\Development_Services\G17-028_MedicalMarijuanaAnalysis\Maps\Med_Mar_Amend_Map_750ft_CI_M_CG.mxd
Medical Marijuana Proposed Amendment Conditions
(750 ft Exclusion Areas)

Development & Infrastructure Services

Legend

- Excluded Areas (750ft Buffers)*
- Existing Dispensaries

Zoning Districts

- CI - Commercial Intensive (773.1 Acres)
- M - Manufacturing (5,267.1 Acres)
- City Limits

The total area within zones CI and M outside of the excluded areas is 6,040.2 acres.

*Excluded Areas are those areas within 750 feet of the following:
- Church Parsonage (DOR Code 7101)
- Schools
- Child Care Facilities (DOR Code 7200)
- Public Libraries
- Parks/Recreational Facilities
- Government/Commercial Establishments (ACOP)
- Residential Zones (Zoning RDC, RMC, RSB, RSC)
- Existing Dispensaries

NOTE: Every reasonable effort has been made to ensure the accuracy of this map. Hillsborough County does not assume any liability arising from use of this map. This map is included with NO WARRANTY OF ANY KIND, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

This map has been compiled for the use of Hillsborough County and is compiled from recorded deeds, plats, and other public records. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this map.

printroom@hillsboroughcounty.org

Date: 01/19/2017          Path: W:\GIS\Development_Services\G17-028_MedicalMarijuanaAnalysis\Maps\Med_Mar_Amend_Map_750ft_CI_M.mxd
Medical Marijuana Proposed Amendment Conditions
(1000 ft Exclusion Areas)

Legend
- Excluded Areas (1,000ft Buffers)*
- Existing Dispensaries

Zoning Districts
- CG - Commercial General (286.5 Acres)
- CI - Commercial Intensive (542.7 Acres)
- M - Manufacturing (4,420.6 Acres)
- City Limits

The total area within zones CG, CI and M outside of the excluded areas = 5,249.8 acres.

*Excluded Areas are those areas within 1,000 feet of the following:
- Church Parsonage (DOR Code 7101)
- Schools
- Child Care Facilities (DOR Code 7200)
- Public Libraries
- Parks/Recreational Facilities
- Alcohol Licensed Establishments (4COP)
- Residential Zones (Zoning RDC, RMC, RSB, RSC)
- Existing Dispensaries

Locator Map

NOTE: Every reasonable effort has been made to ensure the accuracy of this map. Hillsborough County does not assume any liability arising from use of this map. TIGER/Line is produced by the U.S. Census Bureau. This map is compiled from recorded deeds, plats, and other public records. Other data sources include the Florida Department of Agriculture and Consumer Services, the Florida Department of Health, and data compiled from various civic and civic organizations. This map is for informational purposes only. For verification of the information contained on this map, contact the Hillsborough County Zoning Department.

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601 E Kennedy Blvd
Tampa, FL 33602
(813) 635-5400

Date: 01/19/2017
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Medical Marijuana Proposed Amendment Conditions (1000 ft Exclusion Areas)

Legend
- Excluded Areas (1,000ft Buffers)*
- Existing Dispensaries

Zoning Districts
- CI - Commercial Intensive (542.7 Acres)
- M - Manufacturing (4,420.6 Acres)
- City Limits

The total area within zones CI and M outside of the excluded areas = 4,963.3 acres.

*Excluded Areas are those areas within 1000 feet of the following:
- Church Parsonage (DOR Code 7101)
- Schools
- Child Care Facilities (DOR Code 7200)
- Public Libraries
- Parks/Recreational Facilities
- Non-Residential Commercial Establishments (ACOP)
- Residential Zones (Zoning RDC, RMC, RSB, RSC)
- Existing Dispensaries

NOTE: Every reasonable effort has been made to ensure the accuracy of this map. Hillsborough County does not guarantee any accuracy arising from use of this map. This map is intended to illustrate excludable areas, but is not intended to be used for any purpose that implies an implied warranty of merchantability or fitness for a particular purpose.

Dominate: The map has been compiled from the county's GIS primary information sources and is completed from recent records, plats, and other public sources. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this map.