

ORDINANCE NO. 1460-17

AN ORDINANCE OF THE CITY OF MILTON, FLORIDA,

CONCERNING ZONING; AMENDING SECTION 7.2 PROVIDING FOR DEFINITIONS BY ADDING A DEFINITION FOR A “MEDICAL MARIJUANA TREATMENT CENTER”; AMENDING 7.3.1 TABLE OF PERMITTED USES/ USE MATRIX BY ADDING A MEDICAL MARIJUANA TREATMENT CENTER BY ADDING A ROW TITLED MEDICAL MARIJUANA TREATMENT CENTERS AS A PERMITTED USE IN THE C-1, C-2, AND C-3 ZONING DISTRICTS AND BY SPECIAL EXCEPTION IN THE R-C1, D-CM, AND SSC-RC ZONING DISTRICTS; AMENDING ARTICLE 8 USE STANDARDS BY ADDING 8.1AAA MEDICAL MARIJUANA TREATMENT CENTER WITH CRITERIA; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE

WHEREAS:

A. As provided in Section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of MILTON (the “City”), enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law.

B. As provided in Section 166.021(3), Florida Statutes (2016), the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law.

C. Commencing in 2014, with the adoption of the Compassionate Medical Marijuana Act of 2014 (Chapter 2014-157, Laws of Florida), and continuing through the 2016 voter approval of Section 29, Article X of the Florida Constitution, Florida law has permitted the cultivation, production and dispensing of medical marijuana from medical marijuana treatment centers (as defined below).

D. As provided in recently amended Section 381.986, Florida Statutes (2017), the legislature has implemented Section 29, Article X of the Florida Constitution.

E. Pursuant to Section 381.986(11), as amended by the Florida Legislature in 2017, local governments may implement permitting requirements that are no more restrictive than the restrictions applicable to pharmacies and may also prohibit the location of a dispensary within five hundred (500) feet of a school, and otherwise implement requirements that do not conflict with state law or rule, for certain medical marijuana treatment centers located within their respective boundaries.

F. The dispensing of medical marijuana is currently illegal under federal law and the United States Drug Enforcement Agency has recently confirmed that medical marijuana remains a Schedule I drug under federal law, but the United States Department of Justice has limited

federal enforcement of such laws with respect to state regulated medical marijuana operations in the 2013 “Cole Memorandum.”

G. The Milton City Council hereby finds that this ordinance advances an important government purpose by reducing the likelihood of the unregulated negative secondary effects of medical marijuana treatment centers.

H. The City of Milton has determined the following criteria for the number and location of, and other permitting requirements, for medical marijuana treatment centers within the municipal limits of the City.

I. The City has determined that the following provisions are necessary for the public health, safety and welfare of the residents of the City and surrounding areas and do not interfere with the dispensing of medical marijuana as provided by state law or rule.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Milton, Florida as follows:

Section 1. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this ordinance.

Section 2. That Article 7. Uses Sec. 7.2 Use Definitions of the Unified Development Code, of the City of Milton, Florida is hereby amended by adding the following definition, which shall be codified such that all definitions in such section are in alphabetical order:

Sec. 7.2. District uses definitions.

Medical marijuana treatment center means an establishment that, under Florida law (currently codified at Section 29, Article X of the Florida Constitution and Section 381.986, FS (2017)) may legally dispense marijuana as defined in Section 29, Article X of the Florida Constitution. The definition shall include any establishments that are permitted to legally dispense marijuana by legislation or regulations adopted to implement Section 29, Article X of the Florida Constitution. Until such legislation or regulations are adopted, the definition of such establishments shall be limited to “dispensing organizations” as defined in Section 381.986, FS (2016).

<i>Medical Marijuana Treatment Center</i>								S	P	P	P	S	S					
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Section 3. That Section 7.3 Use Matrix of the Unified Development Code, of the City of Milton, Florida, is hereby amended as follows:

Sec. 7.3.1 - Table of permitted uses.

(In the Use Matrix add a row titled Medical Marijuana Treatment Center all other columns and rows shall remain unchanged.)

Section 4. That Article 8. Use Standards, Sec. 8.1 of the Unified Development Code of the City of Milton, Florida, is hereby amended to read as follows:

Section 8.1AAA Medical Marijuana Treatment Center

(a). Purpose. It is the intent and purpose of this section to determine criteria for the location and other permitting requirements for, medical marijuana treatment centers.

(b). Definitions. For purposed of this section the following terms shall have the following meanings:

(1). "Medical marijuana" means marijuana (as defined in Section 29, Article X of the Florida Constitution), that may be legally cultivated, produced, dispensed and used under applicable Florida law, including medical marijuana statute/rules (as defined below).

(2). "Medical marijuana statutes/rules" means all provisions of Florida Statutes and the Florida Administrative Code that authorize or regulate the cultivation, production, dispensing or use of medical marijuana. As of the effective date of this Ordinance, Section 381.986, FS (2017), and Chapter 64-4 FAC, are the only medical marijuana statutes/rules, but the City anticipates that additional medical marijuana statutes/rules will be adopted, or the foregoing statute and rules amended, to implement Section 29, Article X of the Florida Constitution; this phrase shall refer to any such implementing provisions.

(c). Generally. A medical marijuana treatment center shall be a permitted use in the C-1, C-2, and C-3 zoning districts and the R-C1, D-CM, and SSC-RC zoning districts by Special Exception subject to the following criteria:

(1). No medical marijuana treatment center may operate until an application for such use has been approved by the Planning Department based upon the criteria set forth in this subsection (c).

(2). An applicant is subject to the City's code of ordinance and the requirements of medical marijuana statutes/rules to the extent applicable.

(3). An application for a medical marijuana treatment center shall include:

a). The name of the property owner and tenant (i.e., the medical marijuana treatment center), if the medical marijuana treatment center and property are not owned by the same person or entity.

b). A lease identifying the use of the establishment as being consistent with the requirements of the medical marijuana statutes/rules, if the medical marijuana treatment center and property are not owned by the same person or entity.

c). A survey sealed by a professional surveyor and mapper 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 identified in subsection (c)(4) below.

d). A security plan that has been approved by the police chief that complies with the provisions of the medical marijuana statutes/rules concerning security of the medical marijuana treatment center and the transportation of medical marijuana and marijuana delivery devices (as defined in the medical marijuana statutes/rules); applicants shall submit schematics and similar documents concerning the specifics of the security plan.

(4). A medical marijuana treatment center shall not be permitted:

a). Within one thousand three hundred twenty (1320) feet of another medical marijuana treatment center.

b). Within five hundred (500) feet of a school.

(5). For purposes of subsection (c) (4) above:

a). Distances shall be measured from property line to property line.

(6). Loitering:

a). A medical marijuana treatment center shall provide adequate indoor seating for its customers, clients, patients and business invitees.

b). Customers, clients, patients or business invitees shall not be directed, encouraged or allowed to stand, sit (including in a parked car for any period of time longer than reasonably required for a person's passenger to conduct their official business and depart), or gather or loiter outside of the building where the establishment is operating, including in any parking areas, sidewalks, rights-of-way, or neighboring properties.

c). All pedestrian queuing or loitering at any time, including prior to business hours, outside of an establishment is prohibited.

(7). A medical marijuana treatment center shall not have a drive through service aisle. All dispensing and sales of products shall occur inside the building.

(8). A medical marijuana treatment center shall not engage in any activity other than those activities specifically defined herein as an authorized part of the use. The preparation, wholesale storage, cultivation, or processing of any form of medical marijuana or medical marijuana product and on-site consumption of any medical marijuana or medical marijuana product is specifically prohibited. On-site storage of any form of medical marijuana or medical marijuana product that is not available for sale is prohibited.

(9). Any sign for the medical marijuana treatment center shall comply with the requirements of this code and the provisions of the Code of Ordinances of the City of Milton that apply in the pertinent zoning district:

a). The sign shall identify the name of the medical marijuana treatment center only.

b). The sign shall not contain any text referring to marijuana, medical marijuana, cannabis, medical cannabis, pot or similar terms, or any text or pictures that are reasonably likely to be deemed to refer thereto (such as "420," marijuana leaves, joints or pipes).

(10). Any application for a medical marijuana treatment center approved under subsection (c) above shall terminate, and such use shall be immediately terminated if any one or more of the following occur:

- a). An applicant has provided false or misleading information to the City prior or subsequent to the approval of the special exception;
- b). Anyone on the premises knowingly dispenses, delivers, or otherwise transfers any medical marijuana or medical marijuana product to an individual or entity not authorized by the medical marijuana statutes/rules to receive such substance or product;
- c). Any applicant, owner, or manager is convicted of any drug-related crime under Florida Statutes;
- d). An applicant fails to correct any city code violation within thirty (30) days of notice of the violation from city, or to otherwise provide an action plan to remedy the violation acceptable to the zoning official within thirty (30) days of the notice of violation;
- e). An applicant fails to correct any state law (including any medical marijuana statute/rule) violation or address any warning in accordance with any corrective action plan required by the state within the timeframes and completion date the applicant provides to the City;
- f). An applicant's approval as a medical marijuana treatment center under the medical marijuana statutes/rules is revoked, or the applicant no longer is approved as a dispensing organization under the medical marijuana statutes/rules; or
- g). An applicant is not in compliance with the medical marijuana statutes/rules.

(d). Transfer of approval of medical marijuana treatment center is prohibited.

(1). Approval of an application for a medical marijuana treatment center shall not be transferred to a new owner, or possession, control, or operation of the establishment surrendered to such other person.

(2). Approval of an application for a medical marijuana treatment center, a business tax certificate is particular only to the approved location and shall not be transferred to another location.

(3). An attempt to transfer an approval for a medical marijuana treatment center either directly or indirectly in violation of this subsection (d) is hereby declared void, and any attempt to so transfer such approval shall be deemed an abandonment of such approval, whereupon the medical marijuana treatment center shall no longer be permitted (unless a new application for approval under subsection (c) above is obtained).

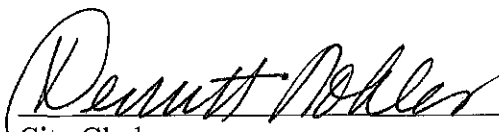
Section 5. Severability Clause: Should any provision or section of this ordinance be held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

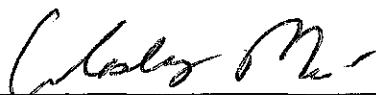
Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. Upon this ordinance taking effect, the temporary moratorium adopted by the City as Ordinance No. 1436-16 shall no longer be effective.

Section 8. This ordinance shall take effect upon approval.

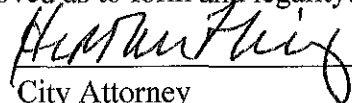
ATTEST: CITY OF MILTON

By: 
City Clerk

By: 
Mayor

For the City of MILTON, Florida, on September 12, 2017.

Approved as to form and legality:

By: 
City Attorney

1st Reading 8-8-17
2^d Reading 9-12-17

NOTICE OF PROPOSED ORDINANCE ENACTMENT

TO WHOM IT MAY CONCERN:

Please be advised that on the 12th day of September, 2017 at 5:31 p.m., CST,
in the City Council meeting room at the City Hall at 6738 Dixon Street, in the City of Milton,
Florida there will be proposed for enactment an Ordinance whose title is as follows:

ORDINANCE NO. 1460-17

**AN ORDINANCE OF THE CITY OF MILTON, FLORIDA,
CONCERNING ZONING; AMENDING SECTION 7.2
PROVIDING FOR DEFINITIONS BY ADDING A
DEFINITION FOR A "MEDICAL MARIJUANA TREATMENT
CENTER"; AMENDING 7.3.1 TABLE OF PERMITTED
USES/USE MATRIX BY ADDING A MEDICAL MARIJUANA
TREATMENT CENTER BY ADDING A ROW TITLED
MEDICAL MARIJUANA TREATMENT CENTERS AS A
PERMITTED USE IN THE C-1, C-2, AND C-3 ZONING
DISTRICTS AND BY SPECIAL EXCEPTION IN THE R-C1, D-
CM, AND SSC-RC ZONING DISTRICTS; AMENDING
ARTICLE 8 USE STANDARDS BY ADDING 8.1AAA
MEDICAL MARIJUANA TREATMENT CENTER WITH
CRITERIA; PROVIDING FOR SEVERABILITY; PROVIDING
FOR THE REPEAL OF CONFLICTING ORDINANCES; AND
PROVIDING FOR AN EFFECTIVE DATE.**

This Ordinance is on file in the City Clerk's office for inspection. Any interested party may
appear at the meeting and be heard with respect to the proposed Ordinance.

This date of August 9, 2017.


City Clerk

To be published at least ten (10) days in advance of the date of adoption.

Copy of this notice emailed to the newspaper August 9, 2017.

CITY CLERK'S CERTIFICATE

THIS ORDINANCE was read by title on the 8th day of August, 2017,
and on the 12th day of September, 2017. Notice of the proposed ordinance was published
ten (10) days in advance of its adoption on the 12th day of September, 2017, and this
ordinance has been on file in the office of the City Clerk for inspection for more than ten (10)
days prior to its publication.


City Clerk

8/855
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AN ORDINANCE OF THE CITY OF MILTON, FLORIDA, CONCERNING ZONING; AMENDING SECTION 7.2 PROVIDING FOR DEFINITIONS BY ADDING A DEFINITION FOR A "MEDICAL MARIJUANA TREATMENT CENTER"; AMENDING 7.3.1 TABLE OF PERMITTED USES/USE MATRIX BY ADDING A MEDICAL MARIJUANA TREATMENT CENTER BY ADDING A ROW TITLED MEDICAL MARIJUANA TREATMENT CENTERS AS PERMITTED USE IN THE C-1, C-2, AND C-3 ZONING DISTRICTS AND BY SPECIAL EXCEPTION IN THE R-C1, D-CM, AND SSC-RC ZONING DISTRICTS; AMENDING ARTICLE 8 USE STANDARDS BY ADDING 8.1AAA MEDICAL MARIJUANA TREATMENT CENTER WITH CRITERIA; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.
This Ordinance is on file in the City Clerk's office for inspection. Any interested party may appear at the meeting and be heard with respect to the proposed Ordinance.
This date of August 9, 2017.
Dewitt Nobles
City Clerk
8/16 & 8/23/2017
8/855