

ORDINANCE NO. 2016-012

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA AMENDING CHAPTER 10 "LICENSES, PERMITS AND BUSINESS REGULATIONS" OF THE WILTON MANORS CODE OF ORDINANCES; CREATING ARTICLE XII "MARIJUANA BUSINESS" TO PROVIDE REGULATIONS, RESTRICTIONS AND PROCEDURES FOR THE USE AND OPERATION OF MEDICAL MARIJUANA RETAIL CENTERS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Staff periodically reviews City Ordinances and makes recommendations to the City Commission to revise its Ordinances; and

WHEREAS, the 2014 Florida Legislature approved Senate Bill 1030 providing for the growing, processing, and distributing of specific forms of low-THC (non-euphoric) cannabis to qualified patients and their legal representatives for the treatment of listed medical conditions, which became effective on June 16, 2014 as Chapter 2014-157, Laws of Florida, and is codified at Section 381.986, Florida Statutes ("Senate Bill 1030"); and

WHEREAS, the Florida Department of Health has adopted Chapter 64-4 Florida Administrative Code to implement Senate Bill 1030; and

WHEREAS, on November 4, 2014, Florida voters did not approve an amendment to the Florida Constitution to allow for broader medical use of any kind of marijuana (including euphoric strains) within the State (the "2014 Constitutional Amendment"); and

WHEREAS, on November 2016, Florida voters will again have an opportunity to vote to approve an amendment to the Florida Constitution to allow for broader medical use

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of any kind of marijuana (including euphoric strains) within the State (the "2016 Constitutional Amendment"); and

WHEREAS, the proposed 2016 Constitutional Amendment authorizes and defines "Medical Marijuana Treatment Centers" to encompass the entire supply chain (cultivation, processing, storage, distribution, etc.), not just retail sales to qualified patients; and

WHEREAS, the 2016 Constitutional Amendment, if approved, will permit the use of additional alternative forms of marijuana (marijuana in all its forms including low-THC cannabis, together referred to as "marijuana") and alternative dispensing methods (including, but not limited to, smoking and food products); and

WHEREAS, the 2016 Florida Legislature approved House Bill 307, which among other things, amended Senate Bill 1030, and provided for the growing, processing, and distributing of specific forms of medical (euphoric) cannabis to qualified patients and their legal representatives for the treatment of listed medical conditions, which became effective on March 25, 2016 as Chapter 2016-123, Laws of Florida, and is codified at Sections 391.986, and 499.0295, Florida Statutes ("House Bill 307"); and

WHEREAS, pursuant to House Bill 307, the Florida Department of Health is authorized to adopt additional rules to implement certain sections of House Bill 307; and

WHEREAS, despite the adoption of Senate Bill 1030 and House Bill 307 the activities they condone remain illegal under federal law; and

WHEREAS, significant safety and security issues exist for any establishment involved in the cultivation, processing or distribution of marijuana, because they maintain large drug inventories and are forced to deal in cash because their activities have not yet been sanctioned

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by federal law; and

WHEREAS, such businesses are inherently attractive targets for criminals, and it is therefore essential that the City limit the permissible scope of such uses and regulate them to ensure their compatibility with surrounding businesses and the community, and to protect and advance the public health, safety and welfare; and

WHEREAS, other attributes of land uses dealing with marijuana, such as odors, must be regulated to minimize their impact on surrounding properties and uses and prevent the creation of attractive nuisances; and

WHEREAS, Senate Bill 1030, and the 2016 Constitutional Amendment are silent on the topic of local government regulation and, consistent with Florida case law governing preemption, local governments are therefore not preempted from regulating marijuana uses; and

WHEREAS, House Bill 307 provides that all matters regarding the regulation of the cultivation and processing of medical cannabis or low-THC cannabis by dispensing organizations are preempted to the state; and

WHEREAS, House Bill 307 allows a municipality to determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with State law or department rule for dispensing facilities or dispensing organizations located within its municipal boundaries; and

WHEREAS, City Staff has determined that this Ordinance is consistent with the Comprehensive Plan, the Land Development Regulations and the Ordinances of the City, and recommends approval of this Ordinance; and

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WHEREAS, the Planning and Zoning Board has conducted a public hearing, has determined this Ordinance to be consistent with the Comprehensive Plan, the Land Development Regulations and other Ordinances of the City and recommends approval as provided herein; and

WHEREAS, the City Commission has determined that it is in the best interests of the citizenry and general public to provide appropriate business regulations to ensure the compatibility of any business related to marijuana with the surrounding businesses, properties, and community, as well as the safety of the employees, neighbors, customers and area residents; and

WHEREAS, the City Commission conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the City Commission has determined that this Ordinance is consistent with the City's Comprehensive Plan and in the best interest of the City, its residents, and its visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA, THAT:

SECTION 1: The foregoing 'WHEREAS' clauses are hereby ratified as being true and correct and are incorporated herein by this reference.

SECTION 2: Article XII, "Marijuana Businesses" of Chapter 10 "Licenses, Permits and Business Regulations" of the Code of Ordinances, is hereby created as follows:

ARTICLE XII - MARIJUANA BUSINESSES

Sec. 10-260.- Marijuana Businesses.

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(a) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Applicant. An individual or business entity desiring to operate a Medical Marijuana Retail Center within the City limits.

(2) Business Operating Name. The legal or fictitious name under which a Medical Marijuana Retail Center conducts its business with the public.

(3) Employee. A person authorized to act on behalf of the Medical Marijuana Retail Center, whether that person is an Employee or a contractor, and regardless of whether that person receives compensation.

(4) Identification Tag. A tamperproof card issued by the City to the persons involved with a Medical Marijuana Retail Center as evidence that they have passed the background checks and other requirements of this article and are authorized to be present on the Premises.

(5) 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 seed or resin that is

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dispensed only from a dispensing organization for medical use by an eligible patient as defined in s. 499.0295 F. S. Marijuana includes any strain of marijuana or cannabis, in any form, that is authorized by State law to be dispensed or sold in the State of Florida. Also referred to as "medical marijuana."

(6) *Medical Marijuana Permit.* A permit issued by the City pursuant to this article authorizing a business to sell Marijuana in the City. Also referred to as "permit."

(7) *Medical Marijuana Retail Center.* A retail establishment, licensed by the Florida Department of Health as a "medical marijuana treatment facility," "medical marijuana treatment center," "dispensing organization," "dispensing organization facility" or similar use, that sells and dispenses medical Marijuana, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of Marijuana or Marijuana product, and does not allow on-site consumption of Marijuana. A Medical Marijuana Treatment Center shall not be construed to be a Medical Marijuana Retail Center.

(8) *Medical Marijuana Treatment Center.* Any facility licensed by the Florida Department of Health to acquire, cultivate, possess, process (including but not limited to development of related products such as

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food, tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, store, or administer Marijuana, products containing Marijuana, related supplies, or educational materials, as authorized by State law. A Medical Marijuana Treatment Center may include retail sales or dispensing of Marijuana. A facility which provides only retail sales or dispensing of Marijuana shall not be classified as a Medical Marijuana Treatment Center under this article. Also may be referred to as a "Medical Marijuana Treatment Facility" or "dispensing organization" or other similar term recognized by State law.

(9) Owner. Any person, including any individual or other legal entity, with a direct or indirect ownership interest of five percent or more in the Applicant, which interest includes the possession of stock, equity in capital, or any interest in the profits of the Applicant.

(10) Premises. The building, within which a Medical Marijuana Retail Center is permitted to operate by the City, including the property on which the building is located, all parking areas on the property or that are utilized by the Medical Marijuana Retail Center and sidewalks and alleys within 100 feet of the property on which the Medical Marijuana Retail Center is located.

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(11) Qualified registered patient/qualified patient. A resident of the State of Florida who has been added to the State's compassionate use registry by a physician licensed under F.S. ch. 458 or ch. 459, to receive Medical Marijuana from a dispensing organization or Medical Marijuana Treatment Center or similar use as defined in Florida Statutes.

(b) A Medical Marijuana Retail Center shall only be permitted in the WDAE and B-2 zoning districts as a conditional use.

(c) No permit shall be issued hereunder unless and until the Premises/business is granted conditional use approval in accordance with article 105, Unified Land Development Regulation (ULDR) (Conditional Uses)

(1) Application. In addition to the standard development approval application requirements and meeting all the requirements for a conditional use under article 105 ULDR, an application for a permit hereunder shall:

i. Be a joint application by the property Owner and the tenant if the Medical Marijuana Retail Center and the property are not owned by the same person or entity;

ii. Be accompanied by a lease identifying the specific use, if the Medical Marijuana Retail Center and the property are not owned by the same person or entity;

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iii. Include a survey sealed by a Florida-registered land surveyor who is licensed by the State of Florida. The survey shall indicate the distance between the proposed Medical Marijuana Retail Center and any other protected use as set forth below in paragraph 2; and

iv. In addition to the notice to property owners required by article 75 ULDR , no later than ten days prior to each and every public hearing, provide proof of notice of the public hearing to all tenants within 300 feet of the property on which the Medical Marijuana Retail Center is proposed.

2. Location requirements. A Medical Marijuana Retail Center shall not be established:

i. Within 1,000 feet of another Medical Marijuana Retail Center;

ii. Within 1,000 feet of an elementary, middle or secondary school, child day care facility, county or municipal park, or licensed rehabilitation facility, rehabilitation facility or place of worship;

iii. Where a Medical Marijuana Retail Center is located in conformity with the provisions of this article, the subsequent locating of one of the uses listed in ii above within 1,000 feet of an existing Medical Marijuana Retail Center shall not cause a violation of this section. Whenever a conditional use approval for a Medical Marijuana

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Retail Center has been lawfully procured and thereafter an elementary, middle or secondary school, child day care facility, county or municipal park, or licensed rehabilitation facility, rehabilitation facility or place of worship be established within a distance otherwise prohibited by law, the establishment of the such use shall not be cause for the revocation of the conditional use approval or related Medical Marijuana Permit or prevent the subsequent renewal of same; and

iv. Distances shall be measured using an airline measurement from the property line of the property on which the Medical Marijuana Retail Center is located to the nearest property line of the use identified in 2.i. through 2.ii. that existed before the date the Medical Marijuana Retail Center submitted its initial application for approval.

3. Other uses.

i. If the Medial Marijuana Retail Center is located in a freestanding building it shall be the only use permitted on the property,

ii. If the Medical Marijuana Retail Center is located in a bay or multi-bay space within a multi-tenant structure, it shall be the only use permitted within the bay or multi-bay space it occupies.

4. Prohibited activities. A Medical Marijuana Retail 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

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processing of any form of Marijuana or Marijuana product, and on-site consumption of any Marijuana or Marijuana product is specifically prohibited at a Medical Marijuana Retail Center. On-site storage of any form of Marijuana or Marijuana product is prohibited, except to the extent reasonably necessary for the conduct of the on-site retail business.

5. Conditional use duration. A conditional use approval for a Medical Marijuana Retail Center shall be valid for two years, subject to compliance with the conditions of approval and all State laws, licensing, permitting and operational requirements. A new conditional use approval must be obtained prior to expiration of the active approval to ensure continued operation.

6. Revocation of conditional use approval. Any conditional use approval granted under this section shall be immediately terminated if any one or more of the following occur:

i. The Applicant provides false or misleading information to the City;

ii. Anyone on the Premises knowingly dispenses, delivers, or otherwise transfers any Marijuana or Marijuana product to an individual or entity not authorized by State law to receive such substance or product;

iii. An Applicant, Owner or manager is convicted of a felony offense;

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iv. Any Applicant, Owner, manager or Employee is convicted of any drug-related crime under Florida Statutes;

v. The Applicant fails to correct any City Code violation or to otherwise provide an action plan to remedy the violation acceptable to the City Manager, or designee within 20 days of citation;

vi. The Applicant fails to correct any State law violation or address any warning in accordance with any corrective action plan required by the State within the timeframes and completion date the Applicant provided to the City;

vii. The Applicant's state or any other license or approval authorizing the dispensing of Medical Marijuana expires or is revoked;
or

viii. The Applicant fails to maintain a Medical Marijuana Permit as required by this section.

7. Transfer of medical Marijuana conditional use approval.

i. A conditional use approval for a Medical Marijuana Retail Center shall not be transferred to a new Owner, or possession, control, or operation of the establishment surrendered to such other person until a new Medical Marijuana Permit has been obtained by the new Applicant in accordance with this section.

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ii. An application for a conditional use approval transfer, meeting the requirements of this section and the provisions of article 105 ULDR, shall be filed with the City at the same time the new Applicant files its application for a Medical Marijuana Permit.

iii. The application for a conditional use approval transfer shall be accompanied by a conditional use approval transfer fee to be set by resolution of the Commission; and

iv. If the new Applicant is granted a Medical Marijuana Permit and the transfer application meets the requirements of this section and the City Code, the City Manager or designee shall approve the conditional use approval transfer.

v. A conditional use approval is particular only to the approved location and shall not be transferred to another location.

vi. An attempt to transfer a conditional use approval either directly or indirectly in violation of this section is hereby declared void, and in that event the conditional use shall be deemed abandoned, and the related Medical Marijuana Permit shall be forfeited.

(d) Permit and Identification Tag required.

(1) It shall be unlawful for any business or person to operate a Medical Marijuana Retail Center, or to otherwise offer for sale or in any way

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participate in the conduct of any activities upon the Premises within the City without first obtaining a Medical Marijuana Permit.

(2) Each person employed in the conduct of such activity shall be screened and approved pursuant to subsection (f) and required to obtain an Identification Tag before the center opens for business or, for persons who become involved with the Center after it is open, before having any involvement in Center's activities.

(3) No such permit or Identification Tag shall be transferable; each person must obtain a Medical Marijuana Permit or Identification Tag directly from the City.

(e) Applications for permit; investigation and issuance; term.

(1) Application. Applications for a Medical Marijuana Permit shall be made by the Applicant in person to the Community Development Services Department during regular business hours upon such forms and with such accompanying information as may be established by the City. Such application shall be sworn to or affirmed. Every application shall contain at least the following:

a. The business operating name and all Applicant and Owner information. If the Applicant or Owner is:

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1. An individual, his or her legal name, aliases, home address and business address, date of birth, copy of driver's license or a state or federally issued identification card;

2. A partnership, the full and complete name of the partners, dates of birth, copy of driver's license or state or federally issued identification card of all partners, and all aliases used by all of the partners, whether the partnership is general or limited, a statement as to whether or not the partnership is authorized to do business in the State of Florida and, if in existence, a copy of the partnership agreement (if the general partner is a corporation, then the Applicant shall submit the required information for corporate Applicant in addition to the information concerning the partnership); or

3. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, copy of driver's licenses or state or federally issued identification cards of all officers, and directors, and all aliases used, the capacity of all officers, and directors, and, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or

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not each corporation is authorized to do business in the State of Florida; or

4. Any other type of entity, the exact and complete name, the date of its formation or creation, evidence that the entity is in good standing, the legal names and dates of birth, copy of driver's licenses or state or federally issued identification cards of all members, officers, and directors, and all aliases used, the capacity of all members, officers, and directors, and, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or not each entity is authorized to do business in the State of Florida.

5. The addresses required by this section shall be physical locations, and not post office boxes.

b. A complete copy of the business' application filed with the State of Florida and all related exhibits, appendices, and back up materials for approval and licensure as a Medical Marijuana Treatment Center.

c. Copies of any and all state and other licenses issued to the Applicant to engage in the Marijuana business.

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d. A statement as to whether the Applicant or any Owner or Employee has previously received a Medical Marijuana Permit or Identification Tag from the City.

e. A statement as to whether the Applicant or any Owner holds other permits or licenses under this Code and, if so, the names and locations of such other permitted or licensed establishments.

f. A statement as to whether the Applicant or any Owner has been a partner in a partnership or an officer or director of a corporation whose permit or license issued under this Code has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation.

g. A statement as to whether or not the Applicant or any Owner has lost any privilege or had any permit or license to do business revoked by any local, state or federal government and, if so, the nature of such privilege, permit or license and the reason for such revocation.

h. A statement as to whether or not the Applicant or any Owner has lost any privilege or had any permit or license to do business suspended by any local, state or federal government and, if so, the

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nature of such privilege, permit or license and the reason for such suspension.

i. A statement as to whether or not the Applicant or any Owner or Employee has been found guilty of or has pleaded guilty or nolo contendere to a felony relating to any business in this State or in any other State or Federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

j. A statement as to whether or not the Applicant or any Owner or Employee has been found guilty of, or have pleaded guilty or nolo contendere to, a felony relating to a battery or a physical violence on any person in this State or in any other State or Federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

k. A statement as to whether or not the Applicant or any Owner has filed a petition to have their respective debts discharged by a bankruptcy court having jurisdiction of such cases.

l. Written documentation, acceptable to the Chief of Police or designee, that the Applicant, every Owner, and each Employee has successfully completed level 2 background screening within the year.

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m. A passport photograph of the Applicant, every Owner, and each Employee.

n. A notarized, signed, and sworn statement that the information within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued photo identification cards are currently valid and are true and correct copies of the originals.

(2) Rejection of Application. In the event the City determines that the Applicant has not satisfied the application requirements for a proposed Medical Marijuana Retail Center, the Applicant shall be notified of such fact; and the application shall be denied.

(3) Fees. In addition to demonstrating compliance with this article, the Applicant shall pay a nonrefundable application fee in an amount established by resolution of the City Commission for each Applicant, each Owner, and each Employee to cover its administrative costs and expenses incurred in reviewing and administering the Permit and Identification Tag Program, irrespective of the issuance or denial of the application. Each Applicant shall also pay an annual nonrefundable, non-proratable permit fee in an amount established by resolution of the City Commission before receiving a Medical Marijuana Permit.

(4) Application review.

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a. Investigation. The City shall refer the application to the Chief of Police or designee, who shall review the application and documentation provided, and conduct a background screening of the Applicant, each Owner and Employee. Upon receipt of the appropriate documentation, the Chief of Police, or designee shall forward the information and application to the City Manager, or designee together with any recommendations and other relevant information from the files regarding the Applicant.

b. City Manager determination. Upon receipt of such material from the Chief of Police, or designee, the City Manager or designee shall, within 30 days, either:

1. Notify the Applicant that the Permit has been denied and the reason for such denial; or

2. Issue a Permit, with or without conditions.

3. The City Manager or designee shall provide notice to the Commission following issuance of any Medical Marijuana Permit.

c. Duration. Permits shall be issued for a one-year period for a term commencing October 1 or the date of issuance, and ending the following September 30.

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d. Denial. The City shall deny an Applicant's application for Medical Marijuana Permit if an investigation of the Applicant and Owner, or the Applicant's application, indicates that the Applicant, an Employee, or any Owner:

1. Has failed to pay required licensing fees;
2. Has failed to demonstrate compliance with the requirements of this article;
3. Has a criminal prosecution pending against him/her in any State or Federal court for fraud or a felony;
4. Has been convicted of fraud or felony by any State or Federal court within the past five years;
5. Has obtained any governmental permit by fraud or deceit;
6. Has negligently or intentionally misrepresented or concealed information required by this article in an application for a Permit;
7. Has been declared by the State to be a Habitual felony offenders, violent habitual felony offenders, violent career criminals as defined in Section 775.084 Florida Statutes;

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8. Has been listed on the United States government's Terrorist Screening Center's No Fly List; or

9. Has been documented in the NCIC/FCIC law enforcement database as an active gang member.

(f) Background checks, photograph and Identification Tag. In connection with the issuance of a Medical Marijuana Permit by the City, the Chief of Police, or designee shall, upon verification of successful level 2 background screening, cause an Identification Tag to be issued to each approved Applicant for a Permit as well as for each Owner and each Employee. On the face of each Identification Tag, there shall be placed the following:

(1) A photograph of the Applicant/Owner/Employee;

(2) The Permit number;

(3) The Permit holder's name and address;

(4) The name and address of the Medical Marijuana Retail Center that the Applicant/Owner/Employee represents or is employed by; and

(5) The expiration date of the Permit.

(g) Reapplication. If a Person applies for a Medical Marijuana Permit at a particular location within a period of one year from the date of denial of a previous application for a Medical Marijuana Permit at the location, and there

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has not been an intervening change in the circumstances material to the decision regarding the former reason(s) for denial, the application shall not be accepted for consideration.

(h) *Renewal.* Medical Marijuana Permits shall be entitled to renewal annually subject to the provisions of this article. Before the October 1 expiration date, the annual Medical Marijuana Permit may be renewed by presenting the Permit for the previous year, and:

- (1) Paying the appropriate Permit fee;
- (2) Updating the information supplied with the latest application or certifying that the information supplied previously remains unchanged; and
- (3) Providing proof of continued compliance with all state and City licenses, operational and zoning requirements.

(i) *Permit Transferability.*

- (1) The Medical Marijuana Permit is specific to the Applicant and the location and shall not be transferred.
- (2) An attempted transfer of a Medical Marijuana Permit, either directly or indirectly in violation of this section is hereby declared void, and in

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that event the Medical Marijuana Permit shall be deemed abandoned,
and the Medical Marijuana Permit shall be forfeited.

(j) *Violation of regulations.* In the event of a Code violation, violation of the conditions of the Medical Marijuana Permit or conditional use approval, or other violation of the laws applicable to the Medical Marijuana Retail Center, the City shall issue a warning notice and the Applicant shall, no later than 20 business days after receipt of the notice, provide a copy of a corrective action plan and timeframes and completion date to address the identified issues to the City.

(k) *Illegal transfer.* If a Medical Marijuana Permit is transferred contrary to this article, the City shall suspend the Medical Marijuana Permit and notify the permittee of the suspension. The suspension shall remain in effect until all of the requirements of this article have been satisfied and a new Medical Marijuana Permit has been issued by the City.

(l) *Grounds for Revocation.* Any Medical Marijuana Permit issued under this article shall be immediately revoked if any one or more of the following occurs:

(1) The Applicant provides false or misleading information to the City;

(2) Anyone on the Premises knowingly dispenses, delivers, or otherwise transfers any Marijuana or Marijuana product to an individual or

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entity not authorized by State law to receive such substance or product;

(3) The Applicant, an Owner or a manager is convicted of a felony offense;

(4) Any Applicant, Owner, manager or Employee is convicted of any drug-related crime under Florida Statutes;

(5) The Applicant fails to correct any City Code violation or to otherwise provide an action plan to remedy the violation acceptable to the City Manager or designee within 20 days of citation;

(6) The Applicant fails to correct any State law violation or address any warning in accordance with any corrective action plan required by the State within the timeframes and completion date the Applicant provided to the City;

(7) The Applicant's state license or approval authorizing the dispensing of Medical Marijuana expires or is revoked;

(8) Any conditional use approval granted by the City for the use of a Medical Marijuana Retail Center at a particular location expires or is revoked;

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(9) The Applicant, Owner, manager or Employee is declared to be a habitual felony offender, violent habitual felony offender, violent career criminal as defined in Section 775.084 Florida Statutes, and declared by the State;

(10) The Applicant, Owner, manager or Employee is added to the United States government's Terrorist Screening Center's No Fly List;

(11) The Applicant, Owner, manager or Employee is declared a gang member and is documented in the NCIC/FCIC law enforcement database as such; or

(12) Any violation and/or non-compliance of any regulations or requirements listed in this article.

(m) *Revocation.* In the event the City determines there are grounds for revocation as provided in this article, the City shall notify the permittee of the intent to revoke the Medical Marijuana Permit and the grounds upon which such revocation is proposed. The permittee shall have ten business days in which to provide evidence of compliance with this article. If the permittee fails to show compliance with this article within ten business days, the City shall schedule a hearing before the Special Magistrate. If the Special Magistrate determines that a permitted Medical Marijuana Retail Center is not in compliance with this article the City shall revoke the Medical Marijuana Permit and shall notify the permittee of the revocation. Nothing in this

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section shall take away other enforcement powers of the Special Magistrate or any other agency provided by the Code or statute.

(n) Effect of Revocation.

(1) If a Medical Marijuana Permit is revoked, the permittee shall not be allowed to obtain another Medical Marijuana Permit for a period of two years.

(2) The revocation shall take effect 15 days, including Saturdays, Sundays, and holidays, after the date the City mails the notice of revocation to the permittee or on the date the permittee surrenders his or her Medical Marijuana Permit to the City, whichever occurs first.

(o) General requirements. Each Medical Marijuana Retail Center shall observe the following general requirements:

(1) Conform to all applicable building statutes, codes, ordinances, and regulations, whether federal, state, or local;

(2) Conform to all applicable fire statutes, codes, ordinances, and regulations, whether federal, state, or local;

(3) Conform to all applicable health statutes, codes, ordinances, and regulations, whether federal, state, or local;

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(4) Conform to all applicable zoning regulations and land use laws, whether state or local, including but not limited to the Unified Land Development Regulations;

(5) Keep the original of the Medical Marijuana Permit posted in a conspicuous place at the Premises at all times, which Medical Marijuana Permit shall be available for inspection upon request at all times by the public.

(g) Permit operation requirements. Any business operating under a Medical Marijuana Permit shall comply with the following operational guidelines.

(1) Business identification. The words "bong," "bud," "chronic," "demp," "dope," "ganja," "grass," "green," "hash," "hashish," "hemp," "herb," "hydro," "indo," "joint," "laughing," "mary jane," "peyote," "pot," "puff," "reefer," "smoke," "wacky tabacky," "weed," or synonyms for such words or similar words or variations of such words shall not be permitted in the business operating name of the Medical Marijuana Retail Center.

(2) Hours of operation.

a. Operation is permitted only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday.

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b. No operation is permitted on Sundays or state or federal holidays.

(3) On-site consumption of Marijuana. No Medical Marijuana Retail Center shall allow any Marijuana to be smoked, ingested or otherwise consumed on the Premises. The Medical Marijuana Retail Center shall take all necessary and immediate steps to ensure compliance with this paragraph. No person shall smoke, ingest or otherwise consume Marijuana on the Premises.

(4) Alcohol prohibited. No Medical Marijuana Retail Center shall allow the sale, service, or consumption of any type of alcoholic beverages on the Premises including in the surrounding rights-of-way. The Medical Marijuana Retail Center shall take all necessary and immediate steps to ensure compliance with this paragraph. No person shall consume an alcoholic beverage on the Premises, including the surrounding rights-of-way.

(5) Outdoor activity. There shall be no outdoor displays, sales, promotions, or activities of any kind permitted on the Premises, including the surrounding rights-of-way. All activities and business shall be conducted within the confines of the permanent building containing the Medical Marijuana Retail Center.

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(6) On-site storage. There shall be no on-site storage of any form of Marijuana or Marijuana product, except as reasonably necessary for the conduct of the Medical Marijuana Retail Center's on-site business.

(7) Live plant materials. No living Marijuana plants are permitted on the site of a Medical Marijuana Retail Center.

(8) Maintenance of Premises. A Medical Marijuana Retail Center shall actively remove litter at least twice each day of operation on the Premises, from the Premises, the area in front of the Premises, from any parking lot used by its patrons, and, if necessary, on from public sidewalks or rights-of-way within 100 feet of the outer edge of the Premises used by its patrons.

(9) Garbage. Refuse or waste products incident to the distribution of Marijuana shall be destroyed on-site at least once every 24 hours.

(10) Security. With the application, the Applicant shall submit a security plan demonstrating compliance with s. 381.986 F.S. and all other applicable statutes and State administrative rules.

a. In addition to proving compliance with all State requirements, the security plan shall, at a minimum, provide the following:

1. Fully operational lighting and alarms reasonably designed to ensure the safety of persons and to protect

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the Premises from theft, both in the Premises and in the surrounding rights-of-way, including:

i. a silent security alarm that notifies the Police Department that a crime is taking place;

ii. a vault, drop safe or cash management device that provides minimum access to the cash receipts; and

iii. a security camera system capable of recording and retrieving, for at least thirty (30) days, an image which shall be operational at all times during and after business hours. The security cameras shall be located:

(i) at every ingress and egress to the dispensary, including doors and windows;

(ii) on the interior where any monetary transaction shall occur; and

(iii) at the ingress and egress to any area where medical Marijuana is stored;

2. Traffic management and loitering controls;

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3. Cash and inventory controls for all stages of operation on the Premises, and during transitions and delivery.
 4. On-site armed security personnel from one hour before the business opens to the public until one hour after the business closes to the public.
- b. The Chief of Police, or designee shall review the Applicant's operational and security plan using Crime Prevention Through Environmental Design (CPTED) principles. The Chief may impose site and operational revisions as are deemed reasonably necessary to ensure the safety of the Applicant, Owner(s), Employees, customers, adjacent property owners and residents, which may include items such as methods and security of display and storage of Marijuana and cash, limitations on window and glass door signage, illumination standards, revisions to landscaping, and any other requirement designed to enhance the safety and security of the Premises.
- c. Any instance of breaking and entering at a Medical Marijuana Retail Center, regardless of whether Marijuana or Marijuana-based products are stolen, shall constitute a violation of this article if the security alarm shall fail to activate simultaneous with the breaking and entering.

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d. Each Applicant, Owner, Employee, and manager shall, as soon as is reasonably practicable, report all felonies and any theft, suspected theft or loss of Marijuana or Marijuana based products that occurs at the business to the Police Department and any other entity that requires them to report such incidents

(11) Delivery. All deliveries to the Medical Marijuana Retail Center shall be made while on-site security personnel are present.

(12) Odor and air quality. A complete air filtration and odor elimination filter and scrubber system shall be provided ensuring the use will not cause or result in dissemination of dust, smoke, or odors beyond the confines of the building, or in the case of a tenant in a multi-tenant building, beyond the confines of the occupied space. A double door system shall be provided at all entrances to mitigate odor intrusion into the air outside the Medical Marijuana Retail Center.

(13) Delivery Vehicle Identification. For security purposes, no vehicle used in the operation of or for the business purposes of a Medical Marijuana Retail Center shall be marked in such a manner as to permit identification with the Medical Marijuana Retail Center.

(14) Signage. Medical Marijuana Retail Center shall post, at each entrance to the Medical Marijuana Retail Center the following language:

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ONLY INDIVIDUALS WITH LEGALLY RECOGNIZED MARIJUANA OR CANNABIS QUALIFYING PATIENT OR LEGAL REPRESENTATIVE IDENTIFICATION CARDS OR A QUALIFYING PATIENT'S LEGAL GUARDIAN MAY OBTAIN MARIJUANA FROM A MEDICAL MARIJUANA RETAIL CENTER.

The required text shall be in letters one-half inch in height.

(15) On-site community relations contact. The Medical Marijuana Retail Center shall provide the City Manager, or designee and all property owners and tenants located within 100 feet of the entrance to its building, with the name, phone number, and e-mail or facsimile number of an on-site community relations staff person to whom they can provide notice during business hours and after business hours to report operating problems. The Medical Marijuana Retail Center shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police Department or other City officials.

(16) Employment restrictions. It shall be unlawful for any Medical Marijuana Retail Center to employ any person who:

a. is not at least 21 years of age; and

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b. has not passed a level 2 background screening.

(17) *Persons allowed to enter the Premises.*

a. Underage entry. It shall be unlawful for any Medical Marijuana Retail Center to allow any person who is not at least 18 years of age on the Premises during hours of operation, unless that person is authorized by State law to purchase Medical Marijuana, whether as a Qualified patient with a valid identification card or legal representative of a Qualified patient with a valid identification card.

b. Entry by persons authorized by State law. It shall be unlawful for any Medical Marijuana Retail Center to allow any person on the Premises during the hours of operation if that person is not authorized by State law to be there. Authorized persons, such as Owners, managers, Employees and Qualified registered patients, and their legal representatives must wear an Identification Tag, and authorized inspectors and authorized visitors must wear a visitor identifying badge and be escorted and monitored at all times by a person who wears his or her Identification Tag.

(18) *Product visibility.* No Marijuana or product of any kind may be visible from any window or exterior glass door.

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(19) *Sole business.* No business other than the dispensing of Medical Marijuana shall be permitted to be conducted from the Premises.

(20) *Compliance with State regulations and licensure requirements.* A Medical Marijuana Retail Center must comply with all federal and State laws, licensing and regulatory requirements.

a. A Medical Marijuana Retail Center shall notify the City in writing within five business days of receipt of any notice of violation or warning from the State or of any changes to its State licensing approvals.

b. If a Medical Marijuana Retail Center receives a notice of violation or warning from the State, it shall, no later than 20 business days after receipt of the notice, provide a copy of the corrective action plan and timeframes and completion date to address the identified issues to the City.

(21) *Prohibited activities.* A Medical Marijuana Retail 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 Marijuana or Marijuana product, and on-site consumption of any Marijuana or Marijuana product is specifically prohibited at a Medical Marijuana Retail Center. On-site storage of any form of Marijuana or Marijuana

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product is prohibited, except to the extent reasonably necessary for the conduct of the on-site retail business.

(r) Public consumption of Marijuana. Nothing in this article shall be deemed to permit the public consumption of any form of Marijuana. Further, it shall be unlawful for any person to smoke, ingest or consume Marijuana, Medical Marijuana, cannabis, or low-THC cannabis as defined in Florida Statutes, in any form in any public building, public right-of-way, or public space within the City.

SECTION 8: It is the intention of the City Commission of the City of Wilton Manors, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Wilton Manors, Florida.

SECTION 9: All Ordinances and Resolutions or parts of Ordinances and Resolutions in conflict herewith, be and the same are hereby repealed, to the extent of such conflict.

SECTION 10: If any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 11: All prior Ordinances or Resolutions, or parts, thereof, in conflict are hereby repealed to the extent of said conflict.

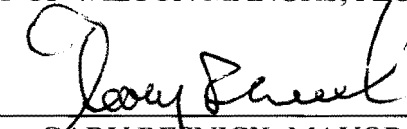
SECTION 12: This Ordinance shall become effective immediately upon the date of adoption.

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PASSED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA, THIS 23rd DAY OF August, 2016.

CITY OF WILTON MANORS, FLORIDA

By: _____


GARY RESNICK, MAYOR

RECORD OF COMMISSION VOTE

MAYOR RESNICK
VICE MAYOR NEWTON
COMMISSIONER CARSON
COMMISSIONER FLIPPEN
COMMISSIONER GREEN

aye
aye
aye
aye
aye

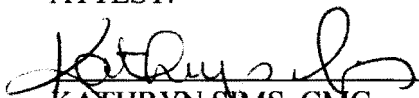
PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA THIS 1st DAY OF September 2016.

RECORD OF COMMISSION VOTE

MAYOR RESNICK
VICE MAYOR NEWTON
COMMISSIONER CARSON
COMMISSIONER FLIPPEN
COMMISSIONER GREEN

aye
aye
aye
aye
aye

ATTEST:


KATHRYN SIMS, CMC
CITY CLERK

I HEREBY CERTIFY that I have approved the form of this Ordinance.


KERRY L. EZROL, ESQ.
CITY ATTORNEY

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