

EXHIBIT 1  
ORDINANCE NO. 2018-

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING CHAPTER 32, "ZONING AND LAND DEVELOPMENT CODE", DIVISION 24 "ON-SITE DISPENSING OF CONTROLLED SUBSTANCES" PROVIDING DEFINITIONS AND MINIMUM DISTANCE SEPARATION REQUIREMENTS FOR MEDICAL MARIJUANA ESTABLISHMENTS AND PHARMACIES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, City Administration periodically reviews City Ordinances and makes recommendations to the City Commission; and

**WHEREAS**, in reviewing state law related to the regulation of medical marijuana establishments, pharmacies, and pain management clinics, the City Administration has determined it is in the best interest to regulate distance requirements for the on-site dispensing of controlled substances; and

**WHEREAS**, in November 2016, Florida voters approved an amendment to the Florida Constitution to allow for broader medical use of medical marijuana; and

**WHEREAS**, marijuana is a Schedule I drug under the federal Controlled Substances Act, 21 U.S.C Section 811. According to the United States Drug Enforcement Agency, in 2014, an estimated 6.5 million people aged 12 or older used marijuana on a daily or almost daily basis over a 12-month period. A significant proportion of all admissions for substance abuse treatment are for marijuana/hashish as their primary drug of abuse. In 2013, 16.8% of all such admissions, totaling 281,911 over the course of the year, were for primary marijuana/hashish abuse; and

**WHEREAS**, Section 381.986(11)(c), Florida Statutes provides that a medical marijuana treatment center dispensing facility "may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location through a formal proceeding open to the public at which the county or municipality determines that the location promotes the public health, safety, and general welfare of the community"; and

**WHEREAS**, pain management clinics and pharmacies licensed under the regulatory authority of the state of Florida provide on-site dispensing of controlled substances, identified in Schedule II, III, or IV in Section 893.03, 893.035, or 893.0355, Florida Statutes; and

37           **WHEREAS**, in 2017, following the Centers for Disease Control and Prevention (CDC)  
38 declaring a national opioid epidemic, Governor Rick Scott signed Executive Order 17-146  
39 directing a Public Health Emergency across the state;

40           **WHEREAS**, opioids were responsible for over 33,000 deaths nationwide and nearly 3,900  
41 deaths in Florida in 2015; and

42           **WHEREAS**, opioid abuse has required additional resources from local first responders  
43 such as law enforcement, firefighters, and emergency medical services. According to the  
44 Hallandale Beach Fire Department, in 2017, there were 110 suspected opioid overdoses in  
45 Hallandale Beach. By May 2018, there were 17 suspected opioid overdoses in Hallandale Beach.  
46 Narcan was given to these patients at additional cost to the City; and

47           **WHEREAS**, the overprescribing and excessive consumption of opiate prescription drugs  
48 has resulted in increased addiction of persons, increased crime associated with such activity, and  
49 has resulted in a high number of deaths in the South Florida area and around the City of  
50 Hallandale Beach related to prescription drug abuse. It has created an urgent situation requiring  
51 immediate action to reduce the threat to the health, safety and welfare of the citizens of the City  
52 of Hallandale Beach; and

53           **WHEREAS**, preventing the concentration and proliferation of medical marijuana  
54 establishments, pharmacies, and pain management clinics serves to disperse and mitigate the  
55 deleterious impacts and to prevent the gradual blighting of surrounding areas; and

56           **WHEREAS**, City Administration has determined based on the Comprehensive Plan that  
57 a 1,000 foot minimum interbusiness distance separation requirement is reasonable for medical  
58 marijuana establishments, pharmacies, and pain management clinics, and is in the best interest  
59 of the public health, safety, and welfare; and

60           **WHEREAS**, on July 25, 2018, the Planning and Zoning Board, serving as the Local  
61 Planning Agency, considered the proposed ordinance and afforded all interested persons an  
62 opportunity to be heard at the public meeting; and

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

68           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF**  
69 **HALLANDALE BEACH, FLORIDA:**

70  
71           **SECTION 1.** The foregoing "Whereas" clauses are affirmed as true and hereby  
72 incorporated herein.

73           **SECTION 2.** Chapter 32, "Zoning and Land Development Code", Division 24 "On-Site  
74 Dispensing of Controlled Substances" of the Code of Ordinances of the City of Hallandale Beach,  
75 Florida is hereby amended as follows:

76 **DIVISION 24. – ON-SITE DISPENSING OF CONTROLLED SUBSTANCES**

77 **Sec. 32-776. - Pain Management Clinics ~~Controlled substances dispensed on-site.~~**

78 (a) *Applicability.* Pain management clinics, as defined in section 32-8, "Definitions," shall be  
79 subject to the following supplemental regulations:

80       (1) On-site dispensing of controlled substances that are identified in Schedule II, III, or IV in  
81 F.S. §§ 893.03, 893.035 or 893.0355, unless otherwise expressly permitted by federal  
82 or state law, is prohibited. The following is specifically exempt from this prohibition:

83       a. A health care practitioner's epidural injection of a controlled substance in an amount  
84 adequate to treat the patient during that particular treatment session.

85       (2) *Nonconforming pain management clinics.* Pain management clinics, in existence prior to  
86 the effective date of this division, but now in violation of subsection (a)(1) of this section,  
87 shall be required to terminate the on-site dispensing of controlled substances and be  
88 brought into full compliance with this section within 18 months of the date of adoption of  
89 this division.

90 **~~Sec. 32-777.— Supplemental regulations for pain management clinics.~~**

91 **(b) Supplemental regulations for pain management clinics.**

92 ~~(a)~~ **(1)** Pain management clinics, as defined in section 32-8, shall, at the time of annual payment  
93 of the business license tax, provide a statement as to the existence and status of any  
94 pending or completed disciplinary actions by the department of health or any board  
95 authorized pursuant to F.S. § 456.072, concerning the clinic or any persons employed

by the clinic and provide a copy of any registration required by the department of health pursuant to [F.S. §§] 458.309(4) and 459.005(3).

~~(b)~~ (2) Parking. Any parking demand created by a pain management clinic shall not exceed the supply of parking spaces legally available within the shared guest or visitor parking areas allocated on the site as required by section 32-455. An applicant may be required to demonstrate that on-site traffic flow and parking will be sufficient to accommodate parking demands generated by the pain management clinic based on a current traffic and parking study prepared by a certified professional, if requested by the city.

**~~Sec. 32-778.— Information to be filed monthly with the city.~~**

(c) Information to be filed monthly with the city.

~~(a)~~ (1) Each month during the term of a license, each licensee shall supply the city with the following information, such information to be provided on the form and in the manner prescribed by the city:

~~(1)~~ a. A statement of the names of all employees of the licensee.

~~(2)~~ b. A statement as to whether any arrests have occurred upon the licensed premises and if so, the dates of such arrests, the persons arrested and the offense with which each of those persons was charged.

~~(3)~~ c. Any material change in any of the information required pursuant to the original application for the license.

~~(4)~~ d. The violation of any of the terms and conditions of this division or the violation of any ordinance of the city or county, or the violation of any of the laws of the state or the United States as they pertain to the conduct of the licensed business shall be cause for revocation of the license pursuant to section 18-40 of the city's Code of Ordinances by clear and convincing evidence.

**Sec. 32-777. Medical marijuana establishments and pharmacies**

(a) Definitions. For purposes of this section, the following words terms and phrases, including their respective derivatives have the following meanings:

(1) Derivative product means any form of cannabis suitable for routes of administration.

- (2) 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 ten 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 seed or resin that is dispensed only from a dispensing organization approved by the Florida Department of Health pursuant to F.S. § 381.986.
- (3) Low-THC cannabis dispensary means an establishment where low-THC cannabis is dispensed at retail.
- (4) 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, salt, derivative product, mixture, or preparation of the plant or its seeds or resin including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient. The term shall be interpreted in accordance with F.S. § 381.986 and Ch. 64-4 of the Florida Administrative Code.
- (5) Medical marijuana establishment means an establishment related to medical marijuana, regulated pursuant to F.S. § 381.986.
- (6) Medical marijuana treatment center means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transport, sells, distributes, dispenses, or administers marijuana, products contain marijuana, related supplied, or educational materials to qualifying patients or their caregivers and is registered by the Florida Department of Health.
- (7) Medical marijuana treatment center dispensing facility means any facility where medical marijuana or any product derived there from is dispensed at retail. The term shall be interpreted in accordance with F.S. § 381.986 and Ch. 64-4 of the Florida Administrative Code.
- (b) Compliance with laws. Medical marijuana treatment centers and pharmacies, as defined in section 32-8, "Definitions," shall, at all times, comply with the licensing and regulatory requirements of applicable statutes and state administrative rules, which include, but are not limited to, the Florida Building Code, the Florida Fire Prevention Code, and any local amendments to the Florida Building Code or the Florida Fire Prevention Code.

(c) License or permit fees. Medical marijuana treatment centers shall be charged all license or permit fees in an amount equal to the license or permit fees charged to pharmacies. Any person or entity applying for or renewing a business tax receipt for a medical marijuana treatment center or pharmacy within the City shall exhibit an active state license, or proof of same, before such business tax receipt may be issued. Permitting requirements are subject to Chapter 7.

(d) Medical marijuana establishment proximity to schools.

(1) Medical marijuana treatment center cultivating or processing facilities may not be located within five hundred (500) feet of any real property that comprises a public or private elementary school, middle school, or secondary school in accordance with F.S. § 381.986, or as amended.

(2) Medical marijuana treatment center dispensing facilities may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the city commission, upon application for the requested variance and public hearings, determines that the location promotes the public health, safety, and general welfare of the community.

a. In granting any such variance, the city commission may prescribe any conditions that it deems necessary in the public interest.

b. The public hearings shall be noticed, posted and advertised in conformity with the requirements for variances; except that courtesy letters shall also be sent to all property owners located within 500 feet of the proposed medical marijuana treatment center dispensing facility seeking the variance. An administrative fee, established in accordance with the city's general fee policy, shall be due at the time application for such a hearing is made.

(3) The five hundred-foot distance shall be measured by drawing a straight line from the nearest property boundary line of the medical marijuana treatment center dispensing facility to the nearest property boundary line of the public or private elementary school, middle school, or secondary school. The distance shall not be measured by a pedestrian route or automobile route.

**Sec. 32-778. Interbusiness distance separation requirements for on-site dispensing of controlled substances.**

(a) *Pain Management Clinic.* No property used for a Pain Management Clinic shall be located within 1,000 feet of another legally established Pain Management Clinic.

(b) *Medical Marijuana Treatment Center Dispensing Facility.* No property used for a Medical Marijuana Treatment Center Dispensing Facility shall be located within 1,000 feet of another legally established Medical Marijuana Treatment Center Dispensing Facility.

(c) *Pharmacy.* No property used for a Pharmacy shall be located within 1,000 feet of another legally established Pharmacy.

(d) The 1,000-foot distance requirement shall be measured by following a straight line from the nearest portion of the property of the existing use. The distance shall not be measured by a pedestrian route or automobile route. The distance requirement does not apply to establishments located outside of the boundaries of the city.

(e) *Variance.* The city commission, may, upon application for the requested variance and public hearings, determine that the location promotes the public health, safety, and general welfare of the community. In granting any such variance, the city commission may prescribe any conditions that it deems necessary in the public interest. The public hearings shall be noticed, posted and advertised in conformity with the requirements for variances; except that courtesy letters shall also be sent to all property owners located within 1,000 feet of the proposed medical marijuana treatment center dispensing facility, pharmacy, or pain management clinic seeking the variance. An administrative fee, established in accordance with the city's general fee policy, shall be due at the time application for such a hearing is made.

(f) *Nonconformity.* Any pharmacy authorized prior to the adoption of this section, or any pain management clinic, pharmacy or a medical marijuana treatment center dispensing facility created and established under the land development regulations in a legal manner which may thereafter become legally nonconforming, may continue until there is an abandonment of the use. Once the legally nonconforming pain management clinic, pharmacy or medical marijuana treatment center dispensing facility use is abandoned, it may not be re-established unless it conforms to the requirements of this section. Abandonment shall consist of: a change of use or suspension of active business with the public for a period of

217 at least six months or a lesser time if a written declaration of abandonment is provided by  
218 the owner of the premises, or, if the property is subject to a lease, by the owner and tenant.

219 **SECTION 3. Codification.** It is the intention of the Mayor and City Commission that the  
220 provisions of this ordinance be incorporated into the Code of Ordinances; to effect such intention  
221 the words "ordinance" or "section" may be changed to other appropriate words.

222 **SECTION 4. Conflict.** All ordinances or parts of ordinances and all resolutions and parts  
223 of resolutions in conflict herewith are hereby repealed, to the extent of the conflict.

224 **SECTION 5. Severability.** If this ordinance or any part thereof is declared by a court of  
225 competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of  
226 the ordinance other than the part declared to be invalid.

227 **SECTION 6. Effective Date.** This Ordinance shall take effect immediately upon adoption  
228 on second reading.

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230 PASSED AND ADOPTED on 1st reading on \_\_\_\_\_, 2018.

231 PASSED AND ADOPTED on 2nd reading on \_\_\_\_\_, 2018.

232  
233  
234 \_\_\_\_\_  
235 KEITH S. LONDON  
236 MAYOR

237 SPONSORED BY: CITY ADMINISTRATION

238 ATTEST:

239  
240  
241 \_\_\_\_\_  
242 JENORGEN GUILLEN  
243 CITY CLERK

244  
245 APPROVED AS TO LEGAL SUFFICIENCY  
246 AND FORM

247  
248  
249 \_\_\_\_\_  
250 JENNIFER MERINO  
251 CITY ATTORNEY