

1 EXHIBIT 1
2 ORDINANCE NO. 2020-
3

4 AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF
5 THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING
6 CHAPTER 7, ARTICLE XV, PERMIT APPLICATION,
7 OPERATION REQUIREMENTS AND PROCEDURES FOR
8 MEDICAL MARIJUANA BUSINESSES, PHARMACIES, AND
9 PAIN MANAGEMENT CLINICS TO REMOVE ON-SITE
10 SECURITY PERSONNEL AS A MINIMUM REQUIREMENT;
11 PROVIDING FOR ON-SITE ARMED SECURITY PERSONNEL AS
12 AN ENHANCED REQUIREMENT UNDER APPLICATION
13 REVIEW; PROVIDING FOR CODIFICATION; PROVIDING FOR
14 CONFLICT; PROVIDING FOR SEVERABILITY; AND
15 PROVIDING FOR AN EFFECTIVE DATE.
16

17 **WHEREAS**, City Administration periodically reviews City Ordinances and makes
18 recommendations to the City Commission to revise its ordinances; and

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

21 **WHEREAS**, on September 17, 2018, the City Commission of the City Hallandale Beach
22 adopted Ordinance No. 2018-024, related to the regulation of medical marijuana within the City
23 Boundaries; and

24 **WHEREAS**, Section 381.986(11)(b), Florida Statutes, provides that "A municipality may
25 determine by ordinance the criteria for the location of, and other permitting requirements that do
26 not conflict with state law or department rule for, medical marijuana treatment center dispensing
27 facilities located within the boundaries of that municipality...Except as provided in paragraph (c),
28 a county or municipality may not enact ordinances for permitting or for determining the location of
29 dispensing facilities which are more restrictive than its ordinances permitting or determining the
30 locations for pharmacies licensed under chapter 465"; and

31 **WHEREAS**, pain management clinics and pharmacies licensed under the regulatory
32 authority of the state of Florida provide on-site dispensing of controlled substances, identified in
33 Schedule II, III, or IV in Section 893.03, 893.035, or 893.0355, Florida Statutes; and
34

WHEREAS, the requirement of an armed security personnel may be onerous for numerous businesses attempting to operate pharmacies in the City, and may be unnecessary depending on various circumstances affecting each business; and

WHEREAS, the Police Chief is best qualified to assess if the requirement of an armed security personnel is a necessity for the operation of an establishment; and

WHEREAS, the City Commission has determined that it is in the best interests of the residents and general public to update regulations and ensure the City Code to balance the interests of the public.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF HALLANDALE BEACH, FLORIDA:

SECTION 1. Chapter 7, of the Code of Ordinances of the City of Hallandale Beach, Florida, Article XV, Permitting for On-Site Dispensing of Controlled Substances, is hereby amended to read as follows (additions indicated by underlining, deletions indicated in ~~strikethrough~~):

CHAPTER 7, BUSINESSES

ARTICLE XV - Permitting for On-Site Dispensing of Controlled Substances

Section 7-491. – Permit Application and Requirements.

(1) *Applications for permit; investigation and issuance; term.*

(a) *Application.* Applications for an on-site dispensing of controlled substances permit for businesses established after the date this ordinance is enacted shall be made by the Applicant in person to the Development Services Department during regular business hours upon such forms and with such accompanying information as may be established by the City. Medical Marijuana Treatment Centers Dispensing Facilities, pharmacies, and pain management clinics as defined in Chapter 32 are required to apply for an on-site dispensing of substances permit. Such application shall be sworn to or affirmed. Every application shall contain at least the following:

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

- a. 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;

- 67 b. A partnership, the full and complete name of the partners,
68 dates of birth, copy of driver's license or state or federally
69 issued identification card of all partners, and all aliases used
70 by all of the partners, whether the partnership is general or
71 limited, a statement as to whether or not the partnership is
72 authorized to do business in the State of Florida and, if in
73 existence, a copy of the partnership agreement (if the
74 general partner is a corporation, then the Applicant shall
75 submit the required information from section 7-465(1)a.1.iii
76 in addition to the information concerning the partnership); or
77 c. A corporation, the exact and complete corporate name, the
78 date of its incorporation, evidence that the corporation is in
79 good standing, the legal names and dates of birth, copy of
80 driver's licenses or state or federally issued identification
81 cards of all officers, and directors, and all aliases used, the
82 capacity of all officers, and directors, and, if applicable, the
83 name of the registered corporate agent, and the address of
84 the registered office for service of process, and a statement
85 as to whether or not each corporation is authorized to do
86 business in the State of Florida; or
87 d. Any other type of entity, the exact and complete name, the
88 date of its formation or creation, evidence that the entity is
89 in good standing, the legal names and dates of birth, copy
90 of driver's licenses or state or federally issued identification
91 cards of all members, officers, and directors, and all aliases
92 used, the capacity of all members, officers, and directors,
93 and, if applicable, the name of the registered corporate
94 agent, and the address of the registered office for service of
95 process, and a statement as to whether or not each entity is
96 authorized to do business in the State of Florida.
97 e. The addresses required by this section shall be physical
98 locations, and not post office boxes.

2. 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 Dispensing Facility pharmacy, or pain management clinic in compliance with state law.
3. Copies of any and all state and other licenses issued to the Applicant to engage in their business.
4. A statement as to whether the Applicant or any Owner or Employee has previously received an on-site dispensing of controlled substances permit or Identification Tag from the City.
5. 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.
6. 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.
7. 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.
8. 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 nature of such privilege, permit or license and the reason for such suspension.
9. 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.
10. 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.

11. 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.

12. Written documentation, acceptable to the City Manager or designee, that the Applicant, every Owner, Manager, and any Employee who dispenses or has access to controlled substances has successfully completed level 2 background screening within the year.

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

14. 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.

15. The Applicant shall submit a security plan demonstrating compliance with 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 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 forty-five (45) days, an image which shall be operational at all times during and after business hours. The security cameras shall be located:

- 165 (a) at every ingress and egress to the
166 dispensary, including doors and
167 windows;
168 (b) on the interior where any monetary
169 transaction shall occur; and
170 (c) at the ingress and egress to any area
171 where controlled substances are stored;
- 172 2. Traffic management and loitering controls;
173 3. Cash and inventory controls for all stages of operation
174 on the Premises, and during transitions and delivery.
- 175 ~~(b)4.~~ On-site armed security personnel from one hour before the
176 business opens to the public until one hour after the business closes
177 to the public may be determined to be necessary by the Chief of Police
178 as part of review of the application per section 7-491(4), Application
179 review.
- 180 16. On-site community relations contact. The Applicant shall provide the City
181 Manager, or designee and all property owners and tenants located within
182 100 feet of the entrance to its building, with the name, phone number, and
183 e-mail or facsimile number of an on-site community relations staff person
184 to whom they can provide notice during business hours and after business
185 hours to report operating problems. The Applicant shall make every good
186 faith effort to encourage neighbors to call this person to try to solve
187 operating problems, if any, before any calls or complaints are made to the
188 Police Department or other City officials.
- 189 (2) *Rejection of Application.* In the event the City determines that the Applicant has not
190 satisfied the application requirements, the Applicant shall be notified of such fact; and
191 the application shall be denied.
- 192 (3) *Fees.* In addition to demonstrating compliance with this article, the Applicant shall pay
193 a nonrefundable application fee in an amount established by resolution of the City
194 Commission for each Applicant, each Owner, and each Employee to cover its
195 administrative costs and expenses incurred in reviewing and administering the Permit
196 and Identification Tag Program, irrespective of the issuance or denial of the
197 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 permit.

(4) *Application review.*

(a) *Investigation.* The City shall review the application and documentation provided, and conduct a background screening of the Applicant, each Owner and any Employee who dispenses or has access to controlled substances, at the Applicant's expense.

(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 controlled substances 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, including on-site armed security personnel, if determined necessary.

(c) *City Manager determination.* Upon receipt of information regarding items 4 a. and b. of this section, 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 permit issued pursuant to this section.

(d) *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.

(e) *Denial.* The City shall deny an Applicant's application for an on-site dispensing of controlled substances 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 obtain or maintain required state licensing
2. Has failed to pay required licensing fees;

3. Has failed to demonstrate compliance with the requirements of this article;
 4. Has a criminal prosecution pending against him/her in any State or Federal court for fraud or a felony;
 5. Has been convicted of fraud or felony by any State or Federal court within the past five years;
 6. Has obtained any governmental permit by fraud or deceit;
 7. Has negligently or intentionally misrepresented or concealed information required by this article in an application for a permit;
 8. 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;
 9. Has been listed on the United States government's Terrorist Screening Center's No Fly List; or
 10. Has been documented in the NCIC/FCIC law enforcement database as an active gang member.
- (5) *Background checks, photograph and Identification tag.* In connection with the issuance of a permit by the City and upon verification of successful level 2 background screening, an identification tag shall be issued at the applicant's expense 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:
- (a) A photograph of the Applicant/Owner/Employee;
 - (b) The permit number;
 - (c) The permit holder's name and address;
 - (d) The name and address of the establishment that the Applicant/Owner/Employee represents or is employed by; and
 - (e) The expiration date of the permit.
- (6) *Reconsideration of a denied permit application.* If a Person applies for a permit at a particular location within a period of one year from the date of denial of a previous application for a permit at the location, and there 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.
- (7) *Renewal.* Permits shall be entitled to renewal annually subject to the

provisions of this article. Before the October 1 expiration date, the annual permit may be renewed by presenting the permit for the previous year, and:

- (a) Paying the appropriate Annual Permit Renewal fee;
 - (b) Updating the information supplied with the latest application or certifying that the information supplied previously remains unchanged; and
 - (c) Providing proof of continued compliance with all state and City licenses, operational, public safety, and zoning requirements.
 - (d) Listing of outstanding code violations, and public safety calls from appropriate city departments, or statement of no outstanding violations and calls on city letterhead.
- (8) *Permit Transferability.*
- (a) The permit is specific to the Applicant and the location and shall not be transferred.
 - (b) An attempted transfer of a permit, either directly or indirectly in violation of this section is hereby declared void, and in that event the permit shall be deemed abandoned, and the permit shall be forfeited.

Section 7-493. – Permit General Requirements and Operation Requirements

- (1) *General requirements.* Each Medical Marijuana Treatment Center Dispensing Facility, Pharmacy, and Pain Management Clinic shall observe the following general requirements:
- (a) Conform to all applicable building statutes, codes, ordinances, and regulations, whether federal, state, or local;
 - (b) Conform to all applicable fire statutes, codes, ordinances, and regulations, whether federal, state, or local;
 - (c) Conform to all applicable health statutes, codes, ordinances, and regulations, whether federal, state, or local;
 - (d) Conform to all applicable zoning regulations and land use laws, whether state or local, including but not limited to the Unified Land Development Regulations;
 - (e) Keep the original of the on-site dispensing of controlled substances permit posted in a conspicuous place at the Premises at all times, which shall be available for inspection upon request at all times by the public.
- (2) *Permit and Identification Tag required.* It shall be unlawful for any business or person to operate a Medical Marijuana Treatment Center Dispensing Facility, Pharmacy, or Pain Management Clinic, or to otherwise offer for sale or in any way participate in the conduct of any activities upon the Premises within the City without first obtaining a permit.

(a) 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.

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

(3) *Permit operation requirements.* Any business operating under an on-site dispensing of controlled substances permit shall comply with the following operational guidelines.

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

(b) *Delivery.* All deliveries to the Medical Marijuana Treatment Center Dispensing Facilities, Pharmacies, and Pain Management Clinic shall be made while on-site security personnel are present unless the Chief of Police has determined this requirement is not necessary.

(c) *Compliance with State regulations and licensure requirements.* permitted establishment must comply with all federal and State laws, licensing and regulatory requirements.

1. A permitted establishment 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.

2. If a permitted establishment 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.

SECTION 3. Conflict. All ordinances or portions of the Code of Ordinances of the City of Hallandale Beach in conflict with the provisions of this ordinance shall be repealed to the extent of such conflict.

SECTION 4. Severability. Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION 5. Codification. It is the intention of the Mayor and the City Commission that the provisions of this ordinance be incorporated into the Code of Ordinances; to affect such intention the words "ordinance" or "section" may be changed to other appropriate words.

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

PASSED AND ADOPTED on 1st reading on _____, 2020.

PASSED AND ADOPTED on 2nd reading on _____, 2020.

JOY COOPER
MAYOR

SPONSORED BY: CITY ADMINISTRATION

ATTEST:

JENORGEN M. GUILLEN, CMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
AND FORM

JENNIFER MERINO
CITY ATTORNEY

FIRST READING VOTE ON ADOPTION

Mayor Cooper	_____
Vice Mayor Javellana	_____
Commissioner Butler	_____
Commissioner Lazarow	_____
Commissioner Lima-Taub	_____

FINAL VOTE ON ADOPTION

Mayor Cooper	_____
Vice Mayor Javellana	_____
Commissioner Butler	_____
Commissioner Lazarow	_____
Commissioner Lima-Taub	_____