

**ORDINANCE NO. \_\_\_\_**

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, AMENDING CHAPTER 26. ZONING. TO PROVIDE FOR AN AMENDMENT TO THE PREVIOUSLY ADOPTED ZONING CODE; SPECIFICALLY AMENDING ARTICLE II. CONSTRUCTION OF LANGUAGE AND DEFINITIONS. AT SEC. 26-22. DEFINITIONS. IN ORDER TO CREATE NEW DEFINITIONS FOR “MARIJUANA,” “MEDICAL MARIJUANA RETAIL CENTER,” “MEDICAL MARIJUANA RETAIL/TREATMENT CENTER PREMISES,” AND “MEDICAL MARIJUANA TREATMENT CENTER” AND TO INSERT THOSE NEW DEFINITIONS ALPHABETICALLY INTO THE EXISTING LIST OF DEFINITIONS; FURTHER AMENDING ARTICLE IV. SUPPLEMENTAL REGULATIONS. TO ADD AN ENTIRELY NEW SEC. 26-75.3. MEDICAL MARIJUANA RETAIL CENTERS AND TREATMENT CENTERS. IN ORDER TO PROVIDE SPECIFIC REGULATIONS AND REQUIREMENTS RELATING TO THESE USES; FURTHER AMENDING ARTICLE V. ZONING DISTRICTS. AT SECTION 26-89. CG GENERAL COMMERCIAL DISTRICT. AND AT SECTION. 26-92. IL INDUSTRIAL LIMITED DISTRICT. BY ADDING A NEW SPECIAL EXCEPTION USE OF “MEDICAL MARIJUANA RETAIL CENTER” IN ALPHABETICAL ORDER AT SUBSECTION (3); FURTHER AMENDING ARTICLE V. ZONING DISTRICTS. AT SECTION 26-93. IG INDUSTRIAL GENERAL DISTRICT. BY ADDING A NEW SPECIAL EXCEPTION USE OF “MEDICAL MARIJUANA TREATMENT CENTER” IN ALPHABETICAL ORDER AT SUBSECTION (3); PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUB-SECTION OF CHAPTER 26. ZONING. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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 adopted Chapter 64-4, Florida Administrative Code, to implement Senate Bill 1030; 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 381.986 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, on November 8, 2016, Florida voters approved an amendment to the Florida Constitution to allow for broader medical use of any kind of marijuana (including euphoric strains) within the State (the “2016 Constitutional Amendment”); and

WHEREAS, the 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 permits 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, despite the adoption of Senate Bill 1030, House Bill 307, and the 2016 Constitutional Amendment, the activities these laws 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 by federal law; and

WHEREAS, such businesses are inherently attractive targets for criminals, and it is therefore essential that the Village of Royal Palm Beach 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 therefore are 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 does allow 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, the Village Council for the Village of Royal Palm Beach, Florida, has determined that it is in the best interests of the health, safety and welfare of its residents to adopt appropriate business regulations to ensure compatibility of any marijuana-related business with the surrounding businesses, properties, and community.

WHEREAS, the Village of Royal Palm Beach has held all required public hearings and has provided public notice in accordance with applicable State statutes and Village ordinances; and

WHEREAS, the Village Council of the Village of Royal Palm Beach has determined that the proposed revisions to Chapter 26. are in the best interests of the general welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, THAT:

**Section 1:** Chapter 26. Zoning. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article II. Construction of Language and Definitions. at Sec. 26-22. Definitions. in order to create new definitions for “Marijuana,” “Medical Marijuana Retail Center,” “Medical Marijuana Retail/Treatment Center Premises,” and “Medical Marijuana Treatment Center” and to insert those new definitions alphabetically into the existing list of definitions; providing that Sec. 26-22. Definitions. shall hereafter read as follows:

Sec. 26-22. - Definitions.

[When used in this chapter, the following terms or conjugations and variations thereof shall have the meanings herein described to them.]

*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 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.”

*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 Marijuana, products containing marijuana, or related supplies, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of marijuana, marijuana products, or related supplies, and does not allow on-site consumption of marijuana or marijuana products. A medical marijuana treatment center shall not be construed to be a medical marijuana retail center.

*Medical marijuana retail/treatment center premises.* For medical marijuana retail centers and medical marijuana treatment centers, the premises of such facilities shall include the building or bay that is utilized by the center, and all parking areas, sidewalks and alleys within 100 feet of the property on which the center is located.

*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 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 Chapter. Also may be referred to as a “medical marijuana treatment facility” or “dispensing organization” or other similar term recognized by State law.

**Section 2:** Chapter 26. Zoning. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article IV. Supplemental Regulations. to add an entirely new Sec. 26-75.3. Medical marijuana retail centers and treatment centers. in order to provide specific regulations and requirements relating to these uses; providing that Sec. 26-75.3. Medical marijuana retail centers and treatment centers. shall hereafter read as follows:

**Sec. 26-75.3. – Medical marijuana retail centers and treatment centers.**

(a) *Survey required.* Applications for special exception use approval shall 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 or medical marijuana treatment center and any other medical marijuana retail center, medical marijuana treatment center or other use listed in subsection (b)(2) below.

(b) Location requirements. A medical marijuana retail center or medical marijuana treatment center shall not be established:

- (1) Within 1,000 feet of another medical marijuana retail center or medical marijuana treatment center; or
- (2) Within 1,000 feet of an elementary, middle or secondary school, child day care facility, county or municipal park, licensed drug and alcohol rehabilitation facility (inpatient or outpatient), or a place of worship.
- (3) Distances shall be measured by drawing a straight line from the nearest property line of the property on which the medical marijuana retail center or medical marijuana treatment center is located to the nearest property line of any other medical marijuana retail center, medical marijuana treatment center, or other use listed in subsection (b)(2) above that existed before the date the medical marijuana retail center or medical marijuana treatment center submitted its application for approval.
- (4) Where a medical marijuana retail center or medical marijuana treatment center is located in conformity with the provisions of this section, the subsequent locating of one of the uses listed in subsection (b)(2) above within 1,000 feet of an existing medical marijuana retail center or medical marijuana treatment center shall not cause a violation of this section.

(c) Other uses. If the medical marijuana retail center or medical marijuana treatment center is located in a freestanding building, it shall be the only use or business permitted on the property. If the medical marijuana retail center or medical marijuana treatment center is located in a bay or multi-bay space within a multi-tenant structure, the center shall be the only use or business permitted within the bay or multi-bay space it occupies. Mobile or temporary facilities (including mobile vans, motor homes, buses, trailers, movable structures or vending machines, without limitation) are prohibited.

(d) Hours of operation. Medical marijuana retail centers shall not be open for business before 8 a.m. or after 8 p.m. Medical marijuana treatment centers shall not dispense medical marijuana or a cannabis delivery device on-site between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver medical marijuana to qualified patients 24 hours a day.

(e) On-site consumption of marijuana; other prohibited activities. 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 steps necessary and immediate steps to ensure compliance with this paragraph. No person shall smoke, ingest or otherwise consume marijuana on the premises of a medical marijuana retail center. For medical marijuana treatment centers, all on-site smoking, ingesting or otherwise consuming of marijuana shall occur entirely within an enclosed building.

Additionally, medical marijuana retail centers shall not engage in any other activity other than those activities specifically defined herein. The preparation, wholesale storage, cultivation, or processing of any form of marijuana or marijuana product, is specifically prohibited at a medical marijuana retail center.

(f) *Alcohol prohibited.* No medical marijuana retail center or medical marijuana retail center shall allow the sale, service, or consumption of any type of alcoholic beverages on the premises. The center shall take all necessary and immediate steps to ensure compliance with this paragraph. No person shall consume an alcoholic beverage on the premises.

(g) *Outdoor activity.* Except for loading and unloading, there shall be no activities of any kind permitted on the exterior of the medical marijuana retail center or medical marijuana treatment center including, but not limited to, no outdoor displays, outdoor sales, outdoor storage, outdoor promotions, outdoor seating areas, outdoor customer waiting areas, queuing or stacking of motor vehicles in any right of way, and drive-through or drive-in service aisle. All activities of the center shall be conducted entirely within an enclosed building. The prohibition on outdoor storage includes use of portable storage units, cargo containers and tractor trailers.

Where there is no designated delivery access or loading bay area, loading and unloading shall occur at the rear or side of the building. Areas designated for loading and unloading, shall be screened from public areas as defined in section 26-22; however, notwithstanding this definition, the maximum height of such screening may exceed six (6) feet. Delivery access and loading bay areas shall have the doors closed at all times, except during the movement of materials, other supplies and finished products, as applicable, into and out of the building.

(h) *Live plant materials.* No living marijuana plants are permitted on the site of a medical marijuana retail center.

(i) *Security plan.* With the application for special exception use approval, the applicant shall submit a security plan demonstrating compliance with section 381.986, F.S., and all other applicable statutes and State administrative rules.

(j) *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 or medical marijuana treatment center.

(k) *Delivery vehicle identification.* For security purposes, no vehicle used in the operation of or for the business purposes of a medical marijuana retail center or medical marijuana treatment center shall be marked in such a manner as to permit identification with the center.

(l) *Signage.* Exterior signage shall include only the name of the business. Temporary or permanent window signage is strictly prohibited. Additionally, medical marijuana retail centers and medical marijuana treatment centers shall post, at each entrance to the center the following language:

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 THIS MEDICAL MARIJUANA RETAIL CENTER/TREATMENT CENTER.

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

(m) *On-site community relations contact.* The medical marijuana retail center or medical marijuana treatment center shall provide the village and the Palm Beach County Sheriff's Office with the name, phone number, and email 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 center shall update this information with the village and PBSO within two (2) business days after any new on-site community relations staff person is designated.

(n) *Employment/worker restrictions.*

(1) All persons employed or working at a medical marijuana retail center or medical marijuana treatment center shall be at least 21 years of age; and

(2) All managers or supervisors employed or working at a medical marijuana retail center or medical marijuana treatment center shall have been fingerprinted and successfully passed a level 2 background screening prior to commencing employment or work as a manager or supervisor at the facility; and

(3) In conjunction with application for its annual business tax receipt, medical marijuana retail centers and medical marijuana treatment centers uses must provide the village with the names, telephone numbers, addresses, dates of birth and driver license numbers for all individuals employed or working on site on a part-time or full-time basis.

(o) *Persons allowed to enter the medical marijuana retail center or medical marijuana treatment center.*

(1) *Underage entry.* It shall be unlawful for any medical marijuana retail center or medical marijuana treatment center to allow any person who is not at least 18 years of age into the center during hours of operation, unless that person is authorized by State law to purchased medical marijuana, whether as a qualified patient with a valid identification card or legal representative of a qualified patient with a valid identification card.

- (2) Entry by persons authorized by State law. It shall be unlawful for any medical marijuana retail center or medical marijuana treatment center to allow any person into the center during the hours of operation if that person is not authorized by State law to be there.
- (3) Unlawful dispensing. It shall be unlawful for anyone on the premises of the medical marijuana retail center or medical marijuana treatment center to knowingly dispense, deliver or otherwise transfer any marijuana or marijuana product to an individual or entity not authorized by State law to receive such substance or product.
- (p) Product and operations visibility. No marijuana or product of any kind may be visible from any window or exterior glass door. Notwithstanding this requirement, windows shall not be blacked-out, nor shall they be tinted to a level where visibility into the center is not maintained.
- (q) Transfer of medical marijuana retail center or medical marijuana treatment center special exception use approval. A special exception use approval for a medical marijuana retail center or medical marijuana treatment center shall not be transferred or assigned to a new owner or tenant, or possession, control, or operation of the establishment surrendered to such other person or entity until a new special exception use approval has been obtained by the new applicant in accordance with the standards set forth in this chapter. A special exception use approval is particular only to the approved location and shall not be transferred or assigned to another location. An attempt to transfer or assign a special exception use approval in violation of this section is hereby declared void, and in such event, the special exception use shall be deemed abandoned and terminated. Further, a special exception use approval shall become null and void if the uses ceased at a particular location.
- (r) Compliance with State regulations and licensure requirements. A medical marijuana retail center or medical marijuana treatment center shall comply with all State laws, licensing and regulatory requirements. A center shall notify the village in writing within five (5) business days of receipt of any notice of violation or warning from the State or of any changes to its State licensing approvals. If a center receives a notice of violation or warning from the State, it shall, no later than twenty (20) business days after receipt of the notice or warning, provide a copy of the corrective action plan and timeframes to the village. In conjunction with application for special exception use approval, the applicant shall provide the village with copies of any and all state and other licenses issued to the applicant to engage in the marijuana business.

**Section 3:** Chapter 26. Zoning of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article V. Zoning Districts. at Section 26-89. CG General Commercial District. by adding a new Special Exception use of “Medical marijuana retail center” in alphabetical order at subsection (3) Special Exception uses; providing that Section 26-89. CG General Commercial District. shall hereafter read as follows:

**Sec. 26-89. - CG General Commercial District.**

- (1) *Purpose and intent.* [Shall remain the same as previously adopted.]
- (2) *Uses permitted.* [Shall remain the same as previously adopted.]
- (3) *Special exception uses.*

Medical marijuana retail center, subject to section 26-75.3.

**[All other special exception uses shall remain the same as previously adopted.]**

- (4) *Site development standards.* [Shall remain the same as previously adopted.]
- (5) *Special regulations.* [Shall remain the same as previously adopted.]

**Section 4:** Chapter 26. Zoning of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article V. Zoning Districts. at Section 26-92. IL Industrial Limited District. by adding a new Special Exception use of “Medical marijuana retail center” in alphabetical order at subsection (3) Special Exception uses; providing that Section 26-92. IL Industrial Limited District. shall hereafter read as follows:

**Sec. 26-92. - IL Industrial Limited District.**

- (1) *Purpose and intent.* [Shall remain the same as previously adopted.]
- (2) *Uses permitted.* [Shall remain the same as previously adopted.]
- (3) *Special exception uses.*

Medical marijuana retail center, subject to section 26-75.3.

**[All other special exception uses shall remain the same as previously adopted.]**

- (4) *Site development standards.* [Shall remain the same as previously adopted.]

(5) *Special regulations.* [Shall remain the same as previously adopted.]

**Section 5:** Chapter 26. Zoning of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article V. Zoning Districts. at Section 26-93. IG Industrial General District. by adding a new Special Exception use of “Medical marijuana treatment center” in alphabetical order at subsection (3) Special Exception uses; providing that Section 26-93. IG Industrial General District. shall hereafter read as follows:

**Sec. 26-93. - IG Industrial General District.**

(1) *Purpose and intent.* [Shall remain the same as previously adopted.]

(2) *Uses permitted.* [Shall remain the same as previously adopted.]

(3) Special exception uses.

Medical marijuana treatment center, subject to section 26-75.3.

**[All other special exception uses shall remain the same as previously adopted.]**

(4) *Site development standards.* [Shall remain the same as previously adopted.]

(5) *Special regulations.* [Shall remain the same as previously adopted.]

**Section 6:** Each and every other Section and Sub-section of Chapter 26. Zoning. shall remain in full force and effect as previously enacted.

**Section 7:** All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

**Section 8:** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**Section 9:** Specific authority is hereby granted to codify this Ordinance.

**Section 10:** This Ordinance shall take effect immediately upon passage.