



Date: June 27, 2017

To: RER Staff NK

From: Nathan Kogon, Assistant Director for Development Services
Department of Regulatory and Economic Resources

Subject: Dispensing of Low-THC and Medical Marijuana/Cannabis – Interim Rules Effective
July 1, 2017 – Unincorporated Miami-Dade County

On July 6, 2016, the Board of County Commissioners adopted Ordinance No. 16-67, codified as Article IXA of the Zoning Code, which established zoning regulations for the dispensing of low-THC and medical marijuana/cannabis in accordance with laws enacted by the Florida Legislature in 2014 and 2016. In November 2016, the Florida electorate approved Constitutional Amendment No. 2, expanding the availability of medical marijuana to individuals with specific debilitating diseases or comparable debilitating conditions. To implement Constitutional Amendment No. 2, the 2017 Florida Legislature comprehensively overhauled Section 381.986 (Medical Use of Marijuana) of the Florida Statutes through Senate Bill 8-A, which the Governor signed into law on June 23, 2017.

Senate Bill 8-A, among other things, instituted additional regulations and expanded current preemptions of local zoning authority over the cultivation, processing, and dispensing of medical marijuana/cannabis. The new state law, which goes into effect on July 1, 2017, affects some of the regulations set forth in Article IXA of Chapter 33 of the Zoning Code. Accordingly, I am issuing this memorandum to provide guidance and ensure that Article IXA is enforced in a manner that is consistent with state law.

- (1) **Definitions of terms used in this memoranda.** For all definitions pertaining to medical marijuana/cannabis, please refer to Section 381.986 of the Florida Statutes. Please note that, per the statute, all former “dispensing organizations” are now known as “Marijuana Treatment Centers” (MTCs), and the MTCs operate “dispensing facilities.” “Dispensing facility” refers to the building or structure where low-THC cannabis or medical marijuana/cannabis, as well as cannabis delivery devices, are dispensed at retail.
- (2) **Zoning districts where dispensing is allowed.** Dispensing of low-THC or medical cannabis shall be permitted in the following zoning districts, as well as **any other zoning district in the unincorporated area where retail pharmacies are allowed as of right:** the BU-1, BU-1A, BU-2, BU-3, IU-1, IU-2, IU-3, and IU-C Zoning Districts; areas designated MC, MCS, MCI, and ID in an Urban Center or Urban Area District; and the DKUC and PLMUC Urban Center Districts, as well as other applicable zoning districts where pharmacies are allowed. Where ancillary to cultivation or processing, dispensing shall also be permitted in the

AU Zoning District; provided, however, that dispensing shall be provided in accordance with Section 33-279(6.2) of the Code. Furthermore, dispensing shall not be permitted in the area known as Horse Country, as identified in Resolution No. R-429-16.

- (3) **Zoning requirements for dispensing facilities.** Consistent with state law, dispensing facilities shall comply with the following requirements:
- (A) No dispensing facility shall be located within **500 feet** of any public or private elementary school, middle school, junior high school, or high school.
- The distance from a public or private elementary school, middle school, junior high school, or high school shall be measured by following a straight line from the nearest point of the respective structure to the front door of the proposed dispensing facility.
- The applicant shall furnish a certified survey from a registered engineer or surveyor, indicating the distance between the proposed dispensing facility and any public or private elementary school, middle school, junior high school, or high school within the applicable radius. In case of dispute, the measurement scaled by the Director shall govern.
- (B) **A one-time certificate of use** shall be obtained for each dispensing facility, as is required for pharmacies. The application for the certificate of use shall be made on a form prescribed by the Director. But because of the state's unique MTC licensing procedures, which require local zoning approval before the state approves a particular dispensing facility, the County will continue to enforce the requirement in § 33-149.5(F)(1) that a dispensing facility shall have 180 days from zoning approval to show proof that the state license has been obtained for dispensing medical marijuana from the particular location, or the approval shall be null and void. Accordingly, the County will first issue a temporary certificate of use for a dispensing facility at a particular location, which shall only be valid for 180 days unless the time period is extended by the Director for good cause shown. Thereafter, the County will issue a permanent certificate of use for the dispensing facility only upon receiving proof of the required state license.
- (C) Any use that was created and established under this article in a legal manner, but that may thereafter become legally nonconforming, may continue until there is an abandonment of said use. Once a legally nonconforming use is abandoned, it shall not be re-established unless it conforms to the requirements of Article IXA of Chapter 33 of the Zoning Code and this memorandum. Abandonment shall consist of: a change of use or suspension of active business with the public for a period of at least 3 months; or a lesser time if a written declaration of abandonment is provided by the owner of the premises or, if the property is subject to a lease, by the owner and tenant thereof.
- (4) Location reservations for dispensing facilities. Consistent with state law, MTCs seeking to establish dispensing facilities in unincorporated Miami-Dade are no longer required to apply for a reservation of potential dispensing facility locations.