

**ORDINANCE #ORD2017-13**

**AN ORDINANCE OF THE CITY OF DUNNELLON, FLORIDA, RELATING TO MEDICAL MARIJUANA TREATMENT CENTER DISPENSARIES AND PHARMACIES; AMENDING THE CODE OF ORDINANCES, SUBPART B - "LAND DEVELOPMENT REGULATIONS," APPENDIX A, "ZONING;" ADDING DEFINITIONS; ADOPTING DISTANCE REGULATIONS FOR MEDICAL MARIJUANA TREATMENT CENTER DISPENSARIES AND PHARMACIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on November 8, 2016, voters approved a ballot initiative to amend the Florida Constitution to allow the use of marijuana for debilitating medical conditions within the State of Florida; and

**WHEREAS**, the State Legislature has approved and the Governor has signed into law legislation regulating medical marijuana, medical marijuana treatment centers and medical marijuana treatment center dispensaries; and

**WHEREAS**, the State has preempted to itself the regulation of medical marijuana, medical marijuana treatment centers, and medical marijuana treatment center dispensaries; and

**WHEREAS**, the State has provided that local jurisdictions may not regulate medical marijuana treatment center dispensaries more stringently than they regulate pharmacies if such jurisdictions allow medical marijuana treatment center dispensaries within their jurisdictional boundaries; and

**WHEREAS**, given the rapidly evolving landscape of medical marijuana in the State of Florida and given that the legislature has allowed local jurisdictions only two options: 1) to allow medical marijuana treatment center dispensaries within their jurisdictional boundaries and regulate same no more stringently than they would regulate pharmacies or 2) to ban medical marijuana treatment center dispensaries within their jurisdictional boundaries altogether; and

**WHEREAS**, the City Council of the City of Dunnellon finds it to be in the best interest of the health, safety, and welfare of the residents, businesses, and visitors of the City of Dunnellon to allow medical marijuana treatment center dispensaries within the jurisdictional boundaries and regulate them the same as pharmacies with the exception of distance requirements from schools which shall apply to medical marijuana treatment center dispensaries per State Law; and

**WHEREAS**, the Planning Commission, sitting as the local planning agency, has found this ordinance to be consistent with the City's Comprehensive Development Plan and recommended approval.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNNELLON, FLORIDA THAT:**

(Note: strikethrough text indicates deletions, underline text indicates additions, ellipses (\*\*\*) identify text that remains unchanged and that is not reprinted herein)

**SECTION 1.** The provisions set forth in the recitals to this Ordinance (whereas clauses) are hereby adopted by the City Commission as the legislative findings and intent pertaining to this Ordinance.

**SECTION 2.** Subpart B, “*Land Development Regulations*,” Appendix A, “*Zoning*,” of the City of Dunnellon Code of Ordinances is hereby amended as follows:

**ARTICLE II. – DEFINITIONS**

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**Sec. 2.2. – Terms Defined.**

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*Marijuana.* 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, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis.

*Medical Marijuana Treatment Center.* A facility licensed by the Florida Department of Health to cultivate, process, transport, or dispense marijuana or marijuana delivery devices.

*Medical Marijuana Treatment Center Dispensary.* A facility that is operated by a Medical Marijuana Treatment Center or other organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal and state laws. Physicians authorized by State Law to order low-THC cannabis, as defined in Florida Statutes, for patients’ medical use are not included in the definition of Medical Marijuana Dispensary.

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**ARTICLE VII. - DISTRICT REGULATIONS**

Section 7.1. - Table of permitted uses.

The following table identifies what uses are permitted without special exception, permitted with conditions, and permitted by special exception in the various zoning districts. The uses are listed on the vertical axis and the zoning districts are listed on the horizontal axis. If a specific

use is not listed on the table below, the use shall be considered a prohibited use unless and until an applicant applies for and receives a similar and compatible use permit consistent with this Code; provided, however, if a use, device, business, or activity is prohibited by these land development regulations, the Code of Ordinances, or Florida law, an owner may not seek a similar and compatible use permit. Empty cells signify a prohibited use. Cells containing an "X" signify a permitted use. Cells containing an "SE" signify a use permitted by special exception. Cells containing an "X", a number and a letter (e.g., "X3") signify a permitted use with conditions; the conditions are outlined in the legend. Cells containing an "X" or "SE" and a number (e.g., "X4" or "SE4") signify a permitted use or special exception with conditions; the number is associated with a section number (e.g., section \_\_\_\_\_) in the legend, and the section number refers to a location in this chapter (appendix) that contains the conditions associated with the permitted use or special exception.

*Permitted use:* Defined as a use allowed without exception within a particular zoning district.

*Special exception:* A special exception may be granted by the council provided the required appropriate conditions and safeguards have been met. The conditions are listed in the supplementary district regulations (article IX of this appendix) of the Code of Ordinances.

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RETAIL USES	A -1	R -1	R1 A	R -2	R3 A	R -3	R -4	R -5	M H	PU D	RB O	B2	B3	B4	B 5	B 6	P	M 1	M 2
Auto Supply Store													X	X					
Auto rental sales													X	X					
Auto sales - new or used													X	X					
Bakery store												X	X	X					
Boat Sales													X	X					
Building materials sales													X	X					
Construction/farm equipment sales														X					
Commercial Watercraft Rental													X			X 1 1			
Department Store													X	X					
Drugstore													X	X					
Electronics Store													X	X					
Farmers' Market												X	X	X					

Flea Market															X	1	1			
Furniture Store												X	X	X						
Garden and nursery sales												X	X	X		X	1	1		
Grocery Store													X	X						
Hardware Store													X	X						
Home decorating store												X	X	X						
Liquor Store, pkg.													X	X						
Manufactured/mobile home sales														X						
Model manufactured home centers														X5						
Pharmacy												X	X	X						
Playground equipment sales, outdoor													X	X						
Recreational vehicle sales														X						
Roadside fruit and vegetable sales													X6	X6						
Satellite antennas sales													X	X						
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HEALTH CARE FACILITIES	A-1	R-1	R1 A	R-2	R3 A	R-3	R-4	R-5	M H	P U D	R B O	B2	B3	B4	B5	B6	P	M1	M2	
Assisted Living facility													SE	SE						
Hospital														X			X			
Medical and dental laboratory													X	X						

Medical and dental office											SE	SE	X	X					
<u>Medical Marijuana Treatment Center Dispensary</u>												<u>X</u> <u>13</u>	<u>X</u> <u>13</u>	<u>X</u> <u>13</u>					
Transitional recovery facilities													X4	X4					
Veterinarian Office	X												X	X					

X Permitted use

SE Allowed with special exception

SE2 Daycare allowed as special exception if part of a church/house of worship

X3S:

A-1 Maximum of 6 unrelated residents per single-family dwelling

R-1 Maximum of 6 unrelated residents per single-family dwelling

R1-A Maximum of 6 unrelated residents per single-family dwelling

R2 Maximum of 6 unrelated residents per single-family dwelling

R3A Not allowed

R3 Not allowed

X:

1: Home occupation allowed in residential district

Not allowed as home occupation: Beauty shop, barber shop, photographic studios, fortune telling, outdoor repair, retail sales, nursery schools caring for more than three children other than children related by marriage, blood, or adoption, band instrument instructor except for private lessons, public dining facilities, antique or gift shops.

2: Reserved

3: Reserved

4: Transfer and recovery facilities: See Supplementary District Regulations, article IX, section 9.1.18.

- 5: Manufactured model home centers: See Supplemental District Regulations, article IX, section 9.1.9.
- 6: Roadside fruit and vegetable sales: See Supplemental District Regulations, article IX, section 9.1.14.
- 7: Indoor pistol range: See Supplemental District Regulations, article IX, section 9.1.1.8.
- 8: Residence-gallery: Shall be allowed under same conditions as home occupation.
- 9: Vehicle storage area: See Supplemental District Regulations, article IX, section 9.1.20.
- 10: Residence-office: Accessory Use in R2, R3, R4, R5, MH zoning districts shall be limited to 20 percent of the square footage of a principal use or the site.
- 11: B6: Notwithstanding the above, existing residential uses will only be allowed until such time as infrastructure is made available to support commercial development.
- 12: Cell towers are only allowed on property owned, leased, or otherwise controlled by the City of Dunnellon provided a license or lease authorizing such antenna or tower has been approved by the City of Dunnellon, and minimum requirements of the Code can be met.
- 13: A medical marijuana treatment center dispensary 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 approves the location through a formal proceeding open to the public at which the City determines that the location promotes the public health, safety, and general welfare. Per State Law, all medical marijuana treatment center dispensary zoning requirements shall be identical to those for pharmacies except for the distance requirements stated above which are not applicable to pharmacies.

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## **Section 7.2. - District uses definitions.**

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*Marijuana.* 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, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis.

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with all local, federal and state laws. Physicians authorized by State law to order low-THC cannabis, as defined in Florida Statutes, for patients' medical use are not included in the definition of Medical Marijuana Dispensary.

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**SECTION 3. CODIFICATION.** It is the intent of the City Council of the City of Dunnellon that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provision of this Ordinance.

**SECTION 4. SEVERABILITY.** If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

**SECTION 5. CONFLICTS.** In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

**Upon motion duly made and carried,** the foregoing Ordinance was approved upon the first reading on the 9th day of October, 2017.

**Upon motion duly made and carried,** the foregoing Ordinance was approved and passed upon the second and final reading and public hearing on the 13th day of November, 2017.

Ordinance Posted on the City's website on October 6, 2017. Public hearing advertised on the City's website on October 13, 2017 and advertised in the Riverland News on November 2, 2017.

ATTEST:

**CITY OF DUNNELLON**

\_\_\_\_\_  
Amanda L. Roberts, CMC  
City Clerk

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Walter Green, Mayor

Approved as to Form and Legal Sufficiency:

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Andrew J. Hand, City Attorney

First Draft 10/04/2017 City Council Workshop  
**Second Draft 10/09/2017 City Council Meeting**  
**Final 11/13/2017 City Council Meeting**