

SUNRISE, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SUNRISE, FLORIDA, PERTAINING TO THE LAND DEVELOPMENT CODE, AMENDING CHAPTER 16, "LAND DEVELOPMENT CODE," AMENDING ARTICLE V, "DISTRICT REGULATIONS," BY AMENDING SECTION 16-79, "MASTER BUSINESS LIST" TO AMEND THE LIST OF PERMITTED, SPECIAL EXCEPTION AND PROHIBITED USES IN THE BUSINESS DISTRICTS RELATED TO DRUG STORES AND MEDICAL MARIJUANA DISPENSARIES; BY AMENDING SECTION 16-80, "I-1 LIGHT INDUSTRIAL DISTRICT" TO PROHIBIT RETAIL SALE OF MARIJUANA; BY AMENDING SECTION 16-109, "PLANNED DEVELOPMENT DISTRICT (PDD)" TO PROHIBIT DRUG STORES AND MEDICAL MARIJUANA DISPENSARIES; AMENDING ARTICLE VII, "OFF-STREET PARKING AND LOADING," BY AMENDING SECTION 16-144 TO AMEND OFF-STREET PARKING REQUIREMENTS; AND AMENDING ARTICLE XVII "DEFINITIONS" BY AMENDING SECTION 16-277, "TERMS DEFINED" TO ADD DEFINITIONS FOR DRUG STORE, MARIJUANA AND MEDICAL MARIJUANA DISPENSARY; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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 caregivers 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, on November 8, 2016, Florida voters approved a ballot initiative amending the Florida Constitution ("Constitutional Amendment") to allow for broader sale and use of marijuana for medical purposes within the State of Florida; and

WHEREAS, despite the adoption of Senate Bill 1030 and subsequent amendments and approval of the amendment to the Florida Constitution, the activities they condone remain illegal under federal law; and

WHEREAS, on January 25, 2017, the City Commission passed a twelve (12) month moratorium on the submission, processing or approval of any application for the establishment or operation of medical marijuana facilities (Ordinance No. 617); and

WHEREAS, On January 9, 2018, the City Commission extended the moratorium adopted in Ordinance No. 617 for a period of 180 days (Ordinance No. 617-18-A); and

WHEREAS, the moratorium will expire on July 23, 2018; and

WHEREAS, since the adoption of Ordinance Nos. 617 and 617-18-A, the City has had the opportunity to review its Comprehensive Plan, Code of Ordinances, and existing pharmacy conditions, called drug stores in the City's Land Development Code, as well as state regulatory requirements and legislation passed during the State of Florida's 2017 Special Session; and

WHEREAS, to implement the 2016 Constitutional Amendment for medical marijuana the state legislature adopted Senate Bill 8A during its 2017 Special Session which provides a framework for local government regulation of the dispensing of medical marijuana, allowing a local government to either ban medical marijuana retail centers or to regulate them similar to pharmacies, called drug stores in the City's Land Development Code; and

WHEREAS, the 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, 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, in compliance with Florida Statutes section 381.986(11), the City Commission desires to provide specific regulations for medical marijuana dispensaries similar to drug stores in order to comply with state law and provide adequate land use regulations to protect the health, safety and welfare of the residents; and

WHEREAS, the City desires to permit drug stores and medical marijuana dispensaries only in the B-3 zoning district; and

WHEREAS, the City's Local Planning Agency has reviewed this Ordinance and recommended its approval to the City Commission; and

WHEREAS, the City Commission held two noticed public hearings, at which all members of the public so desiring have had an opportunity to be heard; and

WHEREAS, the City Commission finds that this Ordinance is consistent with the City's adopted Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNRISE, FLORIDA:

Section 1. The foregoing recitals are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. That section 16-79 of the Code of the City of Sunrise, Florida, is hereby amended to read as follows:

Sec. 16-79. – Master Business List.

- (d) Supplemental regulations to Master Business List. The numbers below correspond to the numbers on the Master Business List:

(16) Medical marijuana dispensary; Drug store.

a. Separation Requirements.

1. No medical marijuana dispensary or drug store shall be located within 500 feet of a daycare, public park, or place of public assembly.
2. No medical marijuana dispensary or drug store shall be located within 500 feet of a residential zoned property, including a property zoned PUD.
3. No medical marijuana dispensary shall be located within five hundred (500) feet of another medical marijuana dispensary.
4. No drug store shall be located within five hundred (500) feet of another drug store.
5. Distance shall be measured from property line to property line.

b. A medical marijuana dispensary or drug store located within the structural walls of a larger use having a combined total of at least 40,000 square

feet, shall not be subject to the separation requirements of this section.

c. Notwithstanding the separation requirements above, drug stores in existence as of June 26, 2018, shall be considered grandfathered and shall be subject to the following provisions:

1. Drug stores, as defined by Section 16-277, shall be considered in existence if they have a business tax receipt or are under construction with an active building permit as of June 26, 2018; and
2. Drug stores grandfathered under this section are not subject to the separation requirements above and may be rebuilt, renovated, expanded or otherwise replaced as long as they are considered grandfathered; and
3. Drug stores grandfathered under this section which become vacant or are destroyed by any means, shall forfeit such grandfathered status if building permits or development approvals for another drug store are not obtained within one (1) year of initial vacancy or destruction.

| <i>Business Listings</i> | <i>B-1</i> | <i>B-2</i> | <i>B-3</i> | <i>B-4</i> |
|---|--------------|--------------|------------|--------------|
| *** | | | | |
| Drug and sundries stores | * | * | <u>*16</u> | * |
| *** | | | | |
| Meat market, retail | * | * | * | |
| <u>Medical marijuana dispensary</u> | | | <u>*16</u> | |
| Medical offices or clinics for doctors, dentists, podiatrists and related professions | *12 | *12 | *12 | *12 |
| *** | | | | |
| <u>Sundry stores, not including drug stores</u> | * | * | * | |
| *** | | | | |

(g) Use, intensity, site design and procedural regulations for the B-6 District.

- (1) Permitted nonresidential land uses and intensities in general: Each parcel may contain retail, office and hotel uses. Parcels which contain only retail uses or only office uses or only hotel uses may be developed to a maximum floor area ratio of 0.60 based on the entire site area and 0.85 based on the upland area of the parcel. Parcels which contain retail uses plus office uses, or retail uses plus hotel uses, or office uses plus hotel uses, or all three (3) uses together, may be

developed at a higher intensity subject to the approval of the special exception review authority pursuant to Article III. However, in no case shall the floor area ratio exceed 1.30 based on the entire site area and 1.50 based on the upland area of the parcel.

- (2) Permitted nonresidential land uses specifically enumerated: The following uses are explicitly permitted subject to the supplemental business regulations contained in subsection 16-79(d) applicable to the specific use.

Dress shops and seamstress

~~Drug and sundries stores~~

Employment agencies

Sundry stores, not including drug stores

- (h) It is the intent of this subsection to provide for the use, intensity and procedural regulations for the B-3A General Business Overlay District. The regulations of the B-3A General Business District are as follows:

- (1) Permitted nonresidential land uses specifically enumerated. The following uses are explicitly permitted subject to the supplemental business regulations contained in subsection 16-79(d) applicable to the specific permitted use except as otherwise provided in this Code:

Dress shops and seamstress

~~Drug and sundries stores~~

Electrical appliances, retail and incidental repairs

Sundry stores, not including drug stores

Section 3. That section 16-80 of the Code of the City of Sunrise, Florida, is hereby amended to read as follows:

Sec. 16-80. - I-1 Light Industrial District.

(b) *Permitted uses.*

- (29) The following subsections are applicable where the user is already actively engaged in some other use permitted within the light industrial district. Limited retail sales are permitted provided the following conditions are met:

- i. The retail sale of the following products are expressly prohibited in the I-1 District:

Drugs

Marijuana

Large mechanical equipment

Furniture

Pumps

Lumber

Section 4. That section 16-109 of the Code of the City of Sunrise, Florida, is hereby amended to read as follows:

Sec. 16-109. - Planned Development District (PDD).

(c) Permitted uses and density.

- (1) The Planned Development District (PDD) is intended to allow planned mixed use projects, provided that:

- (2) The following uses shall be prohibited in the PDD:

Building material sales

Drug store

Escort service

Massage service

Medical marijuana dispensary

Mobile home sales and rentals

Section 5. That section 16-144 of the Code of the City of Sunrise, Florida, is hereby amended to read as follows:

Sec. 16-144. - Amount of off-street parking.

- (a) The off-street parking required by this article shall be provided and maintained on the basis of the following minimum requirements:

- (11) *Convenience stores, stand-alone medical marijuana dispensaries and stand-alone drug stores where the medical marijuana dispensary or drug store is the sole use within the bay or structurepharmacies:* One (1) parking space for each one hundred fifty (150) square feet of gross floor area.

Section 6. That section 16-277 of the Code of the City of Sunrise, Florida, is hereby amended to read as follows:

Sec. 16-277. – Terms defined.

District: A portion of the city within which certain uniform regulations and requirements of various combinations thereof apply to the improvements of use made or to be made of the land under the provisions of this zoning ordinance.

Drug store: Any place, licensed under Chapter 465, Florida Statutes, where drugs and medicines are prepared, dispensed or compounded.

Dwelling: Any building, or part thereof, occupied in whole or in part, as the residence or living quarters of one (1) or more persons, permanently or temporarily, continuously or transiently.

Massage establishment: Any place of business or establishment wherein all or any one (1) or more of the following names, subjects and methods of treatment are administered or practiced: Body massage either by hand or by any mechanical or electrical apparatus or device (excluding fever therapy), applying such movements as stroking, friction, rolling, vibration, kneading, cupping, petrisage, rubbing, effleurage, or tapotement. However, nothing in this definition or the code provisions related to "regulated uses" as defined herein, shall be construed as applying to State of Florida licensed massage therapists, barbers, cosmetologists, manicurists, pedicurists, occupational therapists, physical therapists, midwives, practical nurses, agents, servants or employees in licensed hospitals, nursing homes or other licensed medical institutions, physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or their agents, servants or employees acting in the course of such agency, service or employment under the supervision of the licensee. Also, the term "massage establishment" shall not apply to any massage establishment wherein at least fifty (50) percent of the employees on duty full time during the hours that the establishment is open for business are State of Florida licensed massage therapists or other licensed professionals listed in the preceding sentence.

Marijuana: Any strain of cannabis or marijuana, in any form, that is authorized by State law to be dispensed or sold in the State of Florida for use by qualified users as defined by Florida Statutes. Also referred to as "medical marijuana."

Medical marijuana dispensary: 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 medical marijuana, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of marijuana or marijuana product, and does not allow on-site consumption of marijuana.

Mini-warehouse: A storage facility containing separate storage spaces which may [be] of varying sizes and are available for lease or rental by individuals.

Section 7. Conflict. All ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 8. 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 9. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Sunrise, Florida.

Section 10. Effective Date. This Ordinance shall be effective immediately upon its passage.

PASSED AND ADOPTED upon this first reading this ____ DAY OF _____, 2018.

PASSED AND ADOPTED upon this second reading this ____ DAY OF _____, 2018.

Mayor Michael J. Ryan

Authentication:

Felicia M. Bravo
City Clerk

FIRST READING

MOTION: _____
SECOND: _____

DOUGLAS: _____
KERCH: _____
SCUOTTO: _____
SOFIELD: _____
RYAN: _____

Approved by the City Attorney
As to Form and Legal Sufficiency.

SECOND READING

MOTION: _____
SECOND: _____

DOUGLAS: _____
KERCH: _____
SCUOTTO: _____
SOFIELD: _____
RYAN: _____

Kimberly A. Kisslan