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ORDINANCE NO. O-2017-015

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA, AMENDING CHAPTER 24 OF THE CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT CODE", BY SPECIFICALLY AMENDING SECTION 24-41(C) ENTITLED "MASTER BUSINESS LIST" AND SECTION 24-265. "DOWNTOWN MIXED USE DISTRICT USE TABLE" TO PROVIDE FOR A MEDICAL MARIJUANA TREATMENT CENTER (MMTC) AND A PHARMACY AS A CONDITIONAL USE IN THE NB, B-1, B-2, B-3 AND PRZD COMMERCIAL ZONING DISTRICTS AND IN THE DOWNTOWN MIXED USE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Objective 1.8, Policy 1.8.3 of the City of Oakland Park Comprehensive Plan, seeks to ensure compatibility with adjacent and surrounding uses and to establish different intensities of commercial development through the Land Development Code and associated zoning ordinances; and

WHEREAS, due to the historical prohibition of cannabis, the City of Oakland Park does not currently have any land development regulations governing the use of real property for the purpose of on-site distribution, sale, delivery or retail of low-THC cannabis, medical cannabis or cannabis delivery devices as provided by Florida Statutes Sections 381.986 and 499.0295; and

WHEREAS, on November 8, 2016, Florida voters approved Amendment 2 to the Florida Constitution, entitled "Use of Marijuana for Debilitating Medical Conditions;" and

WHEREAS, Amendment 2 "Allows medical use of marijuana for individuals with debilitating medical conditions as determined by a licensed Florida physician;" "it allows caregivers to assist patients' medical use of marijuana." And, Amendment 2 requires that "the Department of Health shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers."

WHEREAS, on June 9, 2017, the Florida Legislature adopted Senate Bill 8A, which provides regulations for implementing Amendment 2, and establishes the definition of medical marijuana treatment centers and parameters for municipal action; and

1 **WHEREAS**, Senate Bill 8A requires that a “municipality that does not ban dispensing
2 facilities (medical cannabis treatment centers) under this subparagraph may not place specific
3 limits, by ordinance, on the number of dispensing facilities (medical cannabis treatment centers)
4 that may locate within that county or municipality;” and
5

6 **WHEREAS**, Senate Bill 8A requires that a “municipality may not enact ordinances for
7 permitting or for determining the location of dispensing facilities (medical cannabis treatment
8 centers) which are more restrictive than its ordinances permitting or determining the locations for
9 pharmacy stores licensed under chapter 465 (pharmacies, pharmacy stores);” and
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11 **WHEREAS**, on June 9, 2017, the Florida legislature, during a special session, in less
12 than 48 hours’ time – introduced, modified, and passed, in both houses, a new cannabis bill (SB
13 8-A, 3rd Engrossed) unlike prior versions, which provides in relevant part: that the regulation of
14 medical marijuana is preempted to the state, except as to the following: (1) the “medical
15 marijuana treatment center (medical cannabis dispensary) cannot be within 500 feet of a public
16 or private school; (2) that a city [or county] may ban medical marijuana treatment centers
17 entirely; or (3), if a city does not ban medical marijuana treatment centers, the city “may not
18 place specific limits, by ordinance, on the number of dispensing facilities (medical cannabis
19 treatment centers) that may locate within [that city].” “The city may determine by ordinance the
20 criteria for the location of, and other permitting requirements that do not conflict with state law
21 or department rule for, medical marijuana treatment center dispensing facilities located within
22 the boundaries of [the city].” Additionally, a city “may not enact ordinances for permitting or for
23 determining the location of dispensing facilities (medical cannabis treatment centers) which are
24 more restrictive than its ordinances permitting or determining the locations for pharmacies
25 licensed under chapter 465. A municipality or county may not charge a medical marijuana
26 treatment center a license or permit fee in an amount greater than the fee charged by such [city]
27 to pharmacies; and
28

29 **WHEREAS**, the Governor signed Senate Bill 8-A into law on June 23, 2017; and
30

31 **WHEREAS**, the Mayor and City Commission finds it is in the best interest of the
32 citizens of the City to minimize and control the effects of dispensing facilities (medical cannabis
33 treatment centers) by adopting appropriate land development and licensing regulations; and
34

35 **WHEREAS**, the Centers for Disease Control and Prevention (CDC) declaring a national
36 opioid epidemic has been occurring in the United States, which has been an epidemic plague to
37 the nation since February 2011; and
38

39 **WHEREAS**, Governor Rick Scott on May 3, 2017, declared the opioid epidemic a public
40 health emergency; and

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3 **WHEREAS**, based upon the foregoing, it is vital to protect the residents and visitors of
4 the City of Oakland Park from the opioid epidemic and to ensure that the City's pharmacists and
5 residents are safe from crime caused by the epidemic – crime which has affected the entire
6 nation; and

7 **WHEREAS**, the amendments set forth below are necessary to accomplish all of the
8 above objectives.
9

10 **WHEREAS**, said application was heard and considered before the Oakland Park
11 Planning and Zoning Board of the City of Oakland Park on September 26, 2017, and at the said
12 public hearings all objections, if any, were heard.
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15 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
16 **CITY OF OAKLAND PARK, FLORIDA THAT:**
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18 **Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as
19 being true and correct and are hereby made a part of this Ordinance.
20

21 **Section 2.** That Chapter 24, "Land Development Code," Section 24-41(C) "Master
22 Business List" is hereby as following:
23

24 **Sec. 24-41. - Master business list.**

25 (A) *Purpose.* It is the intent of this section to provide, in tabular form, a listing (herein referred
26 to as the "master business list") of the uses that shall be permitted or prohibited in the
27 various business districts.
28

29 (B) *Key to table.*

- 30 (1) Where a "P" appears on the same line as a listed use, said use shall be permitted in the
31 district as indicated by the column heading in which the "P" appears.
- 32 (2) Where a "C" appears on the same line as a listed use, said use shall be a conditional use
33 in the district as indicated by the column heading in which the "C" appears.
- 34 (3) Where an "A" appears on the same line as a listed use, said use shall be permitted as an
35 accessory only to a permitted principal use in the district as indicated by the column
36 heading in which the "A" appears.

- (4) Where no letter "P", "C", or "A" appears on the same line as a listed use, said use shall be prohibited in the district as indicated by the column heading, in the same manner.
- (5) Where a listed use is not permitted in any of the business districts, an "X" appears in the column headed "prohibited."
- (6) Where a listed use is followed by parentheses and the symbol "*", the district where the symbol "*" is found is limited by the restrictions of the parenthesis in the business listing.
- (7) Where the letter "P", "C", or "A" is followed by a number or two numbers separated by a comma the listed use shall be subject to the limitations and restrictions set forth in the corresponding supplemental regulations in Section D of this section.
- (8) Any use not listed on the master business list, as amended from time to time, shall be considered an "unlisted use." Such applications shall be reviewed and considered according to the conditional use provisions set forth herein.
- (9) Any principal or accessory twenty-four (24) hour business shall be reviewed and considered according to the conditional use provisions set forth herein.

Master Business List Key Summary:

P =	Permitted Principal Use;
A =	Accessory only to a Permitted Principal Use;
C =	Conditional Use;
X =	Prohibited Use
* =	See Restriction in first column in parenthesis;
(number) =	Restriction on the use in Section D, Supplemental Regulations.

(C) *Master business list.* The following is the master business list, indicating the permitted and prohibited uses and those uses subject to the supplemental regulations and definitions of this section. The following uses are principal uses unless otherwise stated. In some cases, a use may be permitted in the district, but would constitute a change of use pursuant to the parking and

1 landscaping sections of this code. There shall be no variances on the uses listed in the Master
2 Business List in this subsection.

3

Business Listing	Prohibited	NB	B1	B-2	B-3	1-1	PRZD	FHOD
<u>Medical Marijuana Treatment Center or Dispensing Facility</u>		<u>C14</u>	<u>C14</u>	<u>C14</u>	<u>C14</u>		<u>C14</u>	<u>C14</u>
Pharmacy		<u>P C14</u>	<u>P C14</u>	<u>P C14</u>	<u>P C14</u>		<u>P C14</u>	<u>C14</u>

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(D) *Supplemental regulations to master business list.* The following numbers are keyed in
8 the list:

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(14) *Reserved.* Distance separation. The listed use shall not be permitted unless the
closest projection of the building or outdoor sales area from public or private
elementary, middle, or secondary schools, and child daycare to the closest projection of
measures a minimum of five hundred (500) feet.

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Medical cannabis treatment center or dispensing facility. Means a State certified and
licensed facility establishment where medical cannabis, low-THC cannabis, as well as cannabis
delivery devices, is dispensed at retail that is operated by a dispensing organization.

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Pharmacy. A retail establishment, ~~primarily offering goods for retail sale and on-site~~
dispensing of prescription drugs, nonprescription drugs or both, ~~excluding retail sales~~
establishments as defined under the retail sales definition in this section. A retail pharmacy
may also offer accessory services such as photo processing, eyeglass care, etc. All pharmacies

1 shall be staffed by a state licensed pharmacist.. Pharmacies include a community pharmacy, an
2 institutional pharmacy, a nuclear pharmacy or a special pharmacy as defined by F.S. Ch. 465, §
3 465.003 as amended from time to time.

- 4 1. The term "community pharmacy" includes every location where medicinal drugs are
5 compounded, dispensed, stored, or sold or where prescriptions are filled or
6 dispensed on an outpatient basis.
7
- 8 2. The term "institutional pharmacy" includes every location in a hospital, clinic,
9 nursing home, dispensary, sanitarium, extended care facility, or other facility,
10 hereinafter referred to as "health care institutions," where medicinal drugs are
11 compounded, dispensed, stored, or sold.
12
- 13 3. The term "nuclear pharmacy" includes every location where radioactive drugs and
14 chemicals within the classification of medicinal drugs are compounded, dispensed,
15 stored, or sold. The term "nuclear pharmacy" does not include hospitals licensed
16 under F.S. Ch. 395 or the nuclear medicine facilities of such hospitals.
17
- 18 4. The term "special pharmacy" includes every location where medicinal drugs are
19 compounded, dispensed, stored, or sold if such locations are not otherwise defined
20 in this subsection
21

22 *Retail sales.* Are those establishments engaged in retail sales and rental of products. For
23 the purpose of this chapter the term retail, retail sale or similar terms, shall mean a sale to
24 the ultimate consumer (i.e., a sale for any purpose other than resale), and including but
25 not limited to all transactions for which there is collected or due by the seller a sales tax
26 pursuant to Chapter 212 of the Florida Statutes, as it may be amended and generally
27 consisting of the following, antique shops; art galleries, schools, and supplies; auto parts;
28 bakeshops; bicycle shop & repair; bookstore; camera; candy store; carpets, rugs, floor
29 coverings; china, crockery, glassware, earthenware; cigars; clothing except secondhand;
30 confectionary and ice cream; cosmetics and incidental compoundings; curio stores; dairy
31 products; delicatessens; department and dry good stores; electrical appliances and
32 incidental repairs; fish store; food take-out; fruit; furniture; gift shop; grocery store;
33 hardware store; hobby shop; ice cream; jewelry; leather goods; lighting fixtures; luggage;
34 marine supplies; meat market; music and radio stores; newsstands; optical stores; paint
35 and wall paper; pharmacies as an accessory to a retail sales establishment that do not
36 exceed 30% of the gross floor area of the retail sales establishment; radios and televisions
37 sales and incidental repairs; shoes; souvenirs; sporting goods; sundry store; ticket office;
38 tile and wall coverings; wearing apparel.

* * * * *

Section 4. That Chapter 24, "Land Development Code," Section 24-265. – Downtown Mixed Use District Use Table.is hereby amended as follows:

Sec. 24-265. – Downtown Mixed Use District Use Table.

Downtown Mixed Use District Use Table (Y=Allowed, N= Not permitted, C=conditional)							
<i>Business Listings</i>	Boulevard Commercial	North End Urban Residential	Park Place	Civic Use	Dixie Mixed Use	Residential Office Buffer	The Neighborhoods
Medical Marijuana Treatment Center or Dispensing Facility (as defined and restricted in Section 24-41(C) & (D) “Master Business List”	<u>C14</u>	<u>C14</u>	<u>C14</u>	<u>N</u>	<u>C14</u>	<u>N</u>	<u>N</u>
Pharmacy (as defined and restricted in Section 24-41(C) & (D) “Master Business List”	<u>C14</u>	<u>C14</u>	<u>C14</u>	N	<u>C14</u>	N	N

Section 5. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 6. That all Ordinances or parts of Ordinances and all resolutions or parts of Resolutions in conflict with this Ordinance are repealed to the extent of such conflict.

Section 7. It is the intention of the City Commission of the City of Oakland Park, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the

1 City of Oakland Park, Florida, and that the Sections of this ordinance may be renumbered,
2 re-lettered and the word "Ordinance" may be changed to "Section," "Article," or such other word or
3 phrase in order to accomplish such intention.
4

5 **Section 8.** This Ordinance shall be effective upon its passage and adoption by the
6 City Commission of the City of Oakland Park.
7

8 PASSED BY THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA,
9 ON FIRST READING, THIS 4th DAY OF OCTOBER, 2017.
10

11	T. LONERGAN	<u>YES</u>
12	S. GUEVREKIAN	<u>YES</u>
13	M. SPARKS	<u>YES</u>
14	M. CARN	<u>YES</u>
15	J. ADORNATO III	<u>YES</u>

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17
18 PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF OAKLAND
19 PARK, FLORIDA, ON SECOND READING, THIS 18TH DAY OF OCTOBER, 2017.
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24 MAYOR JOHN ADORNATO III

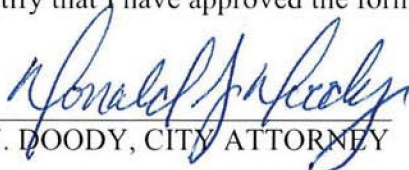
25	T. LONERGAN	<u>YES</u>
26	S. GUEVREKIAN	<u>YES</u>
27	M. SPARKS	<u>ABSENT</u>
28	M. CARN	<u>YES</u>
29	J. ADORNATO III	<u>YES</u>

30 ATTEST:

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32
33 RENEE M. SHROUT, CMC, CITY CLERK
34

35 LEGAL NOTE:

36 I hereby certify that I have approved the form of this Ordinance (O-2017-015)
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38 
39
40 DONALD J. DOODY, CITY ATTORNEY

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CODING: Words in struck through type are deletions from existing text.
Words in underscored type are additions to existing text.
A line of *** indicates existing text not shown.