



MEMORANDUM
MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT
We strive to be caring, professional and fair

To: Monroe County Planning Commission

Through: Emily Schemper, AICP, CFM, Acting Senior Director of Planning & Environmental Resources

From: Cheryl Cioffari, AICP, Principal Planner

Date: July 11, 2018

Subject: AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS EXTENDING AN INTERIM DEVELOPMENT ORDINANCE AS INITIALLY ESTABLISHED ON JULY 19, 2017 THROUGH ORDINANCE 010-2017 FOR AN ADDITIONAL 365 DAYS TO DEFER THE ACCEPTANCE AND APPROVAL OF NEW APPLICATIONS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSING FACILITIES COMMENCING OCTOBER 27, 2018, UNTIL SUCH TIME AS A COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENT PROCESS IS COMPLETED REGARDING MEDICAL MARIJUANA DISPENSING FACILITIES AND PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THIS INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE. (File #2018-088)

Meeting: July 25, 2018

I. REQUEST

The Monroe County Planning & Environmental Resources is proposing an extension to an approved interim development ordinance (IDO), Ordinance 010-2017, deferring the acceptance and approval of new applications for the establishment of medical marijuana dispensing facilities commencing October 27, 2018. Providing for expiration within 365 days of the effective date of the extension to the IDO or when the Comprehensive Plan and Land Development Code amendments become effective, whichever comes first.

II. BACKGROUND INFORMATION

The Monroe County Year 2030 Comprehensive Plan, which became effective on June 20, 2016, and the County's updated Land Development Code which became effective on February 3, 2017, do not address medical marijuana dispensing facilities or uses.

The Monroe County Board of County Commissioners adopted Resolution 047-2017, at a regular meeting on February 15, 2017, in Key West, directing staff to process an ordinance to impose a temporary moratorium deferring the approval of new private applications for the establishment of medical marijuana dispensing facilities commencing February 15, 2017.

At a regular meeting on July 19, 2017, in Marathon, the BOCC adopted interim development Ordinance 010-2017. This ordinance is due to expire on October 27, 2018, if the relevant Comprehensive Plan and Land Development Code amendments are not adopted and effective before that date.

Staff is working on BOCC directed amendments related to the establishment of medical marijuana dispensing facilities. However, the State of Florida continues to develop regulations from which County regulations would be derived. Therefore, staff is recommending an extension to the interim development ordinance for 365 days or until an ordinance amending the Comprehensive Plan and Land Development Code to add such County regulations is adopted and becomes effective, whichever comes first.

Development Review Committee and Public Input

At a regular meeting held on June 26, 2018, the Development Review Committee (DRC) considered the proposed interim development Ordinance and provided for public comment.

III. STAFF RECOMMENDATION

Staff recommends approval of the extension to the IDO.

The IDO provides a period of time between the current adopted comprehensive plan and land development code and the adoption of any new amendment(s) [new definitions and/or other code requirements] to ensure that the amendments are fully evaluated to ensure public health, safety, and welfare of the citizens of unincorporated Monroe County, including the provision of public participation in the planning process.

Staff is working on BOCC directed amendments related to the establishment of medical marijuana dispensing facilities. However, the State of Florida continues to develop regulations from which County regulations would be derived. Therefore, staff is recommending an extension to the interim development ordinance for 365 days or until an ordinance amending the Comprehensive Plan and Land Development Code to add such County regulations is adopted and becomes effective, whichever comes first.

IV. EXHIBITS

1. Ordinance 010-2017
2. Draft Ordinance



Kevin Madok, CPA

EXHIBIT 1 2018-088

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

August 2, 2017

Department of State
Administrative Code & Register
500 S Bronough Street
Tallahassee FL 32399-0250

To Whom It May Concern,

Attached is an electronic copy of Ordinance No. 010-2017 to defer the acceptance and approval of new applications for the establishment of medical marijuana dispensing facilities commencing February 15, 2017, until such time as a Comprehensive Plan and Land Development Code amendment process is completed regarding medical marijuana dispensing facilities and providing for expiration within 365 days of the effective date of the interim development Ordinance or when the Comprehensive Plan and Land Development Code amendments become effective, whichever comes first; providing for severability; providing for transmittal to the State Land Planning Agency and the Secretary of State; providing for an effective date.

This Ordinance was adopted by the Monroe County Board of County Commissioners at a regular meeting, held in formal session, on July 19, 2017. Should you have any questions, please feel free to contact me at (305) 295-3130.

Respectfully Submitted,

Kevin Madok, CPA, Clerk of
the Circuit Court & Comptroller &
ex-officio to the Monroe County
Board of County Commissioners

by: Pamela G. Hancock, D.C.

cc: Growth Management
County Attorney
BOCC
File

KEY WEST
500 Whitehead Street
Key West, Florida 33040
305-294-4641

MARATHON
3117 Overseas Highway
Marathon, Florida 33050
305-289-6027

PLANTATION KEY
88820 Overseas Highway
Plantation Key, Florida 33070
305-852-7145

PK/ROTH BUILDING
50 High Point Road
Plantation Key, Florida 33070
305-852-7145



MONROE COUNTY, FLORIDA
ORDINANCE 010 -2017

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO DEFER THE ACCEPTANCE AND APPROVAL OF NEW APPLICATIONS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSING FACILITIES COMMENCING FEBRUARY 15, 2017, UNTIL SUCH TIME AS A COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENT PROCESS IS COMPLETED REGARDING MEDICAL MARIJUANA DISPENSING FACILITIES AND PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THIS INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Monroe County Board of County Commissioners adopted Resolution 047-2017, at a regular meeting on February 15, 2017 in Key West, Florida, directed staff to process an ordinance to impose a temporary moratorium deferring the approval of new private applications for the establishment of medical marijuana dispensing facilities commencing February 15, 2017; and

WHEREAS, pursuant to Article 8 of the Florida Constitution and Section 125.66, Florida Statutes, Monroe County possesses the police powers to enact Resolutions in order to protect the health, safety, and welfare of the County's citizens; and

WHEREAS, the Monroe County Board of County Commissioners determines that it is in the best interest of its residents, businesses and visitors to enact sufficient zoning regulations to ensure their health, safety and welfare; and

WHEREAS, medical marijuana dispensing facilities are a new and unique use which is not currently addressed by the County Land Development Code or the Comprehensive Plan; and

WHEREAS, Amendment 2 to the Florida Constitution, and the expanded qualifying medical conditions, became effective on January 3, 2017; and

WHEREAS, Amendment 2 requires the Florida Department of Health to: issue regulations for implementation of the amendment within 6 months (July 3, 2017); and

WHEREAS, Florida Department of Health rulemaking is ongoing and several statutory amendments are under review in the current Legislative Session; and

WHEREAS, Section 381.986(8)(b), F.S., permits counties to “determine by ordinance the criteria for the number, location, and other permitting requirements that do not conflict with state law or department rule for all dispensing facilities of dispensing organizations located within the unincorporated areas of that county” and

WHEREAS, a temporary moratorium on the acceptance and approval of applications for the processing of, and the issuance of development permits, development orders or any other official action of Monroe County permitting or having the effect of permitting new medical marijuana dispensing facilities will allow time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the Land Development Code and the Comprehensive Plan to address this new and unique use: and

WHEREAS, adoption an ordinance addressing the interim time period between the current adopted comprehensive plan and land development code and the adoption of any new amendment(s) [new definitions and/or other code requirements] is necessary to ensure that any requirements are fully evaluated to ensure public health, safety, and welfare of the citizens of unincorporated Monroe County, including the provision of public participation in the planning process;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY:

Section 1. Moratorium Imposed. Monroe County Planning and Environmental Resource Department shall defer the approval of new applications for the establishment of medical marijuana dispensing facilities commencing February 15, 2017. Providing for expiration within 365 days of the effective date of an interim development ordinance or when the Comprehensive Plan and Land Development Code amendments become effective, whichever comes first.

Section 2. Term. The moratorium imposed by this Ordinance is temporary and, unless dissolved earlier by the Board of County Commissioners, shall automatically dissolve upon the adoption of Comprehensive Plan and Land Development Code amendments. In no event, however, shall the moratorium imposed by this Ordinance extend beyond 365 days from the effective date of this ordinance.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Transmittal. This ordinance shall be transmitted to the Florida State Land Planning Agency as required by F.S. 380.05(11) and F.S. 380.0552(9).

Section 5. Filing and an Effective Date. The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. This ordinance shall be filed in the Office of the Secretary of State of Florida, but shall not become effective until a notice is issued by the State Land Planning Agency or Administration Commission finding the amendment in compliance, and if challenged until such challenge is resolved pursuant to Chapter 120, F.S.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the 19th day of July, 2017.

Mayor George Neugent	<u>Yes</u>
Mayor <i>Pro Tem</i> David Rice	<u>Yes</u>
Commissioner Danny L. Kolhage	<u>Yes</u>
Commissioner Heather Carruthers	<u>Yes</u>
Commissioner Sylvia Murphy	<u>Yes</u>

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY *George L. Neugent*
Mayor George Neugent



ATTEST: KEVIN MADOK, CLERK

Kevin Madok
DEPUTY CLERK

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Stev Williams
STEVEN T. WILLIAMS
ASSISTANT COUNTY ATTORNEY
Date 6/27/17

FILED FOR RECORD
2017 AUG -2 PM 3:58
CLK. CIR. CL.
MONROE COUNTY, FLA



MONROE COUNTY, FLORIDA
ORDINANCE NO. -2018

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS EXTENDING AN INTERIM DEVELOPMENT ORDINANCE AS INITIALLY ESTABLISHED ON JULY 19, 2017 THROUGH ORDINANCE 010-2017 FOR AN ADDITIONAL 365 DAYS TO DEFER THE ACCEPTANCE AND APPROVAL OF NEW APPLICATIONS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSING FACILITIES COMMENCING OCTOBER 27, 2018, UNTIL SUCH TIME AS A COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENT PROCESS IS COMPLETED REGARDING MEDICAL MARIJUANA DISPENSING FACILITIES AND PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THIS INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2018-088)

WHEREAS, pursuant to Article 8 of the Florida Constitution and Section 125.66, Florida Statutes, Monroe County possesses the police powers to enact ordinances in order to protect the health, safety, and welfare of the County’s citizens; and

WHEREAS, the Board of County Commissioners of Monroe County, at a regular meeting on 15th day of February, 2017 in Key West, Florida adopted Resolution No. 47-2017 directing the Monroe County Planning and Environmental Resources Department to process an Ordinance to impose a temporary moratorium upon the acceptance and processing of new applications for the establishment of medical marijuana dispensing facilities; and

WHEREAS, the Board of County Commissioners of Monroe County, at a regular meeting on

1 19th day of July, 2017 in Marathon, Florida adopted Ordinance 010-2017 imposing a temporary
2 moratorium upon the acceptance and processing of new applications for the establishment of medical
3 marijuana dispensing facilities; and
4

5 **WHEREAS**, the Monroe County Board of County Commissioners determines that it is in the
6 best interest of its residents, businesses and visitors to enact sufficient zoning regulations to ensure their
7 health, safety and welfare; and
8

9 **WHEREAS**, medical marijuana dispensing facilities are a new and unique use which is not
10 currently addressed by the County Land Development Code or the Comprehensive Plan; and
11

12 **WHEREAS**, Section 381.986(8)(b), Fla. Stat., permits counties to “determine by ordinance the
13 criteria for the number, location, and other permitting requirements that do not conflict with state law or
14 department rule for all dispensing facilities of dispensing organizations located within the
15 unincorporated areas of that county”; and
16

17 **WHEREAS**, an extension to the temporary moratorium on the acceptance of applications for,
18 the processing of, and the issuance of development permits, development orders or any other official
19 action of Monroe County permitting or having the effect of permitting new medical marijuana
20 dispensing facilities will allow time to review, study, hold public hearings, and prepare and adopt an
21 amendment or amendments to the Land Development Code and the Comprehensive Plan to address this
22 new and unique use; and
23

24 **WHEREAS**, adoption of this ordinance will further the health, safety and welfare of the citizens
25 of Monroe County.
26

27 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS**
28 **OF MONROE COUNTY:**
29

30 **SECTION 1: Recitals.** The above recitals are true and are hereby adopted and confirmed.
31

32 **SECTION 2: Purpose.** The Purpose of this ordinance is to preserve the status quo and enable
33 sufficient time for the County to review, study, hold public hearings, prepare and adopt provisions to the
34 Land Development Code and/or Comprehensive Plan, relating to the appropriate locations for medical
35 marijuana dispensing facilities, if any.
36

37 **SECTION 3. Zoning in Progress.** Monroe County hereby recognizes that County staff intends
38 to study and prepare regulations that would result in the regulation of medical marijuana dispensing
39 facilities. These regulations, if adopted, will amend the County Land Development Code and/or the
40 Comprehensive Plan. All affected property and business owners are placed on notice with respect to

1 these pending regulations and the action being taken by the appropriate departments within the County.

2
3 **SECTION 4: Moratorium.**

- 4 A. For a period of 365 days from the effective date of this Ordinance, the County shall not
5 accept, process or take any action on any application for a development permit, development
6 order or take any other official action which would have the effect of allowing or permitting
7 the development of medical marijuana dispensing facilities, except as provided in this
8 ordinance. Should the County adopt Amendments to the Land Development Code and
9 Comprehensive Plan prior to the 365 days' time, said application for medical marijuana
10 dispensing facilities shall be accepted upon the effective date of any such amendments.
- 11 B. This Ordinance shall not restrict, prohibit or otherwise prevent a property owner from the
12 reasonable use of their land or from developing their land in accordance with the
13 Comprehensive Plan.
- 14 C. The adoption of this Ordinance is undertaken by the County in good faith and is intended to
15 further the goals of the Monroe County Comprehensive Plan and Chapter 163, Florida
16 Statutes.
- 17 D. The limited duration of this moratorium has been established to accomplish the appropriate
18 study, planning and analysis for future development through the Monroe County
19 Comprehensive Plan amendment process as described in Chapter 163, Part II, Florida
20 Statutes, and the Comprehensive Plan.

21 **SECTION 5: Definition.** The following definitions apply to the terms used in this Ordinance:

- 22 A. "Marijuana" has the meaning given cannabis in section 893.02 (3), Florida Statutes (2014),
23 and in addition, "low-THC cannabis" as defined in section 381.986 (1)(b), Florida Statutes
24 (2014).
- 25 B. "Medical Marijuana Dispensing Facility" means any establishment where low-THC, medical
26 cannabis Marijuana is permitted to be dispensed by an approved dispensing organization
27 pursuant to section 381.986, Florida Statutes and Florida Department of Health Rules or such
28 subsequently enacted rules and at Medical Marijuana Treatment Centers.

29 **SECTION 6: Vested Rights.**

- 30 A. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a
31 property owner to complete development where the property owner demonstrates each of the
32 following:
- 33 1. A government act of development approval was obtained prior to the effective date of
34 this Ordinance; and
 - 35 2. The property owner has detrimentally relied, in good faith, on the governmental
36 approval by making substantial change in position or incurring extensive obligation
37 and expanses; and

3. It would be highly inequitable to deny the property owner the right to complete the development.

B. Any property owner claiming to have vested rights must seek a determination from the Planning Official pursuant to the procedures in the Land Development Code thirty (30) days after the effective date of this Ordinance.

SECTION 7: Applicability. This Ordinance shall be applicable in the unincorporated areas of Monroe County.

SECTION 8: Severability. If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

SECTION 9: Filing of Ordinance and Effective Date. This Ordinance shall take effect upon filing with the Florida Department of State.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of the Board held on the ___day of _____, 2018.

Mayor David Rice, District 4	_____
Mayor Pro Tem Sylvia J. Murphy, District 5	_____
Danny L. Kolhage, District 1	_____
George Neugent, District 2	_____
Heather Carruthers, District 3	_____

Attest: KEVIN MADOK, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

Deputy Clerk

By: _____
Mayor David Rice

(SEAL)