



MONROE COUNTY, FLORIDA  
ORDINANCE NO. -2019

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, EXTENDED 365 DAYS THROUGH ORDINANCE 019-2018 AND FOR AN ADDITIONAL 365 DAYS TO DEFER THE ACCEPTANCE AND APPROVAL OF NEW APPLICATIONS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA TREATMENT CENTERS DISPENSING FACILITIES COMMENCING OCTOBER 27, 2019, UNTIL SUCH TIME AS A COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENT PROCESS IS COMPLETED REGARDING MEDICAL MARIJUANA TREATMENT CENTER 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 2019-061)

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**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 treatment center dispensing facilities; and

**WHEREAS**, the Board of County Commissioners of Monroe County, at a regular meeting on 19<sup>th</sup>

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

5 **WHEREAS**, at a regularly scheduled meeting on August 15, 2018, in Key West, the BOCC  
6 adopted interim development Ordinance 019-2018 extending for an additional 365 days; and  
7

8 **WHEREAS**, the Monroe County Board of County Commissioners determines that it is in the best  
9 interest of its residents, businesses and visitors to enact sufficient zoning regulations to ensure their health,  
10 safety and welfare; and  
11

12 **WHEREAS**, medical marijuana treatment center dispensing facilities are a new and unique use  
13 which is not currently addressed by the County Land Development Code or the Comprehensive Plan; and  
14

15 **WHEREAS**, Florida Statute Section 381.986(11) provides specific rules about the level of  
16 regulation a local government may or may not impose on medical marijuana treatment center dispensing  
17 facilities; and  
18

19 **WHEREAS**, an extension to the temporary moratorium is necessary to review, study, hold public  
20 hearings, and prepare and adopt an amendment or amendments to the Land Development Code and the  
21 Comprehensive Plan to regulate medical marijuana treatment center dispensing facilities; and  
22

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

26 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS**  
27 **OF MONROE COUNTY:**  
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29 **SECTION 1: Recitals.** The above recitals are true and are hereby adopted and confirmed.  
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31 **SECTION 2: Purpose.** The Purpose of this ordinance is to preserve the status quo and enable  
32 sufficient time for the County to review, study, hold public hearings, prepare and adopt provisions to the  
33 Land Development Code and/or Comprehensive Plan, relating to the appropriate locations for medical  
34 marijuana treatment center dispensing facilities, if any.  
35

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

1 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 accept,  
5 process or take any action on any application for a development permit, development order or  
6 take any other official action which would have the effect of allowing or permitting the  
7 development of medical marijuana treatment center dispensing facilities, except as provided  
8 in this 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 treatment center dispensing facilities shall be accepted upon the effective date of any such  
11 amendments.
- 12 B. This Ordinance shall not restrict, prohibit or otherwise prevent a property owner from the  
13 reasonable use of their land or from developing their land in accordance with the  
14 Comprehensive Plan.
- 15 C. The adoption of this Ordinance is undertaken by the County in good faith and is intended to  
16 further the goals of the Monroe County Comprehensive Plan and Chapter 163, Florida 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 Statutes,  
20 and the Comprehensive Plan.

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

- 22 A. Pursuant to Section 381.986 (1)(f), Florida Statutes, "Marijuana" means all parts of any plant of  
23 the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part  
24 of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the  
25 plant or its seeds or resin, including low-THC cannabis, which are dispensed from a medical  
26 marijuana treatment center for medical use by a qualified patient.
- 27 B. Pursuant Section 381.986 (1)(e), Florida Statutes. "Low-THC cannabis" means a plant of the genus  
28 Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more  
29 than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any  
30 part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such  
31 plant or its seeds or resin that is dispensed from a medical marijuana treatment center.
- 32 C. Medical Marijuana Treatment Center Dispensing Facility as established under Section 381.986(8),  
33 Florida Statutes.

34 **SECTION 6: Vested Rights.**

- 35 A. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a  
36 property owner to complete development where the property owner demonstrates each of the  
37 following:

- 1                    1. A government act of development approval was obtained prior to the effective date of
- 2                    this Ordinance; and
- 3                    2. The property owner has detrimentally relied, in good faith, on the governmental
- 4                    approval by making substantial change in position or incurring extensive obligation
- 5                    and expanses; and
- 6                    3. It would be highly inequitable to deny the property owner the right to complete the
- 7                    development.
- 8                    B. Any property owner claiming to have vested rights must seek a determination from the
- 9                    Planning Official pursuant to the procedures in the Land Development Code thirty (30) days
- 10                   after the effective date of this Ordinance.

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

13  
 14                    **SECTION 8: Severability.** If any section, subsection, sentence, clause, phrase, or provision of  
 15 this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction,  
 16 such holding shall not be construed to render the remaining provisions of this ordinance invalid or  
 17 unconstitutional.

18  
 19                    **SECTION 9: Filing of Ordinance and Effective Date.** This Ordinance shall take effect upon  
 20 filing with the Florida Department of State.

21  
 22 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida, at a  
 23 regular meeting of the Board held on the \_\_\_ day of \_\_\_\_\_, 2019.

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 26                    Mayor Sylvia J. Murphy, District 5                    \_\_\_\_\_  
 27                    Mayor Pro Tem Danny L. Kolhage, District 1                    \_\_\_\_\_  
 28                    Michelle Coldiron, District 2                    \_\_\_\_\_  
 29                    Heather Carruthers, District 3                    \_\_\_\_\_  
 30                    David Rice, District 4                    \_\_\_\_\_

31  
 32 Attest: KEVIN MADOK, CLERK

BOARD OF COUNTY COMMISSIONERS  
 OF MONROE COUNTY, FLORIDA

33  
 34 \_\_\_\_\_

By: \_\_\_\_\_

35 Deputy Clerk

Mayor Sylvia J. Murphy

36  
 37 (SEAL)