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3 MONROE COUNTY, FLORIDA  
4 ORDINANCE NO. 019 -2018  
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6 AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY  
7 COMMISSIONERS EXTENDING AN INTERIM DEVELOPMENT ORDINANCE AS  
8 INITIALLY ESTABLISHED ON JULY 19, 2017 THROUGH ORDINANCE 010-2017  
9 FOR AN ADDITIONAL 365 DAYS TO DEFER THE ACCEPTANCE AND  
10 APPROVAL OF NEW APPLICATIONS FOR THE ESTABLISHMENT OF MEDICAL  
11 MARIJUANA DISPENSING FACILITIES COMMENCING OCTOBER 27, 2018,  
12 UNTIL SUCH TIME AS A COMPREHENSIVE PLAN AND LAND DEVELOPMENT  
13 CODE AMENDMENT PROCESS IS COMPLETED REGARDING MEDICAL  
14 MARIJUANA DISPENSING FACILITIES AND PROVIDING FOR EXPIRATION  
15 WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THIS INTERIM DEVELOPMENT  
16 ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND  
17 DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER  
18 COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR  
19 TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE  
20 SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2018-088)

21  
22 **WHEREAS**, pursuant to Article 8 of the Florida Constitution and Section 125.66, Florida Statutes,  
23 Monroe County possesses the police powers to enact ordinances in order to protect the health, safety, and  
24 welfare of the County's citizens; and  
25

26 **WHEREAS**, the Board of County Commissioners of Monroe County, at a regular meeting on  
27 15th day of February, 2017 in Key West, Florida adopted Resolution No. 47-2017 directing the Monroe  
28 County Planning and Environmental Resources Department to process an Ordinance to impose a  
29 temporary moratorium upon the acceptance and processing of new applications for the establishment of  
30 medical marijuana dispensing facilities; and  
31

32 **WHEREAS**, the Board of County Commissioners of Monroe County, at a regular meeting on 19<sup>th</sup>  
33 day of July, 2017 in Marathon, Florida adopted Ordinance 010-2017 imposing a temporary moratorium  
34 upon the acceptance and processing of new applications for the establishment of medical marijuana  
35 dispensing facilities; and

1           **WHEREAS**, the Monroe County Board of County Commissioners determines that it is in the best  
2 interest of its residents, businesses and visitors to enact sufficient zoning regulations to ensure their health,  
3 safety and welfare; and  
4

5           **WHEREAS**, medical marijuana dispensing facilities are a new and unique use which is not  
6 currently addressed by the County Land Development Code or the Comprehensive Plan; and  
7

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

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

23 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS**  
24 **OF MONROE COUNTY:**  
25

26           **SECTION 1: Recitals.** The above recitals are true and are hereby adopted and confirmed.  
27

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

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

39           **SECTION 4: Moratorium.**  
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A. For a period of 365 days from the effective date of this Ordinance, the County shall not accept,

1 process or take any action on any application for a development permit, development order or  
2 take any other official action which would have the effect of allowing or permitting the  
3 development of medical marijuana dispensing facilities, except as provided in this ordinance.  
4 Should the County adopt Amendments to the Land Development Code and Comprehensive  
5 Plan prior to the 365 days' time, said application for medical marijuana dispensing facilities  
6 shall be accepted upon the effective date of any such amendments.

- 7 B. This Ordinance shall not restrict, prohibit or otherwise prevent a property owner from the  
8 reasonable use of their land or from developing their land in accordance with the  
9 Comprehensive Plan.
- 10 C. The adoption of this Ordinance is undertaken by the County in good faith and is intended to  
11 further the goals of the Monroe County Comprehensive Plan and Chapter 163, Florida Statutes.
- 12 D. The limited duration of this moratorium has been established to accomplish the appropriate  
13 study, planning and analysis for future development through the Monroe County  
14 Comprehensive Plan amendment process as described in Chapter 163, Part II, Florida Statutes,  
15 and the Comprehensive Plan.

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

- 17 A. "Marijuana" has the meaning given cannabis in section 893.02 (3), Florida Statutes (2014),  
18 and in addition, "low-THC cannabis" as defined in section 381.986 (1)(b), Florida Statutes  
19 (2014).
- 20 B. "Medical Marijuana Dispensing Facility" means any establishment where low-THC, medical  
21 cannabis Marijuana is permitted to be dispensed by an approved dispensing organization  
22 pursuant to section 381.986, Florida Statutes and Florida Department of Health Rules or such  
23 subsequently enacted rules and at Medical Marijuana Treatment Centers.

24 **SECTION 6: Vested Rights.**

- 25 A. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a  
26 property owner to complete development where the property owner demonstrates each of the  
27 following:
- 28 1. A government act of development approval was obtained prior to the effective date of  
29 this Ordinance; and
  - 30 2. The property owner has detrimentally relied, in good faith, on the governmental  
31 approval by making substantial change in position or incurring extensive obligation  
32 and expenses; and
  - 33 3. It would be highly inequitable to deny the property owner the right to complete the  
34 development.
- 35 B. Any property owner claiming to have vested rights must seek a determination from the  
36 Planning Official pursuant to the procedures in the Land Development Code thirty (30) days  
37 after the effective date of this Ordinance.

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

3  
4           **SECTION 8: Severability.** If any section, subsection, sentence, clause, phrase, or provision of  
5 this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction,  
6 such holding shall not be construed to render the remaining provisions of this ordinance invalid or  
7 unconstitutional.


8  
9           **SECTION 9: Filing of Ordinance and Effective Date.** This Ordinance shall take effect upon  
10 filing with the Florida Department of State.

11  
12 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida, at a  
13 regular meeting of the Board held on the 15<sup>th</sup> day of August, 2018.

16	Mayor David Rice, District 4	<u>Yes</u>
17	Mayor Pro Tem Sylvia J. Murphy, District 5	<u>Yes</u>
18	Danny L. Kolhage, District 1	<u>Yes</u>
19	George Neugent, District 2	<u>Yes</u>
20	Heather Carruthers, District 3	<u>Yes</u>


23 Attest: KEVIN MADOK, CLERK

24 BOARD OF COUNTY COMMISSIONERS  
25 OF MONROE COUNTY, FLORIDA

By:   
Mayor David Rice



FILED FOR RECORD  
2018 SEP -14 AM 9:09  
CLERK CIR. CT.  
MONROE COUNTY, FL

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:  
  
STEVEN T. WILLIAMS  
ASSISTANT COUNTY ATTORNEY  
Date: 8/13/18



## Kevin Madok, CPA

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

September 4, 2018

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. 019-2018 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 or 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 amendment to the Land Use District (Zoning) Map; 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 August 15, 2018. Should you have any questions, please feel free to contact me at (305) 292-3550.

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: Planning & Environmental  
County Administrator  
County Attorney  
BOCC  
File

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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



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

September 4, 2018

Honorable Kevin Madok  
Clerk of the Circuit Court  
Monroe County  
500 Whitehead Street, Suite 101  
Key West, Florida 33040

Attention: Pamela Hancock

Dear Mr. Madok:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Monroe County Ordinance No. 2018-019, which was filed in this office on September 4, 2018.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb