

Ordinance No. 2016 - 97

An Ordinance of the Board of County Commissioners of Osceola County, Florida, Relating to Marijuana Businesses; Enacting New Article VIII, "Marijuana Businesses," of Chapter 14, "Miscellaneous Provisions and Offenses," of the Osceola County Code of Ordinances, to Provide for Permits, Regulations, Restrictions, Penalties for Violations, and Procedures for the Operation of Medical Marijuana Treatment Centers; Providing for Conflict; Providing for Severability; and Providing for an Effective Date.

WHEREAS, the Florida Legislature enacted legislation legalizing cannabis for medical uses; and

WHEREAS, future constitutional amendments and legislation may further expand the legal use of marijuana in Florida; and

WHEREAS, a comprehensive State licensing and regulatory framework for the cultivation, processing, and dispensing of marijuana exists; and

WHEREAS the comprehensive State licensing and regulatory framework directs that the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule, for Medical Marijuana Treatment Centers may be determined by local ordinance; and

WHEREAS, Medical Marijuana Treatment Centers licensed pursuant to the law have begun cultivating Cannabis for processing and Dispensing; and

WHEREAS, potential adverse impacts on the health, safety, and welfare of residents and business from secondary effects associated with the distribution of medical marijuana exist, potentially including: offensive odors, trespassing, theft, fire hazards, increased crime in and about the Medical Marijuana Treatment Center, robberies, negative impacts on nearby businesses, nuisance problems; and

WHEREAS, certain of the above potential adverse impacts are accentuated by the current difficulties experienced by Medical Marijuana Treatment Centers in obtaining banking services necessitating such businesses to operate on a cash basis; and

WHEREAS, there exists the potential for misappropriation and diversion of medical cannabis to non-medical uses, and;

WHEREAS, an overabundance of treatment centers can affect the viability of such facilities, result in compliance issues and increased regulatory costs, lead to the improper diversion of products, and accentuate threats to the public health, safety, and welfare; and

WHEREAS, other jurisdictions have regulated the dispensing of cannabis by limiting the number of such Medical Marijuana Treatment Centers to reduce threats to the public health, safety, and welfare; and

WHEREAS, there is a need to adopt health, safety, and welfare regulations to avoid adverse impacts on the community which may arise from the distribution of cannabis; and

WHEREAS, other jurisdictions that allow Medical Marijuana Treatment Centers have implemented effective regulatory and enforcement systems that address the adverse impacts that Medical Marijuana Treatment Centers could pose to public safety, health, and welfare; and

WHEREAS, an effective regulatory system governing the dispensing of cannabis, as provided in this Ordinance, will address potential adverse impacts to the public health, welfare, and safety consistent with Florida law; and

WHEREAS, it is not the purpose or intent of this section to restrict or deny access to cannabis as permitted by Florida law, but instead to enact reasonable restrictions intended to protect the public health, safety, and welfare; and

WHEREAS, the County has determined it is in the public interest to adopt this Ordinance pursuant to the County's police powers and section 381.986, Florida Statutes, as well as other applicable state laws and provisions of the Florida Constitution, to protect the health, safety, and welfare of the public;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. Adoption of Marijuana Businesses Regulations. Article VIII, "Marijuana Businesses," of Chapter 14, "Miscellaneous Provisions and Offenses," Osceola County Code is hereby enacted to read as follows:

Sec. 14-140. - Purpose and intent.

The purpose of this Ordinance is to establish requirements that regulate Medical Marijuana Treatment Centers in the interest of the public health, safety and general welfare and that ease the regulatory burden on the County. In particular, this Ordinance is intended to regulate the sale and distribution of cannabis to ensure a supply of cannabis to patients who qualify to obtain, possess, and use cannabis, pursuant to state law, while promoting compliance with other state laws that regulate cannabis. Nothing in this Ordinance shall prohibit a Medical Marijuana Treatment Center, or another entity licensed under state law to dispense cannabis, from making deliveries of cannabis or derivative products to the residence or business of an authorized individual, or to a health care facility, as permitted by other relevant ordinances and state law. Nothing in this Ordinance is intended to promote or condone the sale, distribution,

possession, or use of Cannabis in violation of any applicable state or federal law. Compliance with the requirements of this Ordinance shall not provide a defense to criminal prosecution under any applicable law.

Sec. 14-141. - Definitions.

- (1) The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section:
- a. **Applicant** shall mean any person or entity that has submitted an application for a Certificate of Approval or renewal of a Certificate of Approval issued pursuant to this Ordinance. If the Applicant is an entity and not a natural person, Applicant shall include all persons who are the managers, officers, directors, contractual agents, partners, and licensors of such entity, as well as all members, shareholders, or Investors holding an ownership interest of 10% or more of such entity.
 - b. **Cannabis** has the meaning given to it by section 893.02(3), Florida Statutes, and shall include all forms of medical cannabis or low-THC cannabis. The term cannabis and marijuana shall be interchangeable for purposes of this Ordinance.
 - c. **Medical Marijuana Treatment Center** or **Business** shall mean a business licensed to dispense cannabis pursuant to any applicable state law, including but not limited to the Compassionate Use Act, and that is engaged in the dispensing of cannabis or derivative products, but shall not include growing, cultivating or processing cannabis or derivative products or making deliveries of cannabis or derivative products to the residence or business of an authorized individual, or to a health care facility, as permitted by other relevant ordinances and state law.
 - d. **Certificate of Approval** shall mean a document issued by the Jurisdiction officially authorizing an Applicant to operate a Medical Marijuana Treatment Center pursuant to this Ordinance. A Certificate of Approval generally authorizes an Applicant to establish and operate a Medical Marijuana Treatment Center pursuant to this Ordinance, but does not authorize the dispensing of cannabis at any physical location within the Jurisdiction until a Premises Authorization, as defined herein, has been issued for such location. Each Certificate of Approval authorizes the issuance of a single Premises Authorization at any one time, and any relocation of operations to a separate address shall require amendment of the Premises Authorization to authorize operations at the new location.
 - e. **Compassionate Use Act** shall mean section 381.986, Florida Statutes, and chapter 2016-123, Laws of Florida, as amended from time to time, and any rules or regulations promulgated thereunder.
 - f. **Cultivation** or **cultivate** shall mean the process by which a person grows a cannabis plant.

- g. **Derivative Products** shall mean products derived from cannabis, including but not limited to, cannabis oil or consumable products containing or derived from cannabis.
- h. **Dispensing** shall mean the distribution of cannabis or derivative products at a Medical Marijuana Treatment Center, but does not include making deliveries of cannabis or derivative products to the residence or business of an authorized individual, or to a health care facility, as permitted by other relevant ordinances and state law.
- i. **Fee Resolution** shall mean the mechanism by which Osceola County annually adopts certain fees to defray the costs of administering programs, when permitted.
- j. **Investor** shall mean any person or entity entitled to share in the profits of the Applicant, or any Lender. The term shall not include any employees who share in the profits of the Applicant pursuant to an employee profit sharing program.
- k. **Lender** shall mean any person or entity who has provided funds to an Applicant with the expectation of receiving from the Applicant repayment or the receipt from the Applicant of anything of value. The term Lender shall include any person who owns, directly or indirectly, 20% or more of any entity which qualifies as a Lender, but does not include any bank, credit union, or other financial institution created under federal or state law.
- l. **Jurisdiction** shall mean Osceola County, Florida.
- m. **Medical Director** shall mean licensed physician or licensed pharmacist who established protocols and standing orders and who is specifically identified as being responsible to assure the competency of the performance of those acts by such Marijuana Treatment Center Providers. Any reference to a “physician advisor” in any previously adopted rules shall apply to a “medical director” as defined in these rules.
- n. **Operator** shall mean the person or entity to whom a Certificate of Approval has been issued pursuant to this Ordinance.
- o. **Premises Authorization** shall mean a document issued by the Jurisdiction to the Operator, authorizing the Operator to conduct Medical Marijuana Treatment Center operations at a single, specifically approved physical location. No Premises Authorization may be issued to any individual or entity who does not hold a Certificate of Approval. Likewise, no Premises Authorization may be issued until the selected location has obtained the required site development and building permits, including Site Development Permit, and made the necessary improvements to obtain occupancy of the building for a Medical Marijuana Treatment Center. For the purposes of the Site Development Permit approval process, the Medical Marijuana Treatment Center shall be considered “new development: and the site shall meet County development guidelines accordingly or applicable City guidelines.

- p. **Process or Processing** when referring to cannabis shall mean to take the cannabis plant and transform same into a form for medical use, whether cannabis or derivative product
- q. **State** shall mean the State of Florida.

(2) In addition to the definitions contained in Subsection (1), other terms used in this Ordinance shall have the meaning ascribed to them in the Compassionate Use Act, and such definitions are incorporated into this Ordinance by this reference.

Sec. 14-142. - Application review committee created.

There shall be and is hereby created an Application Review Committee, hereafter referred to in this Ordinance as the “Committee.”

Sec. 14-143. - Composition of the committee.

The Committee shall consist of members as determined and appointed by the County Manager or Designee.

Sec. 14-144. - Functions of the Committee.

(1) The Committee shall be responsible, pursuant to the Compassionate Use Act and this Ordinance, for reviewing all applications for a Certificate of Approval for a Medical Marijuana Treatment Center, evaluating all applicants as set forth herein, ranking all Applicants and recommending approval or denial to the Board of County Commission.

(2) The County Manager or Designee shall have the power to: (i) promulgate rules and regulations concerning the procedures for any meetings conducted by the Committee; (ii) require any Applicant or Operator to furnish any relevant information requested by the Committee; and (iii) to require the presence of persons and the production of papers, books, and records at any hearing that the Committee is authorized to conduct.

Sec. 14-145. - Certificate of Approval required; term of Certificate of Approval; Premises Authorization; renewal application.

(1) It shall be unlawful for any person or entity to establish or operate a Medical Marijuana Treatment Center in the County without first having obtained from the State of Florida approval to do so pursuant to the Compassionate Use Act or any other relevant law, and having obtained from the County a Certificate of Approval, and having obtained from the County a Premises Authorization for the facility to be operated in connection with such business. Such Certificate of Approval and Premises Authorization shall be kept current at all times and shall be conspicuously displayed at all times in the premises to which they apply. The failure to maintain a current Certificate of Approval, or to maintain a current Premises Authorization for any location at which Medical Marijuana Treatment Center is conducted, shall constitute a violation of this Section.

(2) Each Certificate of Approval issued by the County pursuant to this Ordinance shall specify the date of issuance, the period of licensure, and the name of the Operator.

(3) Any Certificate of Approval issued by the County under this Ordinance shall expire three years after the date of its issuance.

(4) Once a Certificate of Approval is issued by the County, the County Manager or Designee shall review the Application and proposed location of the Medical Marijuana Treatment Center and shall issue or deny a Premises Authorization for said location, based upon compliance with all County and City (as applicable) codes and ordinances.

(5) Renewal of an existing Certificate of Approval shall be automatic for successive three year periods upon payment of required fees to the County, as provided in the fee resolution adopted by the County from time to time.

(i) Within 30 days of the expiration date of the Certificate of Approval, each Operator shall notify the County of its intent to renew, or not renew the Certificate of Approval. If an Operator elects to renew the Certificate of Approval, said Operator shall pay a nonrefundable fee to the County, as set forth in the fee resolution adopted by the County from time to time, to defray the costs incurred by the County for review of the application and inspection of the premises, as well as any other costs associated with the processing the renewal of the Certificate of Approval.

(ii) In the event the renewal County fees, and taxes are not paid to the County within 30 days prior to the renewal date, the certificate of approval is revoked. An Operator who's Certificate of Approval has been expired for not more than 90 days will be reinstated upon the payment of a nonrefundable late application fee, as set forth in the fee resolution adopted by the County from time to time. A Certificate of Approval shall be revoked if renewal fees have not been paid within 90 days of the renewal date/expiration of the Certificate of Approval.

(6) Any Premises Authorization issued by the County Manager or Designee under this Ordinance shall expire one year after issued and may be renewed. In the event a Certificate of Authorization is not renewed, it shall be noticed by the Committee as available and be subject to a new application process as set forth herein.

Sec. 14-146. – Application minimum requirements; payment of application fee.

(1) An Applicant for a new Certificate of Approval, or an Operator seeking to change the ownership of an existing Certificate of Approval, pursuant to the Compassionate Use Act, any other applicable state law, and the provisions of this Ordinance, shall submit an application to the County. At the time of any such application, each Applicant shall pay an application fee to the County, as set forth in the fee resolution adopted by the County Commission from time to time, to defray the costs incurred by the County for review of the application, as well as any other costs associated with the processing of the application.

(2) The Applicant shall include the following in its application to the County:

- a. Payment of the application fee as set forth in the fee resolution established by the Jurisdiction.

- b. If the Applicant is a business entity, information regarding the entity, including without limitation the name and address of the entity, its legal status and proof of registration with, or a certificate of good standing from, the Florida Secretary of State, as applicable;
- c. If the Applicant is an individual, government issued identification including name, address and photograph of the individual;
- d. Evidence of the State of Florida, Department of Health, Office of Compassionate Use's (or any successor agency of the State of Florida's) approval of the Operator to operate a Medical Marijuana Treatment Center pursuant to the Compassionate Use Act or any other relevant law;
- e. All documentation necessary to demonstrate compliance with the requirements identified in this Ordinance, including evidence that the Applicant continues to meet all requirements of section 381.986(5)(b)(1), Florida Statutes, and all other relevant provisions of state law.
- f. All documentation the Applicant wishes to have considered for scoring purposes, including documentation demonstrating the Applicant meets the criteria detailed in this Ordinance.
- g. All documentation evidencing the Applicant is in good standing with County fees and requirements.

(3) Upon receipt of an application, the Committee shall review and score the application pursuant to the scoring and review process established in this Ordinance.

Sec. 14-147. – The Application Period and Scoring and Review of Applications.

(1) The initial application period shall commence on the January 3, 2017 and shall close on January 31, 2017 at 2:00 p.m.. Subsequent application periods shall commence upon certification by the Committee that additional Certificates of Approval are available and shall close 30 days after such certification.

(2) Each Applicant shall submit an application in a format sufficient to provide the Committee with all relevant information necessary to review, evaluate, score, rank and recommend approval or denial of the application. The members of the Committee shall score and review each application pursuant to the criteria, and 100 point scale, detailed below. Members and Applicants may discuss their application at any time during the application process. Each application will be independently scored by Committee members.

- (i) Previous dispensing experience in a regulated market in any state: 30 points
 - Number of different dispensaries operated.
 - Number of years of operating dispensaries.
 - Documented hiring practices.

Number of different cannabis strains and derivative products sold.
Dispensing licenses held in different states.
Previous infractions resulting in the revocation of any Cannabis license.
Previous citations/notices of non-compliance with licensing requirements in any state.
Experience with maintaining chain of custody and tracking mechanisms.

(ii) Technical Ability: 25 points

Review of standard operating procedures, operating manuals, policies, training modules, and procedures.

Training process.

Comprehensive ordering system.

Ability to fulfill prescriptions in a timely manner.

Product delivery system to the Medical Marijuana Treatment Center.

System for tracking fulfillment of prescriptions to patients.

(iv) Qualifications of Security Team: 15 points

Years of security experience with Cannabis dispensaries in a regulated Cannabis market.

Integration of security procedures and training into your vertically integrated operations.

All owners, Investors, managers, and security employees located within Osceola County have successfully passed a Level 2 background check and have not been convicted of any felonies involving fraud, false representation, or distribution of Cannabis.

Description of the Security Plan for the Medical Marijuana Treatment Center.

(v) Qualifications of Medical Director: 30 points

Licensed in the State of Florida as a physician or pharmacist.

Education and training in related field.

Licensed Medical Director in another state.

Previous experience as Medical Director for similar businesses.

Experience with identifying and knowledge of substance abuse.

Experience with epileptic patients.

Experience with cancer patients.

Experience with patients with severe seizures or muscle spasms

Experience with terminal patients.

Experience in recognition of signs and symptoms of substance abuse, including tolerancy, dependency and withdrawal.

Knowledge of the use of medical Cannabis for treatment of cancer or physical medical conditions that chronically produce symptoms of seizures or severe and persistent muscle spasms.

Knowledge of analytical and organic chemistry;

Knowledge of analytical laboratory methods;

Knowledge of medical Cannabis, including CBD/low-THC routes of administration;
Experience in or knowledge of clinical trials or observational studies;
Knowledge of, and experience with, producing CBD/low-THC products;
Experience with or knowledge of botanical medicines;
Experience with dispensing medications.

(3) Applications shall contain evidence of compliance with this Ordinance, the Compassionate Use Act, or any other applicable law, and the Committee shall reject any application which does not meet such requirement. Rejected applications shall not be scored. The Committee and County Manager or Designee shall also disqualify any application that contains any false or misleading information.

(4) The scores awarded by the members of the Committee for each Applicant shall be totaled and averaged for each Applicant. The Applicants shall then be ranked from highest to lowest based on the average scores awarded, with Certificates of Approval recommended for the highest scoring Applicant, and proceeding to the next highest scored Applicant until all Certificates of Approval authorized pursuant to this Ordinance have been recommended. In the event of a tie in the rankings, the Committee shall by majority vote break the tie.

(5) Appeal from the Board of County Commissioners' award decision shall be filed with the Ninth Circuit Court, in and for Osceola County, via Petition for Writ of Certiorari. Said appeal shall be filed within 30 days from the final determination on the award of Certificates of Approval by the Board of County Commissioners.

Sec. 14-148. – Issuance of Certificate of Approval.

(1) Upon expiration of the appeal deadline detailed in this Ordinance, if no appeal is filed, or upon issuance of a final order if an appeal is filed, the County shall issue Certificates of Approval as provided in this Ordinance.

(2) A Certificate of Approval issued pursuant to this Ordinance does not eliminate the need for the Operator to obtain other required permits or licenses related to the operation of the Medical Marijuana Treatment Center including, without limitation, payment of business taxes, and any development approvals or building permits required by Law.

(3) Amendment of a Certificate of Approval or Premises Authorization, solely to change the location of a Medical Marijuana Treatment Center shall not be denied so long as all other conditions for the issuance of a Certificate of Approval have been met and the new location complies with this Ordinance and all laws.

(4) A Certificate of Approval or Premises Authorization may not be transferred.

(5) Operator shall notify the County of any change in Medical director, and provide appropriate credentials evidencing their experience as comparable of the Director at the time of Certificate of Approval. The County may reasonably reject a replacement director at its discretion.

Sec. 14-149. - Persons or Entities prohibited as Operators.

No Certificate of Approval shall be issued to, held by, or renewed by any Applicant or Operator who fails to comply with the following Mandatory Requirements:

(1) Maintain approval as a dispensing organization by the State of Florida, Department of Health, Office of Compassionate Use pursuant to the Compassionate Use Act, or any other applicable law.

(2) Ensure no owner, Investor, or manager of the Applicant or Operator has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent, and the record has not been sealed or expunged for, any crime enumerated in section 435.04(2), Florida Statutes, or any felony involving false representations or false statements, fraud, money laundering, or drug trafficking.

(3) Ensure no security employee located within Osceola County of the Applicant or Operator has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent, and the record has not been sealed or expunged for, any crime enumerated in section 435.04(2), Florida Statutes, or any felony, within the last three (3) years.

Sec. 14-150. - Numerical limit on Medical Marijuana Treatment Centers.

(1) The County shall consider issuance of Certificates of Approval for Medical Marijuana Treatment Centers for qualified Applicants based upon the County population. The maximum number of Certificates of Approval in the Jurisdiction shall not exceed one for every 100,000 residents, as certified in the most recent census or periodic demographic studies conducted by the University of Florida. For example:

Residents Indicated	Certificates of Approval Authorized
0 - 100,000	1
100,001 – 200,000	2
200,001 – 300,000	3
300,001 – 400,000	4
400,001- 500,000	5

For each subsequent 100,000 residents an additional Certificate of Approval may be authorized.

(2) A dispensing organization may hold more than one Certificate of Approval, but may not hold all available Certificates of Approval issued by the County if more than one is available.

(3) In order to ensure that the population of the Jurisdiction has access to the best qualified dispensing organizations, while likewise maintaining competition in the cannabis

dispensing industry within the Jurisdiction, when multiple Certificates of Approval are available Applicants shall be entitled to receive, upon request, up to the number of Certificates of Approval set forth in the below table, and shall identify in their application the number of Certificates of Approval that they are requesting:

Number of Certificates Available	First Ranked Applicant	Second Ranked Applicant	Third Ranked Applicant	Fourth Ranked Applicant
1	1	0	0	0
2	1	1	0	0
3	2	1	0	0
4	2	1	1	0
5	3	1	1	0
6	3	2	1	0
7	4	2	1	0
8	4	2	1	1
9	5	2	1	1
10	5	2	2	1
11	6	2	2	1
12	6	3	2	1
13	7	3	2	1
14	7	4	2	1
15	8	4	2	1
16	8	4	2	2
17	9	4	2	2
18	9	4	3	2
19	10	4	3	2
20	10	5	3	2

If any Certificates of Approval remain available following the distribution of requested Certificates of Approval to Applicants in accordance with the above table, one Certificate of Approval shall be offered to each remaining eligible applicant, in declining order of rank, until all Certificates of Approval have been distributed. If, following the completion of such process, Certificates of Approval still remains available, one additional Certificate of Approval shall be offered to each Applicant, in declining order of rank, until all Certificates of Approval have been distributed.

(4) If additional Certificates of Approval are made available, the County Manager or Designee shall provide notice of a new application process conducted pursuant to this Ordinance.

(5) Each Certificate of Approval authorizes the holder to operate a single licensed premise pursuant to an approved Premises Authorization.

Sec. 14-151. – Premises Authorization.

After obtaining a Certificate of Approval, and prior to dispensing cannabis, an Operator shall select a location from which such dispensing will occur, and provide notice to the County

Manager or Designee of the dispensing location and request issuance of Premises Authorization for such location. Such request shall be provided a minimum of 30 days prior to the dispensing of any cannabis from the location, and shall identify the Certificate of Approval at issue, and the location from which dispensing will occur. A Medical Marijuana Treatment Center shall not open or operate without the Premises Authorization. Premises Authorization shall be renewed annually.

Sec. 14-152. – Location Requirements.

(1) Premises Authorization shall be granted for any location which complies with the requirements of this Ordinance, the permitted uses of the applicable zoning district, and where, regardless of the zoning category of the proposed location, the proposed location is in a multi-tenant building that is predominately office/medical office tenancy (more than 50% licensed office/medical office use (by gross square feet), is not within all Community Redevelopment Agencies and West 192 Community Redevelopment Agency, and which complies with all other requirements set forth in the Osceola County and City Codes and ordinances, as applicable.

(2) No Medical Marijuana Treatment Center shall be located within five (5) miles of another Medical Marijuana Treatment Center or within 250 feet of any public or private elementary, middle, or secondary school or licensed daycare facility. However, a Medical Marijuana Treatment Center does not violate this subsection and may not be forced to relocate if it meets the requirements of this section and a school or licensed daycare facility is subsequently established within 250 feet of the business. Should spacing be an issue, the location of the site Premise Authorization shall be granted in the order that the substantially completed applications are received. Evidence of these distance requirements shall be provided with the Premises Authorization application in the form of a survey, certified by an engineer registered by the State of Florida, which shows the 5 mile radius and 250-foot separation from the proposed site and any applicable Medical Marijuana Treatment Centers, schools or licensed daycare facility in the applicable area.

(3) For purposes of this Ordinance, measurements shall be made from the nearest property line of the school or licensed daycare facility to the nearest property line of the Medical Marijuana Treatment Center. If the Medical Marijuana Treatment Center is located in a multi-tenant building, the distance shall be measured from the nearest property line of the school or licensed daycare facility to the nearest line of the leasehold or other space actually controlled or occupied by the Medical Marijuana Treatment Center. The Medical Marijuana Treatment Center shall ensure security for cannabis activities complies with state requirements.

Sec. 14-153. - Inspection of approved premises and issuance of Premises Authorization.

(1) During business hours and other times of apparent activity, all approved premises shall be subject to inspection by the Fire Chief, the Building Official, Code Enforcement Officer, County Sheriff, Police, or the authorized representative, for the purpose of investigating and determining compliance with the provisions of this Ordinance and any other applicable state or local law or regulation. Such inspection may include, but need not be limited to, the inspection of books, records, and inventory. Where any part of the premises consists of a locked area, such

area shall be made available for inspection, without delay, upon reasonable request. The frequency of such inspections shall not be unreasonable and shall be conducted in a manner to ensure the operation of the premises is not inhibited.

(2) Cannabis may not be dispensed pursuant to a Certificate of Approval until the County Manager or Designee has caused the proposed premises to be inspected to determine compliance of the premises with any applicable requirements of this Ordinance and all other County Codes, City Codes as applicable, and has issued Premises Authorization.

(3) The County Manager or Designee, within 30 days of receipt of a request for Premises Authorization, and after inspection of the premises to be utilized, notify the Certificate holder that it may begin dispensing cannabis at that premises and issue a Premises Authorization to the Certificate holder, or provide to the Operator written notice detailing the reasons the selected location does not comply with this Ordinance. Each Premises Authorization issued by the County pursuant to this Ordinance shall specify the Certificate of Approval pursuant to which it is issued, all information set forth on the Certificate of Approval, and the physical location of the premises approved, once such approval is received.

Sec. 14-154. - Requirements related to the premises.

Medical Marijuana Treatment Centers shall be subject to the following additional requirements:

(1) All cannabis or cannabis derivative products ready for sale shall be in a sealed or locked container or cabinet except when being accessed for distribution.

(2) The Medical Marijuana Treatment Center shall at a minimum include a waiting area with sufficient seating to accommodate the customers without requiring waiting outside the building. There shall be no display of products, nor ancillary products, in the waiting area. The layout of the floor plan shall provide for convenient access to the public functional areas, incorporating high end furnishings, cabinetry, displays, and state of the art lighting. Building materials shall be maintained in good condition (paint, wear and tear of furniture, etc.) to represent a high quality facility, including high end finishes (wood, marble, glass, etc.). Ceiling heights shall be over ten feet to reflect greater volume. All elevators, HVAC, and other mechanical equipment shall be functional and maintained to the highest level of quality (latest technology, with maintenance records up to date). All doors, hallways, stairwells and areas available to the public shall be ample to create an ease of access and maintained to reflect a high quality (natural materials for finishes, with flooring not exhibiting wear and tear nor staining, paint, wood or wallpaper with no appreciable blemishes, tears or stains). The dispensing of medical marijuana shall be accomplished in an area isolated from the waiting area, with the exit doors separated from the entrance, so that the progression of the service from the waiting area to the dispensary and other services to the exit is apparent and does not create overlap into the waiting area. Access to the entrance and waiting areas shall be well lit and illustrate a professional office décor. Exterior material on the building façade shall also be maintained to reflect a professional quality, with the image of the building as new or recently upgraded image.

(3) Only individuals authorized pursuant to Florida law may dispense cannabis, and such cannabis may only be dispensed to persons authorized pursuant to Florida law to receive cannabis.

(4) No cannabis shall be dispensed outside of the hours permitted by Florida law. However, Medical Marijuana Treatment Centers may conduct administrative functions or delivery functions, including making deliveries of cannabis or derivative products to the residence or business of an authorized individual, or to a health care facility as permitted by other relevant ordinances and state law.

(5) No unaccompanied minor may be dispensed cannabis unless otherwise authorized under state law.

(6) The Medical Marijuana Treatment Center shall employ reasonable measures and means to eliminate odors emanating from dispensing and shall properly dispose of controlled substances in a safe, sanitary and secure manner and in accordance with applicable laws and regulations.

(7) Loitering. The facility shall provide adequate seating for its clients within the interior of the building in a designated area. The facility shall not direct or encourage any patient or business invitee to stand, sit (including in a parked car), or gather or loiter outside of the building where the facility operates, including in any parking areas, sidewalks, right-of-way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart. The facility shall post conspicuous signs on at least three sides of the building that no loitering is allowed on the property.

(8) Queuing of vehicles. The facility shall ensure there is no queuing of vehicles in the right-of-way. The facility shall take all necessary and immediate steps to ensure compliance with this paragraph.

(9) Alcoholic Beverages. No consumption of alcoholic beverages shall be allowed on the premises, including in the parking areas, sidewalks, or right-of-way. The facility shall take all necessary and immediate steps to ensure compliance with this paragraph.

(10) On-Site Parking. The facility shall include a minimum of 1 parking space for every 200 gross square feet of building area.

(11) After issuance of a Premises Authorization, an Operator shall not make a physical change, alteration or modification of the premises that would not comply with this Ordinance.

Sec. 14-155. - Signage requirements.

All signage associated with a Medical Marijuana Treatment Center shall meet the standards established in this Code for signs. Delivery vehicles shall be limited to 4 Square Feet of signage. Each vehicle shall be predominantly one color.

Sec. 14-156. - Suspension or revocation of Certificate of Approval.

The County may revoke a Certificate of Approval for any of the following reasons, after notice and opportunity to cure is given:

(1) The Applicant or Operator, or his or her agent, manager, or employee, have violated, do not meet, or have failed to comply with, any of the terms, mandatory requirements or other provisions of this Ordinance, or with any applicable state law or regulation, if such failure materially impacts the accessibility, availability, or safety of the cannabis or derivative product, or impacts the safety of the patients at the Medical Marijuana Treatment Center.

(2) The County Manager or Designee shall provide notice of any deficiencies accompanied by a 30 calendar day period in which to cure such deficiencies. Within 30 days of receipt of notice a notice of deficiencies, the Operator shall submit to the Committee a plan to correct such deficiencies. The Committee shall review the plan and notify the Operator that the plan is acceptable, or shall reject the plan. If the plan is rejected, the Operator shall have 15 days to submit an acceptable plan to correct the deficiencies, or the Certificate of Approval shall be revoked. If the original or resubmitted plan is accepted, the Operator must execute the plan within 30 days of the date the plan was submitted to the Committee. If a plan is not timely submitted, or the plan is not timely executed, the Committee may revoke the Certificate of Approval.

(3) A Certificate of Approval shall be revoked and be available for issuance subject to the process outlined in this Ordinance if dispensing fails to occur within 12 months after the Certificate has been issued, except that the Committee may grant an extension of this requirement upon good cause shown.

(4) Notwithstanding the foregoing, upon a finding by the Committee, for good cause shown, that the continued operation of the business presents an imminent and immediate grave threat to the public health or safety, the County may suspend the Certificate of Approval and issue an emergency order directing the Operator to temporarily cease sales at that location pending resolution of the deficiency.

Sec. 14-157. - No County liability; indemnification; no defense.

(1) By accepting a Certificate of Approval and Premises Authorization issued pursuant to this Ordinance, the Operator waives any claim concerning, and releases the County, its officers, elected officials, employees, attorneys, Sheriff's Office and other Constitutional offices, the City of Kissimmee, the City of St. Cloud, and agents from, any liability for injuries or damages of any kind that result from any arrest or prosecution of business owners, Operators, employees, clients, or customers of the Operator for a violation of state or federal laws, rules, or regulations.

(2) By accepting a Certificate of Approval and Premises Authorization issued pursuant to this Ordinance, all Operators, jointly and severally if more than one, agree to indemnify, defend, and hold harmless the County, its officers, elected officials, employees, attorneys, Sheriff's Office and other Constitutional offices, the City of Kissimmee, the City of St.

Cloud, agents, insurers and self-insurance pool against all liability, claims, and demands on account of any injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the Medical Marijuana Treatment Center that is the subject of the Certificate of Approval and Premises Authorization.

(3) The issuance of a Certificate of Approval and Premises Authorization pursuant to this Ordinance shall not be deemed to create an exception, defense, or immunity for any person in regard to any potential criminal liability the person may have under state or federal law for the cultivation, possession, sale, distribution, or use of cannabis.

(4) Nothing herein requires the County to issue a Certificate of Approval to any applicant or operator regardless of ranking.

Sec. 14-158. - Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION 2. INCLUSION IN CODE. It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Osceola County Code and that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions.

SECTION 3. CONFLICTS. Any ordinance, resolution, or part thereof, in conflict with this Ordinance, or any part hereof, is hereby repealed to the extent of such conflict.

SECTION 4. FILING WITH THE DEPARTMENT OF STATE. The Clerk shall be and is hereby directed to forthwith send a certified copy of this Ordinance to the Secretary of State for the State of Florida within ten days after its enactment.

SECTION 5 EFFECTIVE DATE. This Ordinance shall become effective immediately upon filing with the Florida Department of State.

BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA

By: *Twisha Javer*
Chairwoman/Vice Chairwoman

ATTEST:
OSCEOLA COUNTY CLERK OF THE BOARD

By: *Debra A Davis*
Clerk/ Deputy Clerk of the Board

As authorized for execution at the Board of
County Commissioners meeting of:

October 17, 2016





FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

October 19, 2016

Ms. Paula J. Carpenter
Clerk of the Board
Osceola County
1 Courthouse Square, Suite 4400
Kissimmee, Florida 34741

Attn: Debra Davis, Deputy Clerk

Dear Ms. Carpenter:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Osceola County Ordinance No. 2016-97, which was filed in this office on October 19, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb