



NEIGHBORHOOD DEVELOPMENT SERVICES DEPARTMENT

Planning Division

STAFF REPORT

Low-THC and Medical Cannabis Regulations Ordinance 2016-33 (TXT-16-164)

Low-THC and Medical Cannabis Regulations.

To: Planning & Zoning Advisory Board

Thru: Scott Williams, Neighborhood Development Services Director

Thru: Michele Norton, AICP, Planning Manager

From: Nicole Galehouse, Project Planner

Date: October 11, 2016

I. GENERAL INFORMATION

Project: Petition No. TXT-16-164, Ordinance No. 2016-33, Amending the Code of the City of North Port and the City of North Port Unified Land Development Code to include regulations related to Low-THC Cannabis and Medical Cannabis Dispensing Facilities by amending Unified Land Development Code Chapter 25 Parking and Loading Regulations, Article II Off-Street Parking, Section 25-17.B Minimum Off-Street Parking Requirements; Amending Unified Land Development Code Chapter 53 Zoning Regulations, Article XXII Special Exceptions, Section 53-254 General Provisions to add new Subsection A(1)(g); Amending Unified Land Development Code Chapter 61 Definitions, Section 61-3 Definitions and Word Usage; Amending Code of the City of North Port Chapter 34 Licenses, Permits and Miscellaneous Business Regulations, Article II Business Tax Receipts to add new Section 34-40 Dispensing Facilities.

Request: Approval of Ordinance No. 2016-33

Applicant: City of North Port

Owner(s): N/A

Location: Citywide Ordinance

Property Size: N/A

II. BACKGROUND

Planning staff received direction to draft an ordinance to establish zoning regulatory framework for the location and permitting of establishments that dispense medical cannabis (**EXHIBIT B**).

In June 2014, Senate Bill 1030, the Compassionate Medical Cannabis Act of 2014, was signed into law, allowing for the use of a form of low-THC cannabis, commonly known as Charlotte's Web, for use by individuals with epilepsy and other identified medical conditions. THC, or tetrahydrocannabinol, is the chemical responsible for the psychological effects, or "high", commonly associated with cannabis. So this low-THC form of cannabis produces little to no psychological effects. The use of low-THC cannabis precludes the user from being able to smoke the product. The passage of this act created Florida Statutes, Section 381.986 Compassionate use of low-THC cannabis (**Exhibit C**). Part of this act required the Florida Department of Health (FLDOH) to create regulations for medical cannabis, so the Office of Compassionate Use (OCU) was established. The OCU is responsible for maintaining the Compassionate Use Registry and for overseeing the dispensing organizations.

Over the next year, FLDOH developed detailed rules regarding medical cannabis, which were added to the Florida Administrative Code, Chapter 64-4 (**Exhibit D**). These rules were upheld on May 28, 2015. Under these regulations, 5 dispensing organizations, responsible for the cultivation, processing, and dispensing of low-THC cannabis, will be allowed throughout the state, with each being assigned to a specific region – northwest, northeast, central, southwest, and southeast. Each dispensing organization is required to be vertically integrated, meaning that the approved dispensing organizations would be the only legally permitted businesses to dispense cannabis in the state of Florida. Under this umbrella, they would be authorized to open multiple dispensing facilities. And while they are required to provide access to medical cannabis in their respective region, they are allowed to dispense throughout the state.

In July 2015, 28 applications were received by FLDOH to be dispensing organizations under §381.986, and the five dispensing organizations were announced on November 23, 2015. The chosen dispensing organizations must comply with a timeline outlined in their approval: 10 days to post a \$5 million performance bond, 75 days to request authorization to cultivate cannabis, and 210 days from being granted cultivation authority to begin dispensing the product. Four of the five dispensing organizations received their approval to cultivate in February and March of 2016. This timeline set the dispensing of marijuana to begin in the summer and fall of 2016.

In March 2016, House Bill 307 was signed into law, expanding the Compassionate Medical Cannabis Act. As discussed, the initial act as passed in 2014 only allowed for the use of low-THC cannabis. The amendments, in turn, allow for access to other forms of medical cannabis as an experimental treatment for patients who are terminally ill and who would be expected to die within a year without medical intervention. Smoking of the product is still prohibited. The approval of House Bill 307 came with amendments to §381.986. Specific regulations were incorporated into the statutes for the cultivation, processing, and dispensing of medical cannabis. Strict standards were developed for physician authorization and treatment plans,

safety of dispensing organizations throughout all processes, and quality and health standards for the plants being grown. The same 5 dispensing organizations authorized previously would also be responsible for the cultivation, processing, and dispensing of the full strength medical cannabis. Part of House Bill 307 also provided an amendment to §499.0295 (**Exhibit E**), which deals with experimental treatments for terminal conditions and is commonly known as the “Right to Try Act”. This amendment allows for organizations who have challenged the decision of FLDOH regarding the selection of the dispensing organizations and won to be an additional dispensing organization approved by the state. From this, a sixth dispensing organization was approved in April 2016.

On July 26, 2016, the first dispensing organization began to distribute medical cannabis in Tallahassee, with a second facility opening in August from the same company. A third dispensary (from a second company) was opened in September. There are two more dispensing organizations set to begin dispensing in the next month, and even more facilities from these organizations following swiftly.

Amendment 2 on the November ballot in Florida, if approved, will further expand the use and distribution of medical cannabis in the state. This amendment will allow for the use of full-strength medical cannabis by those with a “debilitating medical condition,” with examples given such as cancer, epilepsy, glaucoma, HIV, AIDS, PTSD, ALS, Chron’s disease, Parkinson’s disease multiple sclerosis, or other conditions of the same kind or class. If this amendment is approved by voters, FLDOH has 6 months to create regulations for this amendment and 9 months to begin issuing patient identification cards and registering the Medical Marijuana Treatment Centers (MMTC). Because these regulations are so far off, and nothing can be determined until they are decided, staff has drafted this ordinance to address only what is currently legal in the State of Florida. If the ballot passes, and after FLDOH creates regulations, this ordinance should be amended to take the new law into consideration. At this point, however, it is unknown what regulations the State will pass and what preemptions they may establish, so any local ordinance trying to regulate the future amendment would be premature.

It is important to understand what the City is allowed to regulate based on the Florida Statutes. Currently, the state has preempted all regulations relating to the cultivation and processing of low-THC cannabis and medical cannabis. Municipalities are allowed to regulate the number and location of, and other permitting requirements for dispensing facilities of dispensing organizations, provided these regulations do not conflict with state law or department rule.

III. STAFF RECOMMENDATION

Staff recommends approval of the amendments to the Unified Land Development Code, Chapter 25, Parking and Loading Regulations, Article II Off-Street Parking, Section 25-17.B Minimum Off-Street Parking Requirements; to the ULDC, Chapter 53, Zoning Regulations, Article XXII Special Exceptions, Section 53-254 General Provisions, adding a new subsection A(1)(g); to the ULDC, Chapter 61 – Definitions, Section 61-3 Definitions and Word Usage; and to

the Code of the City of North Port, Chapter 24 Licenses, Permits and Miscellaneous Business Regulations, Article II Business Tax Receipts, adding a new Section 34-40 Dispensing Facilities.

IV. SITE INFORMATION

Land Use

Adopted Future Land Use Map Designation: City-wide

Adopted Zoning Map Designation: City-wide

Existing Land Use(s): City-wide

Surrounding Land Uses: City-wide

Services and Facilities

Potable Water or Well: N/A

Sanitary Sewer or Septic: N/A

Transportation: N/A

Environmental

Conservation: N/A

Flood Zone: N/A

Fiscal Impact

Not Applicable

No Impact

Fiscal Impact Confirmed

V. STAFF ANALYSIS

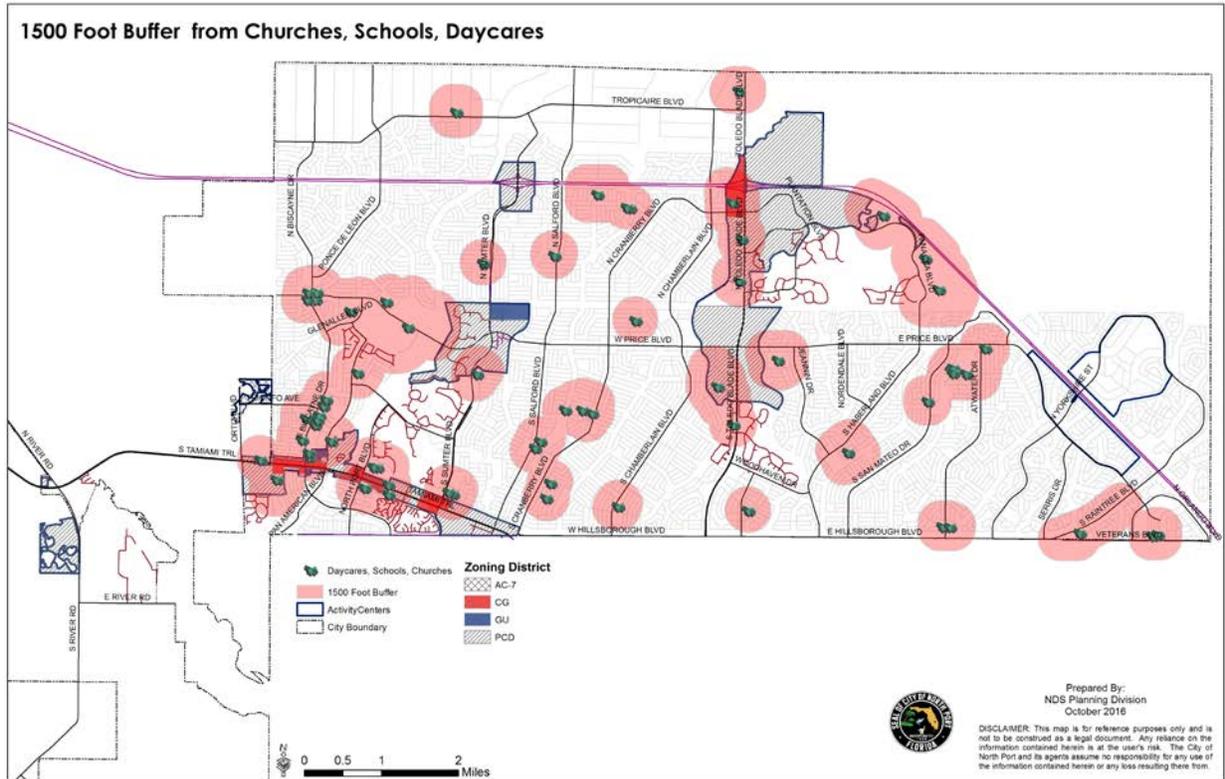
It is important that several definitions are very clear throughout this ordinance and discussion. For this reason, staff is amending the Chapter 61 Definitions of the ULDC to add four key terms – ‘dispensing facility’, ‘dispensing organization’, ‘low-THC cannabis’, and ‘medical cannabis’. A dispensing organization is one of six currently approved organizations authorized to cultivate, process, and dispense medical cannabis. A dispensing facility is an arm of the dispensing organization that provides the product to patients. Dispensing organizations may have multiple dispensing facilities and are not limited to the region in which the dispensing organization was approved to operate. It is important to note that dispensing facilities will not have any of the actual plant on site, only the products derived from them. Low-THC cannabis is a form of medical cannabis that does not produce psychological effects commonly associated with the plant. Medical cannabis refers to the full-strength plant, which may have associated psychological effects.

In evaluating the placement of potential dispensing facilities, staff sought to create regulations that were balanced, fair and look toward the future in terms of the potential expansion of the use. A special exception is outlined in the ULDC (53-254.A) as ‘a use which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or the general welfare.’ Given that the state preemption allows municipalities to regulate the ‘number, location, and other permitting requirements’, this seems like an appropriate process for allowing medical cannabis dispensing facilities. Dispensing facilities will only be permitted, through the special exception process, in Commercial General (CG) and Planned Community Development (PCD) zoning districts. Facilities in a PCD zoning district must have an established commercial use designation, and may not have residential uses on the same property.

The dispensing facilities are further limited to be placed in Activity Centers only. Staff had safety concerns about the potential placement of these facilities in the pockets of CG zoning that exist throughout residential neighborhoods in the City. By keeping this use in the Activity Centers, the idea of “eyes on the street” developed by renowned planner Jane Jacobs can be employed, promoting safety by having the facilities in the open, instead of underutilized areas of the City. Activity Center #6 is excluded at this time because of its remoteness and location outside of the Urban Service Boundary. Once the boundary is moved to include Activity Center #6, the facilities will be permitted there as well. Staff found no other facts that would indicate the necessary preclusion of any other Activity Centers. Finally, a limit to the number of facilities that would be permitted in the City was placed, with one being allowed east of Sumter Boulevard and one to the west. By setting these guidelines, facilities would not be able to cluster, and all residents will have reasonable access to the facilities.

Distance requirements were evaluated next. Using our Geographic Information Systems (GIS), an analysis was performed to see where the facilities would be allowed based on different distance requirements from ordinances throughout the state. Many require separation of up to 2,500 feet from residential uses, schools, churches, parks, and other facilities, but the most common buffer was 1,000 feet. An analysis was performed based on a 1,000 foot separation requirement from the aforementioned uses. Due to the nature of the City of North Port as a platted lands community, it was found that using this method, the zoning would be exclusionary as there are no eligible parcels with CG or PCD zoning that are more than 1,000 feet from residential uses.

It was decided that the best method to establish separation requirements would be to mesh the separation requirements from two existing uses – pain management clinics and on-premise consumption of alcoholic beverages. The pain management clinics establish a 1,500 foot separation requirement from other clinics and from pharmacies. Sites wishing to have on-premise consumption of alcoholic beverages are required to have 800 feet of separation from schools and churches. Staff recommends using a 1,500 foot separation requirement between facilities and from facilities to churches, schools, including daycares up to high school, and any property owned by the School Board of Sarasota County. Staff repeated this analysis in GIS and feels comfortable that this requirement is not exclusionary (see map on following page).



The remainder of the regulations relate to the permitting requirements. A security plan is to be provided during the special exception application process, and conditions for approval for the special exception require ongoing compliance with §381.986. Landlords who lease a space to a dispensing facility are required to incorporate language into the lease to require compliance with City codes. Chapter 25 of the ULDC was amended to add a use to the minimum off-streets parking requirements table, setting the parking ratio for dispensing facilities at 1 per 250 square feet, consistent with pain management clinics and professional offices. Finally, an amendment was made to Chapter 34 of the Code of the City of North Port, adding a section for dispensing facilities under the Business Tax Receipt regulations, which requires them to provide written documentation from FLDOH authorizing them to dispense low-THC or medical cannabis.

Staff feels that this ordinance provides the necessary regulations to allow for medical cannabis dispensing facilities with the health, safety and welfare of the citizens in mind, while not imparting any arbitrary regulations stemming from the unfounded stigma associated with the facilities.

The Planning and Zoning Advisory Board (PZAB) heard this item at a regularly scheduled meeting on October 20, 2016. While the board did feel that the proposed ordinance was amenable, concern was raised based on current media coverage that municipalities surrounding the City of North Port are adopting moratoria. Staff is aware of the recent actions of the City's neighbors, and while a moratorium was discussed internally, it was determined that it was not the appropriate action at this junction. If the City was unprepared with any

legislation related to medical cannabis, this may have been an option, however staff has been diligently working on a draft ordinance and has this item prepared to move forward.

Much of the discussion from the PZAB had to do with Amendment 2, which is on the ballot in November, and with the potential expansion to recreational use of the cannabis plant in the future. Amendment 2, if it passes, will expand the use of medical cannabis to those with certain debilitating conditions. Staff reminded the PZAB that many aspects of medical cannabis regulations are preempted by the State of Florida, and that the State will be addressing Amendment 2 in the six months following its potential passage. Once statewide regulations have been established, the City can revisit this topic and make any necessary amendments. The proposed ordinance addresses what is currently allowed by state law and provides accessibility to medical cannabis now for those who need it under the Compassionate Medical Cannabis Act and the Right to Try Act. As the discussion came to a close, the PZAB acknowledged that the proposed ordinance provided proper regulations for what is currently legal by State regulations and voted unanimously to recommend that the City Commission approve this item. The motion for approval was made with conditions, namely, to require a security plan and that the applicant maintain compliance with Florida Statutes and the Florida Administrative Code. Staff feels that the proposed ordinance addresses these conditions, and welcomes any additional amendments that the City Commission may recommend.

The proposed amendments to Chapter 14 of the Unified Land Development Code would meet the following goals, objectives and policies:

Future Land Use Goals, Objectives, and Policies:

GOAL 1: Ensure that the character and location of land uses maximize the potential for economic benefit and the enjoyment of natural and man-made resources by citizens while minimizing the threat to health, safety and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation.

Objective 1: Future development activities shall continue to be directed in appropriate areas as depicted on the Future Land Use Map, and shall encourage the use of innovative land development regulations, consistent with sound planning principles, minimal natural limitations, the goals, objectives and policies contained within this plan, and the community character.

GOAL 2: To promote an intensive mixture of employment, goods and services, and residential uses in Activity Centers; to promote a wide variety of residential and employment alternatives; to achieve the highest standards of quality in the urban environment; and to provide a balanced and healthy tax base.

Objective 5: Future growth and development will be managed through the preparation, adoption, implementation, and enforcement of land development regulations.

VI. REVIEW PROCESS

Staff reviewed this petition for a Text Amendment and found this petition is consistent with the City’s Comprehensive Plan. The City Attorney reviewed and approved Ordinance 2016-33 as to form and correctness. The following City Department were involved in this review and issued the following results:

- Neighborhood Development Services, Planning – See staff analysis
- Police Department – Planning staff, along with the Assistant City Attorney, met with the Police Chief and Detective to discuss the proposed regulations for dispensing facilities. Through this discussion, the regulations outlined above were refined and police supports this ordinance as presented.

VII. PUBLIC NOTICE

The petition was advertised in a newspaper of general circulation within the City of North Port on October 4, 2016 pursuant to the provisions of Section 166.041(3)(a), Florida Statutes and Section 9.01(b) of the Charter of the City of North Port, and Chapter 1 Article II, Section 1-12 of the City’s Unified Land Development Code (ULDC) as amended (**Exhibit A**).

VIII. PUBLIC HEARING SCHEDULE

Planning and Zoning Advisory Board Public Hearing	October 20, 2016 9:00 AM or as soon thereafter
City Commission 1st Reading Public Hearing	November 8, 2016 10:00 AM or as soon thereafter
City Commission 2nd Reading Public Hearing	November 22, 2016 10:00 AM or soon thereafter

EXHIBIT A

PUBLIC NOTICE - CITY OF NORTH PORT
NOTICE OF INTENT TO AMEND THE CODE OF THE
CITY OF NORTH PORT AND THE CITY OF NORTH PORT UNIFIED LAND
DEVELOPMENT CODE PROPOSED ORDINANCE NO. 2016-33

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Section 166.041(3)(a), Florida Statutes and Section 9.01(b) of the Charter of the City of North Port, and Chapter 1, Article II, Section 1-12 of the City's Unified Land Development Code (ULDC), that the City of North Port proposes to adopt Ordinance No. 2016-33, Amendments to the Code of the City of North Port and the City of North Port Unified Land Development Code (ULDC).

A Public Hearing will be held before the Planning and Zoning Advisory Board designated as the Local Planning Agency (LPA) on Thursday, October 20, 2016 at 9:00 a.m., or as soon thereafter as the matter will be heard, in the City Hall Commission Chambers, 4970 City Hall Boulevard, North Port, Florida 34286.

A Public Hearing for the first reading of Ordinance 2016-33 will be held before the North Port City Commission in Commission Chambers on Tuesday, November 8, 2016 at 10:00 a.m., or as soon thereafter as the matter may be heard. The second and final reading will be held before the North Port City Commission in Commission Chambers on Tuesday, November 22, 2016 at 10:00 a.m., to consider enactment of Ordinance No. 2016-33.

These Public Hearings will be held in the North Port City Hall Commission Chambers, 4970 City Hall Boulevard, North Port, Florida, 34286.

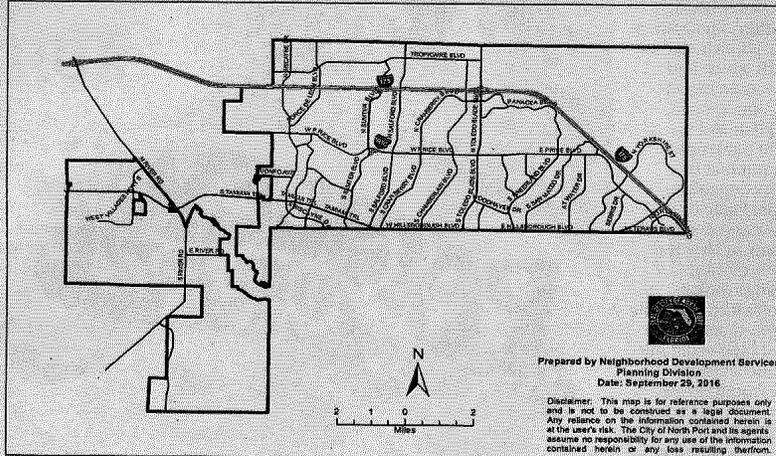
ORDINANCE NO. 2016-33

(Amendments to the Code of the City of North Port and the City of North Port Unified Land Development Code to include regulations related to low-THC cannabis and medical cannabis dispensing facilities, including Unified Land Development Code Section 25-17 off-street parking requirements, Unified Land Development Code Section 53-254 special exception provisions, Unified Land Development Code Section 61-3 definitions, and Code of the City of North Port Section 34-40 business tax receipt provisions)

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CODE OF THE CITY OF NORTH PORT AND THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT CODE TO INCLUDE REGULATIONS RELATED TO LOW-THC CANNABIS AND MEDICAL CANNABIS DISPENSING FACILITIES BY AMENDING UNIFIED LAND DEVELOPMENT CODE CHAPTER 25 PARKING AND LOADING REGULATIONS, ARTICLE II OFF-STREET PARKING, SECTION 25-17.B MINIMUM OFF-STREET PARKING REQUIREMENTS; AMENDING UNIFIED LAND DEVELOPMENT CODE CHAPTER 53 ZONING REGULATIONS, ARTICLE XXII SPECIAL EXCEPTIONS, SECTION 53-254 GENERAL PROVISIONS TO ADD NEW SUBSECTION A(1)(g); AMENDING UNIFIED LAND DEVELOPMENT CODE CHAPTER 61 DEFINITIONS, SECTION 61-3 DEFINITIONS AND WORD USAGE; AMENDING CODE OF THE CITY OF NORTH PORT CHAPTER 34 LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS, ARTICLE II BUSINESS TAX RECEIPTS TO ADD NEW SECTION 34-40 DISPENSING FACILITIES; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODING OF AMENDMENTS; PROVIDING FOR A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

City of North Port

Petition Number TXT-16-164
Ordinance No. 2016-33



Note: This map covers all of the incorporated areas of the City of North Port, Florida. The proposed Ordinance 2016-33, (Adoption of Amendments to the Code of the City of North Port and the City of North Port Unified Land Development Code) applies to the entire City of North Port as depicted on this map.

All interested parties are invited to appear and be heard in respect to this Ordinance at the public hearings in the City Hall Commission Chambers. Written comments filed with the Planning and Zoning Advisory Board and the City Commission will be heard and considered and will be made a matter of public record at these meetings. These public hearings may be continued from time to time as announced at the hearings, as may be found necessary. The file pertinent to Ordinance 2016-33, TXT-16-164, may be inspected by the public at the Neighborhood Development Services Department, Planning Division, and in the City of North Port City Clerk's Office, 4970 City Hall Boulevard, North Port, Florida 34286, during regular business hours.

NO STENOGRAPHIC RECORD BY A CERTIFIED COURT REPORTER IS MADE OF THESE MEETINGS. ACCORDINGLY, ANY PERSON WHO MAY SEEK TO APPEAL A DECISION INVOLVING THE MATTERS NOTICED HEREIN WILL BE RESPONSIBLE FOR MAKING A VERBATIM RECORD OF THE TESTIMONY AND EVIDENCE AT THESE MEETINGS UPON WHICH ANY APPEAL IS TO BE BASED (SEE F.S.S. 286.0105).

NOTE: PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY CLERK'S OFFICE 48 HOURS IN ADVANCE OF THE MEETING (SEE F.S.S. 286.26).

NONDISCRIMINATION: The City of North Port does not discriminate on the basis of race, color, national origin, sex, age, disability, family or religious status in administration of its programs, activities or services.

AMERICAN WITH DISABILITIES ACT OF 1990 - The North Port City Hall is wheelchair accessible. Special parking is available on the west side of City Hall and the building may be accessed from the parking area. Persons with hearing difficulties should contact the City Clerk to obtain a hearing device for use during meetings.

Patsy C. Adkins, MMC
City Clerk

Publish on Tuesday, October 4, 2016.

ads-712024



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes City Commission Regular Meeting

CITY COMMISSIONERS

Jacqueline Moore, Mayor
Rhonda Y. DiFranco, Vice-Mayor
Cheryl Cook, Commissioner
Tom Jones, Commissioner
Linda M. Yates, Commissioner

APPOINTED OFFICIALS

Jonathan R. Lewis, City Manager
Mark Moriarty, City Attorney
Helen Raimbeau, MMC, City Clerk
Patsy Adkins, MMC, Deputy City Clerk

Tuesday, June 14, 2016

10:00 AM

CITY COMMISSION CHAMBERS

CALL TO ORDER/ROLL CALL

Present: Mayor Moore; Vice-Mayor DiFranco; Commissioners Cook, Jones and Yates. City Manager Lewis; Assistant City Manager Schult; City Attorney Moriarty; Assistant City Attorney Slayton; City Clerk Raimbeau; Deputy City Clerk Adkins and Police Chief Vespia.

The invocation was provided by Pastor Marc Knoedler of Bethel Baptist Church.

The Pledge of Allegiance was led by the Commission.

1. APPROVAL OF AGENDA – COMMISSION

Vice-Mayor DiFranco requested to pull Agenda Item 7.C., Medical Marijuana Update, and schedule the discussion after the General Election in November. A brief discussion ensued.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to pull General Business Item 7. C. and table it until after the General Election in November, and approve the rest of the agenda as presented. The motion failed by the following vote with Mayor Moore, Commissioner Jones and Commissioner Yates dissenting. Commissioner Yates did not support the motion because a preliminary conversation is needed to insure the City is compliant with what is currently in the State Statutes. Mayor Moore agreed with Commissioner Yates' statement of caution that the intervening State legislation compels a reassessment of the City's position. Commissioner Jones did not provide a reason for dissenting.

Yes: 2 - Vice-Mayor DiFranco and Commissioner Cook

No: 3 - Mayor Moore, Commissioner Jones and Commissioner Yates

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Yates,

to approve the agenda as presented. The motion carried by the following vote:

Yes: 5 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook, Commissioner Jones and Commissioner Yates

2. ANNOUNCEMENTS –CITY CLERK RAIMBEAU

A. 16-0326 Current Vacancies for Boards and Committees.

City Clerk Raimbeau read the Current Vacancies for Boards and Committees into the record.

B. 16-0327 Upcoming Expiration Dates for Boards and Committees.

City Clerk Raimbeau read the Upcoming Expiration Dates for Boards and Committees into the record.

3. PUBLIC COMMENT:

Public comment was held 10:14 a.m. – 10:50 a.m.

Following a question, City Manager Lewis stated that a Commission Workshop is scheduled for June 24, 2016 to discuss the plan for updating the Unified Land Development Code by the University of Florida's planning group but, at Commission direction, the discussion may include the parking issue for boats.

After Commissioner Jones requested that citations be suspended for parking boats in the driveway, Commissioner Yates stated that she will submit an agenda item for the June 28, 2016 Commission Regular Meeting, to place a moratorium on boat parking citations until after the ULDC review process is complete.

4. CONSENT AGENDA:

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Yates, to approve the Consent Agenda as presented. The motion carried by the following vote:

Yes: 5 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook, Commissioner Jones and Commissioner Yates

A. 16-0325 Approval of Minutes for the May 10, 2016 Commission Regular Meeting.

B. 16-0282 Acceptance of one-time grant from the Community Foundation of Sarasota County in the amount of \$1,000.00.

C. 16-0290 Memorandum of Understanding between Women's Resource Center of Sarasota County and the City of North Port to collaborate and maximize services available to clients.

D. 16-0283 Memorandum of Understanding between Area Agency on Aging for Southwest Florida (AAASWFL) and the City of North Port to complete and submit applications for the Emergency Home Energy Assistance for the Elderly Program (EHEAP)

E. 16-0286 Agreement between the City of North Port and Innovative Credit

Solutions.

Recess: 10:51 a.m. -- 11:00 a.m.

5. PUBLIC HEARINGS:

A. 16-0297

Ordinance No. 2016-18, second reading, amending the Fiscal Year 2015-2016 Non-District Budget.

After City Clerk Raimbeau read Ordinance No. 2016-18 into the record by title only, City Manager Lewis highlighted the items discussed at first reading. The budget amendment calls for: (1) the advance purchase of vehicles for automated recycling that will be added to the Capital Acquisition Budget of Solid Waste; (2) the ability of the Public Utilities Department to move forward with the hydraulic model for the wastewater system; (3) the re-titling of three positions that have no financial impact on the budget; (4) using \$200,000 from the Warm Mineral Springs fund to move forward with a wastewater line from the facility to a nearby lift station. Public comment was held.

Commissioner Yates articulated concern that the three Utilities positions will have a budgetary impact on the Utilities Division; a holistic review is needed of the customer service representative classifications; and this request leaves a deficiency in the administrative assistant area.

A motion was made by Commissioner Yates, to approve Ordinance No. 2016-18, striking the re-titling of the three Utilities positions. There was no second and the motion failed.

A motion was made by Commissioner Cook, seconded by Vice-Mayor DiFranco, to approve Ordinance No. 2016-18, amending the Fiscal Year 2015-16 Non-District Budget. The motion carried by the following vote with Commissioner Yates dissenting for reasons previously stated:

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

No: 1 - Commissioner Yates

6. RESOLUTIONS

A. 16-0311

Resolution 2016-R-22 calling for a special election for Commission Seat 4

City Clerk Raimbeau read Resolution No. 2016-R-22 into the record by title only and City Attorney Moriarty provided an overview of the request for a special election due to the resignation of a Commissioner. The City Charter provides power to hold a special election when there is a vacancy which, in this case, will not occur until November 8, 2016. Florida Statutes designates that the resignation letter is irrevocable and it is in the Commission's prerogative to declare the seat vacant and hold a special election to run contemporaneously with the upcoming General Election and Special Election. However, that only provides nine days for an individual to qualify as a candidate. Pending a decision by the Commission that additional time is needed, the dates in the Resolution may be changed and thereafter the document shall be transmitted to the Sarasota County Supervisor of Elections. Public comment was held.

Questions ensued: (1) subsequent to a question regarding the conflict of laws provision (which law applies when) City Attorney Moriarty stated: [a] that Section 1.02 of the City Charter sets forth home rule powers enabling the conduct of municipal government; and the Commission may interpret that as it sees fit; [b] Florida Statutes Chapter

99.012(f) grants an additional tool to hold an election straightway as determined by the Commission; [c] the first objective for a special election must be to work out acceptable dates with the Sarasota County Supervisor of Elections; [d] because the resignation letter is irrevocable, Florida Statutes allows a municipality to consider a Commission seat vacant sooner rather than later, (when the seat is physically vacant); [e] confirmed a statement made by City Clerk Raimbeau that this is an unprecedented situation in the the City of North Port; [f] in conversations with the Sarasota County Supervisor of Elections, it was stated that several dates are available to resolve the vacancy of Seat 4 in a special election, and that it could coincide with a special election scheduled for the Town of Longboat Key and the City of Venice; [g] the cost for a Special Election not held in November would be approximately \$60,000 to \$70,000 and [h] the City would not experience any cost savings by holding a special election with the Town of Longboat Key; (3) Commissioner Jones: [a] expressed concern that there is insufficient time for an individual to properly qualify as a candidate (9 days) in order to be on the ballot in November, 2016; [b] that the election schedule for Commission Seats 1, 2, and 3 (in 2016) and Seats 4 and 5 (in 2018) should remain as they are scheduled; and [c] that a special election should not be held for Commission Seat 4; and [d] he does not support Resolution No. 2016-R-22; (4) Vice-Mayor DiFranco: [a] agreed with Commissioner Jones that holding a special election too quickly does not give enough time to allow potential candidates to certify with the Supervisor of Elections and thereafter have sufficient time to campaign; [b] expressed concern regarding the Commission's fiduciary responsibility and at the same time providing for a fair election process; (5) Commissioner Cook: [a] did not agree with Commissioner Yates' interpretations of the City Charter; [b] Seat 4 will not be physically vacated until November; [c] that the City is allowed to choose the second option, which is to hold a special election after November; [d] stated this is a matter of fairness of an election or fiduciary responsibility, and the fair thing to do is to schedule the special election sometime in 2017.

A motion was made by Commissioner Yates, seconded by Mayor Moore, to approve Resolution No. 2016-R-22 calling for a Special Election for Commission Seat 4. The motion failed by the following vote with Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones dissenting for reasons previously stated:

Yes: 2 - Mayor Moore and Commissioner Yates

No: 3 - Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

A motion was made by Commissioner Cook, seconded by Vice-Mayor DiFranco, to approve Resolution No. 2016-R-22, calling for a Special Election for Commission Seat 4, removing the words "November 8, 2016," "August 30, 2016," and replacing them with "at the earliest convenience of the Supervisor of Elections after the November 8, 2016 General Election."

City Attorney Moriarty requested that the motion include specific instructions for the City Attorney and the Supervisor of Elections, working together, to determine the next available date or dates for a special election.

Subsequently Commissioner Cook's motion and Vice-Mayor DiFranco's second were withdrawn.

Discussion ensued: (1) clarification was provided that Commission Seats 4 and 5 do not become "districts" until 2018 when it becomes official; (2) Commissioner Yates opined that the Commission is compelled to act quickly and she opposed having a special election after November, 2016; (3) following a question of whether Mayor Moore should vote on this issue, City Attorney Moriarty stated he represents the Commission as a body, not individual Commissioners, and that the ethics provisions usually apply to pecuniary gains and there does not appear to be any pecuniary interest in this vote; (4) Commissioner Jones voiced concern that if a special election for Seat 4 were held in

November, 2016, the winner could hold that seat for six years; (5) clarification was provided that the winner in the special election for Commission Seat 4 would serve for two years, because until 2018, Commission Seat 4 is an "at large" campaign. In order to run again for in 2018, that individual must reside in District 4 and upon winning would will only be allowed to serve one four-year term; (6) further clarification was provided that, in 2018, if the person elected to fulfill the two-year term of Commissioner Moore does not live in District 4, he/she cannot run again; (7) City Attorney Moriarty confirmed that the following motion will put Resolution No. 2016-R-22 aside and he could draft a new Resolution with the language as stated in the motion and possible dates as provided by the Supervisor of Election.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook to call for a Special Election for Commission Seat 4 after the November, 2016 Election. The motion failed by the following vote with Mayor Moore, Commissioner Jones and Commissioner Yates dissenting. Commissioner Jones and Yates provided reasons for dissenting but Mayor Moore did not:

Yes: 2 - Vice-Mayor DiFranco and Commissioner Cook

No: 3 - Mayor Moore, Commissioner Jones and Commissioner Yates

A motion was made by Commissioner Jones, to move for a Special Election for Seats 1, 2, and 3 in 2018. The motion failed for lack of a second.

City Attorney Moriarty explained that the Resolution that was on the floor failed and is settled. The Commission may continue with the next agenda item, and using the discretion of the City Attorney's office, he could bring another Resolution back for discussion, or the Commission may provide additional direction.

Discussion ensued: (1) following a point of information, City Attorney Moriarty confirmed that until the Commission determines a special election date, no one can file to run for Seat 4; (2) Vice-Mayor DiFranco offered to rescind her vote on the opening motion for the Resolution in order to insure there is an election in November for Seat 4; (3) Commissioner Jones restated his concern that a special election will mix up the election schedule for the implementation of Commission District Seat 4 in 2018; (4) clarification was provided that elections for Districts 1, 2, and 3 must be held this year but Commission District Seats 4 and 5 are not officially implemented until 2018. The issue under consideration is for a special election for Seat 4 which will expire in 2018 when District 4 is established.

A motion was made by Commissioner Cook, seconded by Vice-Mayor DiFranco, to direct the City Attorney to bring back additional options to fill Commission Seat number 4. The motion failed by the following vote with Mayor Moore, Commissioners Jones and Yates dissenting. Mayor Moore did not provide a reason for dissenting. Commissioners Jones dissented for reasons stated and Yates reasons for dissenting were provided in the previous motion that failed:

Yes: 2 - Vice-Mayor DiFranco and Commissioner Cook

No: 3 - Mayor Moore, Commissioner Jones and Commissioner Yates

Subsequent to a concern, City Attorney Moriarty stated that the Mayor has control of the agenda and this item failed. The Mayor is now calling for another motion regarding the issue.

A motion was made by Commissioner Jones, that a Special Election will be held for Seats 1, 2, 3, and 4, and direct the City Attorney to bring back options. The motion failed for lack of a second.

Discussion ensued: (1) following a question, City Attorney Moriarty confirmed that for a

motion to be reconsidered in the same meeting, someone from the prevailing side must make the new motion. Additionally, the new motion may set a date certain for reconsideration of the issue; (2) Vice-Mayor DiFranco supports fair elections that are not rushed; stated a concern that the public does not understand all that is at stake and subsequently reversed her offer to rescind seconding the opening motion for the Resolution; (3) following a concern, City Attorney Moriarty stated that the Commission is not in violation of the City Charter if there is a decision not to move forward today, and the Commission may bring up the item at a future date and schedule a special election at a future time.

A motion was made by Commissioner Yates, seconded by Mayor Moore, that the Resolution be tabled until after Agenda Item 7.F. The motion failed by the following vote with Vice-Mayor DiFranco and Commissioners Cook and Jones dissenting for the following reasons. Vice-Mayor DiFranco opposed postponing a decision on the Special Election for Seat 4. Commissioner Cook summarized that the Commission is now at a stalemate, but that there is an opportunity to address the issue at a future date and schedule a special election at a future time, but that doesn't mean the Commission is abdicating its responsibility or is in conflict with the City Charter. Commissioner Jones did not provide a reason for dissenting:

Yes: 2 - Mayor Moore and Commissioner Yates

No: 3 - Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

Recess 12:37 p.m. -- 2:00 p.m.

7. GENERAL BUSINESS:

A. 16-0312 Discussion regarding keeping of chickens (hens) as pets in residential zoning areas.

Commissioner Yates provided an overview of the history of keeping chickens in residential areas of the City. After a point of order and a brief discussion, Mayor Moore ruled that Mr. Miller, one of the founders of CLUCK organization, may provide additional information. Public comment was held.

Questions and discussion ensued: (1) it was reported that some North Port residents have already volunteered to help the City's Code Enforcement team when "chicken" complaints are received and after several unsuccessful attempts by these residents, the City's Property Standards would visit the residence; (2) the process of a volunteer helper to Code Enforcement was explained; (3) chickens continue to lay eggs but at a decreasing rate and after while becomes less desirable as a pet; (4) clarification was provided that City Code does not allow chickens on quarter-acre properties, even in the Estates. Chickens are only allowed in the Estates on properties with acreage. Additionally, deed restricted areas in the community have their own regulations; (5) Vice-Mayor DiFranco concluded, after speaking with hundreds of people who are opposed to chickens, that the majority of people in North Port are opposed to allowing chickens in residential areas. Due to her own experiences, she opposes legislation to allow them in North Port. If residents, as a result of further education regarding the issue, change their stance, she would also change her position on the issue; (6) Commissioner Cook opposed the first time this issue came to the Commission and questioned the reason this was brought up again after being previously denied; recommended that each Commissioner disclose whether or not the Ordinance will affect them; discounts the presentation due to its lack of simple answers by the presenter; and that this is not a philosophical question but one of property values, property rights, and decisions should not be mandated regarding people's property and

lives.

A motion was made by Commissioner Yates, seconded by Mayor Moore, to direct staff to draft an Ordinance to mirror the City of Sarasota regulations for keeping of hens in a single family residential area of North Port with the ability of deed restricted communities to adopt their own regulations prohibiting chickens; and include a provision that requires staff to make a presentation to the Commission no later than three years, providing a report that includes an assessment, data and evaluation of how the Ordinance has worked in practice. Also to include providing for buffering from other dwellings and maximum size of coop. The motion failed by the following vote with Vice-Mayor DiFranco, and Commissioners Cook and Jones dissenting. Mayor DiFranco and Commissioner Jones provided reasons for dissenting. Commissioner Jones did not:

Yes: 2 - Mayor Moore and Commissioner Yates

No: 3 - Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

Recess 3:05 p.m. -- 3:07 p.m.

B. 16-0287 Discussion regarding designation of a Voting Delegate at the 90th Annual Florida League of Cities Conference.

City Manager Lewis provided an overview and requested direction from the Commission pertaining to the appointed voting delegate to attend the Florida League of Cities Conference. There was no public comment.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to designate Mayor Moore as the voting delegate to vote at the 90th Annual Florida League of Cities Conference at the annual business meeting. The motion carried by the following vote:

Yes: 5 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook, Commissioner Jones and Commissioner Yates

C. 16-0284 Medical Marijuana Update

Assistant City Attorney Slayton provided an update concerning recent changes in Florida laws respecting medical marijuana and derivatives thereof. Public comment was held.

Questions ensued: (1) following a concern, City Attorney Moriarty explained that if the amendment passes, and from experience from other jurisdictions, the investment money involved will be from venture capitalists in the State of Florida. Any plaintiffs will consist of sick people, therefore, options for Commission consideration include: [a] scheduling a future workshop for further discussion; [b] to instruct staff to prepare a draft Ordinance and forward the draft Ordinance to the Planning & Zoning Advisory Board for review prior to Commission review; or [c] to forward the draft Ordinance to the Commission for review and determination prior to the Planning Board's review and recommendations to the Commission; (2) Assistant City Attorney Slayton stated that: [a] the City has the right to regulate Compassionate Use Act dispensaries but currently does not; [b] pending a request to act as a dispensary, the application would fall under the current retail use, which does not designate where a business must be located or limit the number of distribution outlets; [c] the State does not have zoning parameters regarding spacing and distance requirements near a school zone, etc., but other regulated criteria were mentioned; (3) City Attorney Moriarty stated that: [a] the Department of Health has granted licenses to six dispensing organizations in the State of Florida with provisions for up to eight; [b] pending the passing of State legislation, the courts recognize that it takes time for a municipality to pass its own zoning law, thus

Neighborhood Development Services could postpone approval of an application while the City reviews its Code requirements; (4) Assistant City Attorney Slayton stated that with respect to medical marijuana, the City can draft an Ordinance with an effective date or clause that is dependent upon the results of the Amendment slated for the November election; (5) the proposed Constitutional Amendment broadens the classifications eligible for the product but does not include the security parameters previously mentioned in the Compassionate Use Act; (6) the proposed Amendment does not have an effect on the zoning of dispensaries.

A motion was made by Commissioner Cook, seconded by Vice-Mayor DiFranco, to table the item until after the election. The motion failed by the following vote with Vice-Mayor DiFranco, and Commissioners Cook, Jones and Yates dissenting. Commissioner Cook and Commissioner Jones did not provide reasons. Commissioner Yates suggested not to postpone the conversation until after the election and to direct staff to work on the draft Ordinance, forward it to the Planning & Zoning Advisory Board for review. Vice-Mayor DiFranco agreed with Commissioner Yates and did not support the motion.

Yes: 1 - Mayor Moore

No: 4 - Vice-Mayor DiFranco, Commissioner Cook, Commissioner Jones and Commissioner Yates

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to instruct staff to prepare a draft Ordinance and forward the draft Ordinance to the Planning & Zoning Advisory Board for review and comment prior to the City Commission review and approval. The motion carried by the following vote:

Yes: 5 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook, Commissioner Jones and Commissioner Yates

Following a request pertaining to the draft Ordinance, Vice-Mayor DiFranco clarified that no further direction is needed at this juncture and that the Planning & Zoning Advisory Board will make appropriate recommendations/changes.

D. 16-0300

Discussion regarding Independent Contractor Consulting Services Agreement with To Provide Consultation, Inc.

Assistant City Manager Schult replaced City Manager Lewis.

City Attorney Moriarty provided an overview of the proposed Contract for City Clerk Raimbeau; the City's recourse for any potential litigation; and introduced her legal counsel, Attorney Senenig who provided a brief presentation. There was no public comment.

Questions ensued: (1) following a concern, City Attorney Moriarty clarified that: [a] with notification that Ms. Raimbeau has an attorney on retainer, the City Attorney's Office must anticipate a defensive posture; [b] a severance agreement has been drafted; [c] the Commission may opt for a Separation Agreement without the additional Consulting Agreement; [d] to preclude scrutiny by the IRS, City staff added language to the agreement to clarify that this is an independent contact with Ms. Raimbeau's corporation; (2) the process began during the Commission Regular Meeting, April 12, 2016 when Mayor Moore wanted to discuss the direction of the City Clerk's Office and was not initiated by Ms. Raimbeau; (3) Commissioner Cook expressed concern that potential litigation could expose the City of a six-figure settlement. Additionally, Ms. Raimbeau is a member of two protected classes under the discrimination laws.

A motion was made by Commissioner Yates, to deny the Consulting Agreement: To Provide Consulting, Inc. The motion failed for lack of a second.

Following a point of information, confirmation was provided that Mr. Pedersen's public comment card was received after Public Comment was already closed on this item and was moved to Item 7.E., and Ms. McDowell's public comment card is in reference to Agenda Item 7.F., not 7.D.

Commissioner Yates did not support Commission approval of this Agreement for the following reasons: (1) the Agreement could be extended beyond the six months; (2) it is inappropriate that Ms. Raimbeau presented a business relationship that would become effective after her termination and which was presented while she was still the City Clerk; (3) the "consulting" services don't make sense when the City Clerk and Deputy City Clerk are in possession of the same level of historical knowledge; (4) the \$43,000 for someone to be on hand for advice is needless when information can be obtained at no cost from the Municipal Clerk's Association and other resources; (5) Provision 4.7 of the Agreement is contradictory regarding access to Public Records information; (6) the Deputy City Clerk, not the City Clerk, attested to the contract; (7) there are pages in the document that are disconcerting and harmful to the public's interest.

Mayor Moore expressed concern regarding the dollar amount of the Consulting Agreement and favored amending the Separation Agreement with a different amount, in lieu of approving the Consulting Agreement.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to approve the Independent Contractor Consulting Services Agreement with To Provide Consultation, Inc. The motion carried by the following vote with Mayor Moore and Commissioner Yates dissenting for reasons previously stated:

Yes: 3 - Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

No: 2 - Mayor Moore and Commissioner Yates

E. 16-0301

Discussion regarding Employment Separation and Release Agreement - Helen Raimbeau

City Attorney Moriarty provided an overview and update of the employment Separation and Release Agreement. Ms. Raimbeau's legal counsel, Attorney Senenig, clarified that the Florida Statute 215.425(4)(b) that governs people who don't have a contract, limits severance to six weeks and the Agreement is requesting four weeks. Additionally, every past claim that could come up is released, thus there is no liability to the City going backwards. Public comment was held.

Questions ensued: (1) the calculation for Sick Leave was corrected to be \$3,861.87 and was included in a separate Financial Impact Statement; (2) there is no contractual right to the amount listed on the Financial Impact Statement; (3) the Severance Agreement was revised to replace the blanks with the correct City Policy amounts and when the Severance Agreement is signed, the financial impact will be recalculated to reflect the correct amount.

Recess for technical difficulties 4:47 p.m. -- 4:55 p.m.

Questions continued: (1) Attorney Senenig clarified: [a] that legally and realistically, unknown future claims against the City cannot be released; [b] under Ms. Raimbeau's corporation umbrella, a \$1 million general liability policy is provided that protects the City and her corporation; (2) City Attorney Moriarty agreed with a statement that, the Commission's "moving in a different direction" regarding the City Clerk's Office could be perceived as a hostile move aimed at a previous duty or action by the City Clerk, but Ms. Raimbeau is actually helping matters by her attorney working with the City to move through the process in a cooperative manner; (3) Commissioner Yates opposed the Agreement and voiced concern regarding the construction of the entire issue; that the

City Charter should be considered as her current contract; and the 20 weeks of salary in the Agreement is excessive.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to authorize Employment Separation and Release Agreement for Helen Raimbeau. The motion carried by the following vote with Commissioner Yates dissenting for reasons stated:

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

No: 1 - Commissioner Yates

F. 16-0317 Discussion regarding the City Clerk and Deputy City Clerk positions.

Commissioner Yates provided an overview of the process needed to fill a vacancy in the City Clerk's Office after the retirement of Ms. Raimbeau; stating that the backup material provided a summary of information for the Commission' review. Public Comment was held.

Questions ensued: (1) Deputy City Clerk Adkins stated she would be amenable to negotiate a contract with the City Attorney; (3) City Attorney Moriarty reported that the Charter Review Advisory Board recommended moving the Deputy City Clerk position out of the City Charter; (4) following a question, City Attorney Moriarty stated there is insufficient time to submit the new City Clerk contract for the next Commission Regular Meeting.

A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to appoint Deputy City Clerk Patsy Adkins to the position of City Clerk, effective July 5th, at a compensation rate equivalent to minimum pay grade of the City Clerk position; and to have the City Attorney and the Deputy City Clerk negotiate a contract.

Concern was expressed that if there is no Contract in place for Ms. Adkins by July 5, 2016, there would be a period of time where there is no City Clerk and Ms. Adkins must remain as a Deputy City Clerk.

Following a question, Assistant City Manager Schult clarified that the terms of the City's Personnel Policy determine the appropriate interim compensation until a Contract is ratified.

A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to amend the motion to remove "effective July 5th" and add "to bring the Commission a Contract as soon as possible." The motion carried by the following vote:

Yes: 5 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook, Commissioner Jones and Commissioner Yates

A discussion regarding a new Deputy City Clerk should be postponed until the negotiated Contract for the City Clerk comes back to the Commission.

A vote was taken on the main motion, as amended, to read to appoint Deputy City Clerk Patsy Adkins to the position of City Clerk, at a compensation rate equivalent to minimum pay grade of the City Clerk position; to have the City Attorney and the Deputy City Clerk negotiate a contract; and to bring the Commission a Contract as soon as possible. The motion carried by the following vote:

Yes: 5 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook, Commissioner Jones and Commissioner Yates

8. PUBLIC COMMENT:

Public comment was held 5:34 p.m. -- 5:41 p.m.

9. SCHEDULING OF WORKSHOPS:

Mayor Moore requested to schedule a Workshop regarding a moratorium on street lights.

Commissioner Cook provided information that approximately two years ago, the Commission held an extensive discussion wherein it was suggested to have special assessments for districts if a neighborhood requested street lighting. Rather than a Workshop, the City Clerk could provide minutes from Workshop discussions regarding the issue.

A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to approve scheduling a Commission Workshop item for discussion concerning the street light moratorium. The motion carried by the following vote with Commissioner Cook and Commissioner Jones dissenting. Commissioner Cook provided reasons for dissenting and Commissioner Jones did not:

Yes: 3 - Mayor Moore, Vice-Mayor DiFranco and Commissioner Yates

No: 2 - Commissioner Cook and Commissioner Jones

10. COMMISSION REPORTS:

Vice-Mayor DiFranco: (1) will be placing an item on the next Commission agenda regarding the Certificate of Need for the hospital; (2) attended the Southwest Florida Regional Planning Council on May 19, 2016.

Commissioner Cook attended: (1) the Peace River Water Alliance Board on June 1, 2016; (2) the Tourism Development Council meeting; (3) the Southwest Florida Rural Promised Zone meeting.

Mayor Moore: (1) requested a consensus to invite the Habitat for Humanity at the next Commission Special Recognition Meeting, to present an update presentation of the activities in North Port and the surrounding area; (2) attended a meeting with Venice Mayor Holic, Maryann Terry of the United Way of South Sarasota County, and the Human Resources Leaders of PGT and TERVIS Tumbler, regarding workforce housing; (3) announced that on June 16, 2016 there will be a Sarasota Tiger Bay Panel with players in the region that focus on workforce housing; (4) attended the Council of Governments meeting on July 9, 2016.

There was a consensus to invite the Habitat for Humanity at the next Commission Special Recognition Meeting, to present an update presentation of the activities in North Port and the surrounding area.

11. ADMINISTRATIVE AND LEGAL REPORTS:

Assistant City Manager Schult reported that the City Manager placed an agenda item in Legistar consisting of three memos referencing public comments that were made in previous meetings.

City Attorney Moriarty: (1) the "green wall" is down on Sumter Boulevard and U.S. 41; (2) the West Villages and Matamay Homes are re-writing the General Principles of Agreement and the Utility Agreement. Due to the significance of those two documents

to the future of West Villages, the City Attorney's Office retained an outside legal land-use firm, Nancy Stroud, of Lewis, Stroud & Deutsch from Boca Raton, Florida to assist the City. The initial document review by Ms. Stroud will be charged to the City, but if unexpected, extra expenses are incurred as a result of the re-write, a meeting will be scheduled with West Villages to discuss payment responsibilities for her services.

Subsequent to a question, City Attorney Moriarty stated that an outside firm is being used because of time constraints and the pace of development in West Villages; and to engage someone who is beyond potential influence of any outside source that could be perceived as directing these important documents.

Commissioner Yates raised objection to hiring the outside law firm, when the City's in-house legal counsel can accommodate the needs.

City Clerk Raimbeau reported that she will meet with individuals at the Sun Herald and the Herald Tribune newspapers to discuss how the Commission agendas might be advertised prior to a meeting. Thanked those who supported her through the years.

A. 16-0304 City Manager's Report

12. ADJOURNMENT:

Mayor Moore adjourned the North Port City Commission Regular Meeting at 6:04 p.m.

City of North Port, Florida

By: *Jacqueline Moore*
Jacqueline Moore, Mayor

Attest: *Patsy C. Adkins*
Patsy C. Adkins, MMC, City Clerk

Minutes approved at the City Commission Regular Meeting this 27th day of September, 2016.

Select Year:

The 2016 Florida Statutes

[Title XXIX](#)[PUBLIC HEALTH](#)[Chapter 381](#)[PUBLIC HEALTH: GENERAL PROVISIONS](#)[View Entire Chapter](#)**381.986 Compassionate use of low-THC and medical cannabis. –**

(1) DEFINITIONS.—As used in this section, the term:

(a) “Cannabis delivery device” means an object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing low-THC cannabis or medical cannabis into the human body.

(b) “Dispensing organization” means an organization approved by the department to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to this section.

(c) “Independent testing laboratory” means a laboratory, including the managers, employees, or contractors of the laboratory, which has no direct or indirect interest in a dispensing organization.

(d) “Legal representative” means the qualified patient’s parent, legal guardian acting pursuant to a court’s authorization as required under s. [744.3215\(4\)](#), health care surrogate acting pursuant to the qualified patient’s written consent or a court’s authorization as required under s. [765.113](#), or an individual who is authorized under a power of attorney to make health care decisions on behalf of the qualified patient.

(e) “Low-THC cannabis” means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization.

(f) “Medical cannabis” means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in s. [499.0295](#).

(g) “Medical use” means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:

1. Possession, use, or administration of low-THC cannabis or medical cannabis by smoking.
2. Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient’s legal representative on behalf of the qualified patient.
3. Use or administration of low-THC cannabis or medical cannabis:
 - a. On any form of public transportation.
 - b. In any public place.
 - c. In a qualified patient’s place of employment, if restricted by his or her employer.
 - d. In a state correctional institution as defined in s. [944.02](#) or a correctional institution as defined in s. [944.241](#).
 - e. On the grounds of a preschool, primary school, or secondary school.
 - f. On a school bus or in a vehicle, aircraft, or motorboat.

(h) “Qualified patient” means a resident of this state who has been added to the compassionate use registry by a physician licensed under chapter 458 or chapter 459 to receive low-THC cannabis or medical cannabis from a dispensing organization.

(i) “Smoking” means burning or igniting a substance and inhaling the smoke. Smoking does not include the use of a vaporizer.

(2) PHYSICIAN ORDERING.—A physician is authorized to order low-THC cannabis to treat a qualified patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms; order low-THC cannabis to alleviate symptoms of such disease, disorder, or condition, if no other satisfactory alternative treatment options exist for the qualified patient; order medical cannabis to treat an eligible patient as defined in s. [499.0295](#); or order a cannabis delivery device for the medical use of low-THC cannabis or medical cannabis, only if the physician:

(a) Holds an active, unrestricted license as a physician under chapter 458 or an osteopathic physician under chapter 459;

(b) Has treated the patient for at least 3 months immediately preceding the patient's registration in the compassionate use registry;

(c) Has successfully completed the course and examination required under paragraph (4)(a);

(d) Has determined that the risks of treating the patient with low-THC cannabis or medical cannabis are reasonable in light of the potential benefit to the patient. If a patient is younger than 18 years of age, a second physician must concur with this determination, and such determination must be documented in the patient's medical record;

(e) Registers as the orderer of low-THC cannabis or medical cannabis for the named patient on the compassionate use registry maintained by the department and updates the registry to reflect the contents of the order, including the amount of low-THC cannabis or medical cannabis that will provide the patient with not more than a 45-day supply and a cannabis delivery device needed by the patient for the medical use of low-THC cannabis or medical cannabis. The physician must also update the registry within 7 days after any change is made to the original order to reflect the change. The physician shall deactivate the registration of the patient and the patient's legal representative when treatment is discontinued;

(f) Maintains a patient treatment plan that includes the dose, route of administration, planned duration, and monitoring of the patient's symptoms and other indicators of tolerance or reaction to the low-THC cannabis or medical cannabis;

(g) Submits the patient treatment plan quarterly to the University of Florida College of Pharmacy for research on the safety and efficacy of low-THC cannabis and medical cannabis on patients;

(h) Obtains the voluntary written informed consent of the patient or the patient's legal representative to treatment with low-THC cannabis after sufficiently explaining the current state of knowledge in the medical community of the effectiveness of treatment of the patient's condition with low-THC cannabis, the medically acceptable alternatives, and the potential risks and side effects;

(i) Obtains written informed consent as defined in and required under s. [499.0295](#), if the physician is ordering medical cannabis for an eligible patient pursuant to that section; and

(j) Is not a medical director employed by a dispensing organization.

(3) PENALTIES.—

(a) A physician commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#), if the physician orders low-THC cannabis for a patient without a reasonable belief that the patient is suffering from:

1. Cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms that can be treated with low-THC cannabis; or

2. Symptoms of cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms that can be alleviated with low-THC cannabis.

(b) A physician commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#), if the physician orders medical cannabis for a patient without a reasonable belief that the patient has a terminal condition as defined in s. [499.0295](#).

(c) A person who fraudulently represents that he or she has cancer, a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms, or a terminal condition to a physician for the purpose of being ordered low-THC cannabis, medical cannabis, or a cannabis delivery device by such physician commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(d) An eligible patient as defined in s. [499.0295](#) who uses medical cannabis, and such patient's legal representative who administers medical cannabis, in plain view of or in a place open to the general public, on the grounds of a school, or in a school bus, vehicle, aircraft, or motorboat, commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(e) A physician who orders low-THC cannabis, medical cannabis, or a cannabis delivery device and receives compensation from a dispensing organization related to the ordering of low-THC cannabis, medical cannabis, or a cannabis delivery device is subject to disciplinary action under the applicable practice act and s. [456.072\(1\)\(n\)](#).

(4) PHYSICIAN EDUCATION.—

(a) Before ordering low-THC cannabis, medical cannabis, or a cannabis delivery device for medical use by a patient in this state, the appropriate board shall require the ordering physician to successfully complete an 8-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association that encompasses the clinical indications for the appropriate use of low-THC cannabis and medical cannabis, the appropriate cannabis delivery devices, the contraindications for such use, and the relevant state and federal laws governing the ordering, dispensing, and possessing of these substances and devices. The course and examination shall be administered at least annually. Successful completion of the course may be used by a physician to satisfy 8 hours of the continuing medical education requirements required by his or her respective board for licensure renewal. This course may be offered in a distance learning format.

(b) The appropriate board shall require the medical director of each dispensing organization to hold an active, unrestricted license as a physician under chapter 458 or as an osteopathic physician under chapter 459 and successfully complete a 2-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association that encompasses appropriate safety procedures and knowledge of low-THC cannabis, medical cannabis, and cannabis delivery devices.

(c) Successful completion of the course and examination specified in paragraph (a) is required for every physician who orders low-THC cannabis, medical cannabis, or a cannabis delivery device each time such physician renews his or her license. In addition, successful completion of the course and examination specified in paragraph (b) is required for the medical director of each dispensing organization each time such physician renews his or her license.

(d) A physician who fails to comply with this subsection and who orders low-THC cannabis, medical cannabis, or a cannabis delivery device may be subject to disciplinary action under the applicable practice act and under s. [456.072\(1\)\(k\)](#).

(5) DUTIES OF THE DEPARTMENT.—The department shall:

(a) Create and maintain a secure, electronic, and online compassionate use registry for the registration of physicians, patients, and the legal representatives of patients as provided under this section. The registry must be accessible to law enforcement agencies and to a dispensing organization to verify the authorization of a patient or a patient's legal representative to possess low-THC cannabis, medical cannabis, or a cannabis delivery device and record the low-THC cannabis, medical cannabis, or cannabis delivery device dispensed. The registry must prevent an active registration of a patient by multiple physicians.

(b) Authorize the establishment of five dispensing organizations to ensure reasonable statewide accessibility and availability as necessary for patients registered in the compassionate use registry and who are ordered low-THC cannabis, medical cannabis, or a cannabis delivery device under this section, one in each of the following regions: northwest Florida, northeast Florida, central Florida, southeast Florida, and southwest Florida. The department shall develop an application form and impose an initial application and biennial renewal fee that is sufficient to cover the costs of administering this section. An applicant for approval as a dispensing organization must be able to demonstrate:

1. The technical and technological ability to cultivate and produce low-THC cannabis. The applicant must possess a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to s. [581.131](#) that is issued for the cultivation of more than 400,000 plants, be operated by a nurseryman as defined in s. [581.011](#), and have been operated as a registered nursery in this state for at least 30 continuous years.

2. The ability to secure the premises, resources, and personnel necessary to operate as a dispensing organization.
3. The ability to maintain accountability of all raw materials, finished products, and any byproducts to prevent diversion or unlawful access to or possession of these substances.
4. An infrastructure reasonably located to dispense low-THC cannabis to registered patients statewide or regionally as determined by the department.
5. The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financials to the department. Upon approval, the applicant must post a \$5 million performance bond. However, upon a dispensing organization's serving at least 1,000 qualified patients, the dispensing organization is only required to maintain a \$2 million performance bond.
6. That all owners and managers have been fingerprinted and have successfully passed a level 2 background screening pursuant to s. [435.04](#).
7. The employment of a medical director to supervise the activities of the dispensing organization.
 - (c) Upon the registration of 250,000 active qualified patients in the compassionate use registry, approve three dispensing organizations, including, but not limited to, an applicant that is a recognized class member of *Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999), or *In Re Black Farmers Litig.*, 856 F. Supp. 2d 1 (D.D.C. 2011), and a member of the Black Farmers and Agriculturalists Association, which must meet the requirements of subparagraphs (b)2.-7. and demonstrate the technical and technological ability to cultivate and produce low-THC cannabis.
 - (d) Allow a dispensing organization to make a wholesale purchase of low-THC cannabis or medical cannabis from, or a distribution of low-THC cannabis or medical cannabis to, another dispensing organization.
 - (e) Monitor physician registration and ordering of low-THC cannabis, medical cannabis, or a cannabis delivery device for ordering practices that could facilitate unlawful diversion or misuse of low-THC cannabis, medical cannabis, or a cannabis delivery device and take disciplinary action as indicated.
 - (6) DISPENSING ORGANIZATION.—An approved dispensing organization must, at all times, maintain compliance with the criteria demonstrated for selection and approval as a dispensing organization under subsection (5) and the criteria required in this subsection.
 - (a) When growing low-THC cannabis or medical cannabis, a dispensing organization:
 1. May use pesticides determined by the department, after consultation with the Department of Agriculture and Consumer Services, to be safely applied to plants intended for human consumption, but may not use pesticides designated as restricted-use pesticides pursuant to s. [487.042](#).
 2. Must grow low-THC cannabis or medical cannabis within an enclosed structure and in a room separate from any other plant.
 3. Must inspect seeds and growing plants for plant pests that endanger or threaten the horticultural and agricultural interests of the state, notify the Department of Agriculture and Consumer Services within 10 calendar days after a determination that a plant is infested or infected by such plant pest, and implement and maintain phytosanitary policies and procedures.
 4. Must perform fumigation or treatment of plants, or the removal and destruction of infested or infected plants, in accordance with chapter 581 and any rules adopted thereunder.
 - (b) When processing low-THC cannabis or medical cannabis, a dispensing organization must:
 1. Process the low-THC cannabis or medical cannabis within an enclosed structure and in a room separate from other plants or products.
 2. Test the processed low-THC cannabis and medical cannabis before they are dispensed. Results must be verified and signed by two dispensing organization employees. Before dispensing low-THC cannabis, the dispensing organization must determine that the test results indicate that the low-THC cannabis meets the definition of low-THC cannabis and, for medical cannabis and low-THC cannabis, that all medical cannabis and low-THC cannabis is safe for human consumption and free from contaminants that are unsafe for human consumption. The dispensing organization must retain records of all testing and samples of each homogenous batch of cannabis and low-THC cannabis for at least 9 months. The dispensing organization must contract with an independent testing laboratory to perform audits on the dispensing organization's standard operating procedures, testing records, and samples and

provide the results to the department to confirm that the low-THC cannabis or medical cannabis meets the requirements of this section and that the medical cannabis and low-THC cannabis is safe for human consumption.

3. Package the low-THC cannabis or medical cannabis in compliance with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.

4. Package the low-THC cannabis or medical cannabis in a receptacle that has a firmly affixed and legible label stating the following information:

- a. A statement that the low-THC cannabis or medical cannabis meets the requirements of subparagraph 2.;
 - b. The name of the dispensing organization from which the medical cannabis or low-THC cannabis originates; and
 - c. The batch number and harvest number from which the medical cannabis or low-THC cannabis originates.
5. Reserve two processed samples from each batch and retain such samples for at least 9 months for the purpose of testing pursuant to the audit required under subparagraph 2.

(c) When dispensing low-THC cannabis, medical cannabis, or a cannabis delivery device, a dispensing organization:

1. May not dispense more than a 45-day supply of low-THC cannabis or medical cannabis to a patient or the patient's legal representative.
2. Must have the dispensing organization's employee who dispenses the low-THC cannabis, medical cannabis, or a cannabis delivery device enter into the compassionate use registry his or her name or unique employee identifier.
3. Must verify in the compassionate use registry that a physician has ordered the low-THC cannabis, medical cannabis, or a specific type of a cannabis delivery device for the patient.
4. May not dispense or sell any other type of cannabis, alcohol, or illicit drug-related product, including pipes, bongs, or wrapping papers, other than a physician-ordered cannabis delivery device required for the medical use of low-THC cannabis or medical cannabis, while dispensing low-THC cannabis or medical cannabis.
5. Must verify that the patient has an active registration in the compassionate use registry, the patient or patient's legal representative holds a valid and active registration card, the order presented matches the order contents as recorded in the registry, and the order has not already been filled.
6. Must, upon dispensing the low-THC cannabis, medical cannabis, or cannabis delivery device, record in the registry the date, time, quantity, and form of low-THC cannabis or medical cannabis dispensed and the type of cannabis delivery device dispensed.

(d) To ensure the safety and security of its premises and any off-site storage facilities, and to maintain adequate controls against the diversion, theft, and loss of low-THC cannabis, medical cannabis, or cannabis delivery devices, a dispensing organization shall:

- 1.a. Maintain a fully operational security alarm system that secures all entry points and perimeter windows and is equipped with motion detectors; pressure switches; and duress, panic, and hold-up alarms; or
- b. Maintain a video surveillance system that records continuously 24 hours each day and meets at least one of the following criteria:
 - (I) Cameras are fixed in a place that allows for the clear identification of persons and activities in controlled areas of the premises. Controlled areas include grow rooms, processing rooms, storage rooms, disposal rooms or areas, and point-of-sale rooms;
 - (II) Cameras are fixed in entrances and exits to the premises, which shall record from both indoor and outdoor, or ingress and egress, vantage points;
 - (III) Recorded images must clearly and accurately display the time and date; or
 - (IV) Retain video surveillance recordings for a minimum of 45 days or longer upon the request of a law enforcement agency.
2. Ensure that the organization's outdoor premises have sufficient lighting from dusk until dawn.
3. Establish and maintain a tracking system approved by the department that traces the low-THC cannabis or medical cannabis from seed to sale. The tracking system shall include notification of key events as determined by

the department, including when cannabis seeds are planted, when cannabis plants are harvested and destroyed, and when low-THC cannabis or medical cannabis is transported, sold, stolen, diverted, or lost.

4. Not dispense from its premises low-THC cannabis, medical cannabis, or a cannabis delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver low-THC cannabis and medical cannabis to qualified patients 24 hours each day.
5. Store low-THC cannabis or medical cannabis in a secured, locked room or a vault.
6. Require at least two of its employees, or two employees of a security agency with whom it contracts, to be on the premises at all times.
7. Require each employee to wear a photo identification badge at all times while on the premises.
8. Require each visitor to wear a visitor's pass at all times while on the premises.
9. Implement an alcohol and drug-free workplace policy.
10. Report to local law enforcement within 24 hours after it is notified or becomes aware of the theft, diversion, or loss of low-THC cannabis or medical cannabis.

(e) To ensure the safe transport of low-THC cannabis or medical cannabis to dispensing organization facilities, independent testing laboratories, or patients, the dispensing organization must:

1. Maintain a transportation manifest, which must be retained for at least 1 year.
2. Ensure only vehicles in good working order are used to transport low-THC cannabis or medical cannabis.
3. Lock low-THC cannabis or medical cannabis in a separate compartment or container within the vehicle.
4. Require at least two persons to be in a vehicle transporting low-THC cannabis or medical cannabis, and require at least one person to remain in the vehicle while the low-THC cannabis or medical cannabis is being delivered.
5. Provide specific safety and security training to employees transporting or delivering low-THC cannabis or medical cannabis.

(7) DEPARTMENT AUTHORITY AND RESPONSIBILITIES.—

(a) The department may conduct announced or unannounced inspections of dispensing organizations to determine compliance with this section or rules adopted pursuant to this section.

(b) The department shall inspect a dispensing organization upon complaint or notice provided to the department that the dispensing organization has dispensed low-THC cannabis or medical cannabis containing any mold, bacteria, or other contaminant that may cause or has caused an adverse effect to human health or the environment.

(c) The department shall conduct at least a biennial inspection of each dispensing organization to evaluate the dispensing organization's records, personnel, equipment, processes, security measures, sanitation practices, and quality assurance practices.

(d) The department may enter into interagency agreements with the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of Transportation, the Department of Highway Safety and Motor Vehicles, and the Agency for Health Care Administration, and such agencies are authorized to enter into an interagency agreement with the department, to conduct inspections or perform other responsibilities assigned to the department under this section.

(e) The department must make a list of all approved dispensing organizations and qualified ordering physicians and medical directors publicly available on its website.

(f) The department may establish a system for issuing and renewing registration cards for patients and their legal representatives, establish the circumstances under which the cards may be revoked by or must be returned to the department, and establish fees to implement such system. The department must require, at a minimum, the registration cards to:

1. Provide the name, address, and date of birth of the patient or legal representative.
2. Have a full-face, passport-type, color photograph of the patient or legal representative taken within the 90 days immediately preceding registration.
3. Identify whether the cardholder is a patient or legal representative.

4. List a unique numeric identifier for the patient or legal representative that is matched to the identifier used for such person in the department's compassionate use registry.

5. Provide the expiration date, which shall be 1 year after the date of the physician's initial order of low-THC cannabis or medical cannabis.

6. For the legal representative, provide the name and unique numeric identifier of the patient that the legal representative is assisting.

7. Be resistant to counterfeiting or tampering.

(g) The department may impose reasonable fines not to exceed \$10,000 on a dispensing organization for any of the following violations:

1. Violating this section, s. [499.0295](#), or department rule.
2. Failing to maintain qualifications for approval.
3. Endangering the health, safety, or security of a qualified patient.
4. Improperly disclosing personal and confidential information of the qualified patient.
5. Attempting to procure dispensing organization approval by bribery, fraudulent misrepresentation, or extortion.
6. Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the business of a dispensing organization.
7. Making or filing a report or record that the dispensing organization knows to be false.
8. Willfully failing to maintain a record required by this section or department rule.
9. Willfully impeding or obstructing an employee or agent of the department in the furtherance of his or her official duties.
10. Engaging in fraud or deceit, negligence, incompetence, or misconduct in the business practices of a dispensing organization.
11. Making misleading, deceptive, or fraudulent representations in or related to the business practices of a dispensing organization.
12. Having a license or the authority to engage in any regulated profession, occupation, or business that is related to the business practices of a dispensing organization suspended, revoked, or otherwise acted against by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law.
13. Violating a lawful order of the department or an agency of the state, or failing to comply with a lawfully issued subpoena of the department or an agency of the state.

(h) The department may suspend, revoke, or refuse to renew a dispensing organization's approval if a dispensing organization commits any of the violations in paragraph (g).

(i) The department shall renew the approval of a dispensing organization biennially if the dispensing organization meets the requirements of this section and pays the biennial renewal fee.

(j) The department may adopt rules necessary to implement this section.

(8) PREEMPTION.—

(a) All matters regarding the regulation of the cultivation and processing of medical cannabis or low-THC cannabis by dispensing organizations are preempted to the state.

(b) A municipality may determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of dispensing organizations located within its municipal boundaries. A county may 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.

(9) EXCEPTIONS TO OTHER LAWS.—

(a) Notwithstanding s. [893.13](#), s. [893.135](#), s. [893.147](#), or any other provision of law, but subject to the requirements of this section, a qualified patient and the qualified patient's legal representative may purchase and possess for the patient's medical use up to the amount of low-THC cannabis or medical cannabis ordered for the patient, but not more than a 45-day supply, and a cannabis delivery device ordered for the patient.

(b) Notwithstanding s. [893.13](#), s. [893.135](#), s. [893.147](#), or any other provision of law, but subject to the requirements of this section, an approved dispensing organization and its owners, managers, and employees may manufacture, possess, sell, deliver, distribute, dispense, and lawfully dispose of reasonable quantities, as established by department rule, of low-THC cannabis, medical cannabis, or a cannabis delivery device. For purposes of this subsection, the terms “manufacture,” “possession,” “deliver,” “distribute,” and “dispense” have the same meanings as provided in s. [893.02](#).

(c) Notwithstanding s. [893.13](#), s. [893.135](#), s. [893.147](#), or any other provision of law, but subject to the requirements of this section, an approved independent testing laboratory may possess, test, transport, and lawfully dispose of low-THC cannabis or medical cannabis as provided by department rule.

(d) An approved dispensing organization and its owners, managers, and employees are not subject to licensure or regulation under chapter 465 or chapter 499 for manufacturing, possessing, selling, delivering, distributing, dispensing, or lawfully disposing of reasonable quantities, as established by department rule, of low-THC cannabis, medical cannabis, or a cannabis delivery device.

(e) An approved dispensing organization that continues to meet the requirements for approval is presumed to be registered with the department and to meet the regulations adopted by the department or its successor agency for the purpose of dispensing medical cannabis or low-THC cannabis under Florida law. Additionally, the authority provided to a dispensing organization in s. [499.0295](#) does not impair the approval of a dispensing organization.

(f) This subsection does not exempt a person from prosecution for a criminal offense related to impairment or intoxication resulting from the medical use of low-THC cannabis or medical cannabis or relieve a person from any requirement under law to submit to a breath, blood, urine, or other test to detect the presence of a controlled substance.

History.—s. 2, ch. 2014-157; s. 1, ch. 2016-123; s. 24, ch. 2016-145.

West's Florida Administrative Code
Title 64. Department of Health
Chapter 64-4. Compassionate Use

Rule 64-4.001, F.A.C.
Fla. Admin. Code r. 64-4.001

64-4.001. Definitions.

Currentness

For the purposes of this chapter, the following words and phrases shall have the meanings indicated:

- (1) Applicant - A nursery that meets the requirements of [Section 381.986\(5\)\(b\) 1.](#), F.S., applies for approval as a dispensing organization, and identifies a nurseryman as defined in [Section 581.011, F.S.](#), who will serve as the operator.
- (2) Approval - Written notification from the department to an applicant that its application for dispensing organization approval has been found to be in compliance with the provisions of this chapter and that the department is awaiting notification that it is prepared to be inspected and authorized to begin cultivation, processing, and dispensing.
- (3) Cultivation Authorization - Written notification by the department to a Dispensing Organization that it may begin cultivating low-THC cannabis.
- (4) Processing Authorization - Written notification by the department to a Dispensing Organization that it may begin processing low-THC cannabis to Derivative Product.
- (5) Dispensing Authorization - Written notification by the department to a Dispensing Organization that it may begin dispensing Derivative Product.
- (6) Certified Financials - Financial statements that have been audited in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant, licensed pursuant to Chapter 473, F.S.
- (7) Cultivation - Growth of low-THC plant source material.
- (8) Derivative Product - Forms of low-THC cannabis suitable for routes of administration.
- (9) Dispensing Region - A geographical area where the cultivation and production of low-THC cannabis under the control of a Dispensing Organization occurs. The five dispensing regions shall be identified as follows:
 - (a) Northwest Florida Region consisting of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Santa Rosa, Okaloosa, Taylor, Wakulla, Walton, and Washington counties.

(b) Northeast Florida Region consisting of Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Marion, Nassau, Putnam, St. Johns, Suwannee, and Union counties.

(c) Central Florida Region consisting of Brevard, Citrus, Hardee, Hernando, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, St. Lucie, Sumter, and Volusia counties.

(d) Southwest Florida Region consisting of Charlotte, Collier, DeSoto, Glades, Hendry, Highlands, Hillsborough, Lee, Manatee, Okeechobee, and Sarasota counties.

(e) Southeast Florida Region consisting of Broward, Miami-Dade, Martin, Monroe, and Palm Beach counties.

(10) Dispensing Organization - A nursery that meets the requirements of [Section 381.986\(5\)\(b\) 1.](#), F.S., including its contractual agents, which has been authorized by the department to cultivate, process and dispense low-THC cannabis.

(11) Dispensing Organization Facility - Any of the following facilities:

(a) Cultivation Facility: Any area designated in the application to be used for cultivation of low-THC cannabis.

(b) Processing Facility: Any area designated in the application to be used for processing of Derivative Product.

(c) Dispensing Facility: Any area designated in the application where Derivative Product is dispensed at retail.

(12) Financial Statements - A presentation of financial data, including accompanying notes, derived from accounting records that purports to show actual or anticipated financial position and intended to communicate an entity's economic resources or obligations at a point in time, and the results of operations and cash flows for a period of time, in accordance with generally accepted accounting principles or a comprehensive basis of accounting other than generally accepted accounting principles. Financial presentations included in tax returns are not financial statements. The method of preparation (for example, manual or computer preparation) is not relevant to the definition of a financial statement.

(13) Manager - Any person with the authority to exercise operational direction or management of the Dispensing Organization or the authority to supervise any employee of the Dispensing Organization.

(14) Permanent resident - A person who has his or her true, fixed and permanent home, in Florida to which, whenever absent, he or she has the intention of returning. Once a permanent residence is established in Florida it is presumed to continue until the resident shows that a change has occurred. Any person who has established a residence in this state may manifest and evidence the same by filing a sworn statement pursuant to [Section 222.17, F.S.](#)

(15) Routes of administration - means the path by which a Derivative Product is ordered by a physician to be taken into the body of the qualified patient, but does not include smoking.

(16) Visitation Protocol - A set of identified policies and procedures of an applicant or Dispensing Organization that details requirements for visitor access to any proposed or existing Dispensing Organization facility.

Credits

Adopted June 17, 2015.

Authority: 381.986(5)(d) FS. Law Implemented [381.986\(5\)\(b\) FS](#).

Current with amendments available through September 19, 2016.

Rule 64-4.001, F.A.C., 64 FL ADC 64-4.001

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West's Florida Administrative Code
Title 64. Department of Health
Chapter 64-4. Compassionate Use

Rule 64-4.002, F.A.C.
Fla. Admin. Code r. 64-4.002

64-4.002. Initial Application Requirements for Dispensing Organizations.

Currentness

Each nursery that meets the requirements of [Section 381.986\(5\)\(b\)](#) 1., F.S., desiring to be approved as a Dispensing Organization shall make application, either electronically or in hard copy, to the department using Form DH8006-OCU-2/2015, "Application for Low-THC Cannabis Dispensing Organization Approval" herein incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-05457>. The completed application form must include the following:

(1) An initial application fee of \$60,063.00.

(2) An explanation or written documentation, as applicable, showing how the Applicant meets the statutory criteria listed in [Section 381.986\(5\)\(b\)](#), F.S. In any explanation, the Applicant must address each item listed for each criterion below. The Applicant must disclose the name, position, and resume of the employee(s) who provides the knowledge or experience explained for each item.

(a) The technical and technological ability to cultivate, process, and dispense low-THC cannabis. Please address the following items:

1. Experience cultivating cannabis;
2. Experience cultivating in Florida plants not native to Florida;
3. Experience introducing new varieties of plants;
4. Regional cultivation knowledge and experience;
5. Experience cultivating plants for human consumption such as food or medicine products;
6. Experience with in-house propagation;
7. Experience with genetic modification or breeding;

8. Experience using clean growing rooms;
9. Knowledge of cannabis cultivation, including:
 - a. Proper cultivation conditions and techniques;
 - b. Additives that can be used when growing cannabis;
 - c. Pests, disease and deficiencies common for cannabis;
 - d. Production of high quality product in a short time;
10. Experience with tracking each plant in a harvest;
11. Experience with good agricultural practices;
12. Experience with good handling practices;
13. Experience with good manufacturing practices;
14. Experience with analytical organic chemistry and micro-biology;
15. Experience with analytical laboratory methods;
16. Experience with analytical laboratory quality control, including maintaining a chain of custody;
17. Knowledge of, and experience with, cannabis extraction techniques;
18. Knowledge of cannabis routes of administration;
19. Knowledge of, and experience with, producing cannabis products;
20. Experience interacting with patients;
21. Experience with handling confidential information;

22. A marketing plan;
23. Experience gathering and managing data, i.e. data on patient reactions to products dispensed;
24. Experience with recalls;
25. Training programs for employees addressing:
 - a. The Health Insurance Portability and Accountability Act (HIPAA);
 - b. Patient education;
 - c. Compliance;
 - d. Patient counseling; and,
 - e. Data collection.
26. Any awards, recognition or certifications received for relevant expertise.

(b) Written documentation demonstrating that the applicant possesses a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to [Section 581.131, F.S.](#), that is issued for the cultivation of more than 400,000 plants, is operated by a nurseryman as defined in [Section 581.011, F.S.](#), and has been operated as a registered nursery in this state for at least 30 continuous years.

(c) The ability to secure the premises, resources, and personnel necessary to operate as a Dispensing Organization. Please address the following items, and include a sketch or other illustration:

1. Location of all properties Applicant proposes to utilize to cultivate, process, and dispense low-THC cannabis and Derivative Product, including ownership information for the properties and any lease terms if applicable;
 - a. For any property that is leased by the Applicant, include documentation that the property owner consents to the use of the property for the purposes of cultivation, processing, or dispensing of low-THC cannabis and Derivative Products and documentation that the mortgagor or lienholder has been given notice of the use of the property for the purposes of cultivation, processing, or dispensing of low-THC cannabis and Derivative Products.

- b. For any property owned by the Applicant but subject to a mortgage or lien, include documentation that the mortgagor or lienholder has been notified of the use of the property for the purposes of cultivation, processing, or dispensing of low-THC cannabis and Derivative Products.
2. Compliance with local regulations regarding sanitation and waste disposal;
3. The ability to obtain zoning approval;
4. Sketch or other illustration approximating the property boundaries, land topography, vegetation, proposed and/or existing structures, easements, wells, and roadways for each property proposed;
5. Description of the areas proposed for the cultivation of low-THC cannabis, including the following:
 - a. Capacity, in square feet of growing area;
 - b. Cultivation environment, e.g., greenhouse, clean room, aseptic, et cetera;
 - c. Irrigation system(s); and,
 - d. Environmental control system(s);
6. A description of the ability or plan to expand any of the areas proposed for low-THC cannabis;
7. Back-up systems for all cultivation and processing systems;
8. A description of one or more strains of low-THC cannabis the applicant intends to cultivate;
9. Access to water resources that allow for sufficient irrigation;
10. Description of the areas proposed for the processing of Derivative Products, including the following:
 - a. Extraction equipment and location;
 - b. Concentration equipment and location;
 - c. Access to sufficient potable water and hot water;

- d. Analytical equipment, including separators and detectors, and location;
 - e. Safety equipment and facilities and location;
 - f. Computer systems and software; and,
 - g. Ventilation and exhaust system.
11. Description of the methods proposed for the dispensing of Derivative Products, including the following:
- a. Accessibility of dispensing facilities, e.g., centrally located to several populated areas, located on a main roadway, not in a high crime area, et cetera;
 - b. Proximity of dispensing facilities to patient populations; and,
 - c. Alternative dispensing, e.g. delivery.
12. A list of current and proposed staffing, including;
- a. Position, duties and responsibilities;
 - b. Resume; and,
 - c. Professional licensure disciplinary action in all jurisdictions.
13. An organizational chart illustrating the supervisory structure of the proposed Dispensing Organization;
14. Plans and procedures for loss of key personnel;
15. Plans and procedures for complying with OSHA regulations for workplace safety; and,
16. Relationship(s) with an independent laboratory(ies) with cannabis testing protocols and methods.
- (d) The ability to maintain accountability of all raw materials, finished products, and any byproducts to prevent diversion or unlawful access to or possession of these substances. Please address the following items for each property or location:

1. Floor plan of each facility or proposed floor plans for proposed facilities, including the following:
 - a. Locking options for each means of ingress and egress;
 - b. Alarm systems;
 - c. Video surveillance;
 - d. Name and function of each room;
 - e. Layout and dimensions of each room;
2. Storage, including the following:
 - a. Safes;
 - b. Vaults;
 - c. Climate control;
3. Diversion and trafficking prevention procedures;
4. A facility emergency management plan;
5. System for tracking low-THC source plant material throughout cultivation, processing, and dispensing;
6. Inventory control system for low-THC cannabis and Derivative Products;
7. Policies and procedures for recordkeeping;
8. Vehicle tracking systems;
9. Vehicle security systems;
10. Methods of screening and monitoring employees;

11. Personnel qualifications and experience with chain of custody or other tracking mechanisms;
12. Personnel reserved solely for inventory control purposes;
13. Personnel reserved solely for security purposes;
14. Waste disposal plan;
15. Plans for the recall of any Derivative Products that have a reasonable probability of causing adverse health consequences based on a testing result, bad patient reaction, or other reason; and,
16. Access to specialized resources or expertise regarding data collection, security, and tracking.

(e) An infrastructure reasonably located to dispense low-THC cannabis to registered patients statewide or regionally as determined by the department. Please address the following items:

1. A map showing the location of the applicant's proposed dispensing facilities;
2. A sketch or other illustration of the actual or proposed dispensing location showing streets; property lines; buildings; parking areas; outdoor areas, if applicable; fences; security features; fire hydrants, if applicable; and access to water and sanitation systems; and,
3. A floor plan of the actual or proposed building or buildings where dispensing activities will occur showing:
 - a. Areas designed to protect patient privacy;
 - b. Areas designed for retail sales;
4. A HIPAA compliant computer network utilized by all facilities;
5. Vehicles that will be used to transport product among cultivating, processing, and dispensing facilities;
6. Communication systems;
7. Hours of operation of each dispensing facility; and,
8. Methods of mitigating odors if applicable.

(f) The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of Certified Financials to the department. Please provide the following items:

1. Certified Financials issued within the immediately preceding 12 months;
2. Applicant's corporate structure;
3. All owners of the Applicant;
4. All individuals and entities that can exercise control of the Applicant;
5. All individuals and entities that share in the profits and losses of the Applicant;
6. All subsidiaries of the Applicant;
7. Any other individuals or entities for which the Applicant is financially responsible;
8. Assets of the Applicant and Applicant's subsidiaries;
9. Liabilities of the Applicant and Applicant's subsidiaries;
10. Any pending lawsuits to which the Applicant is a party;
11. Any lawsuits within the past 7 years to which the Applicant was a party;
12. All financial obligations of Applicant that are not listed as a "liability" in the Certified Financials;
13. A projected two year budget; and,
14. Specific reference to sufficient assets available to support the Dispensing Organization activities.

(g) That all owners and managers have been fingerprinted and have successfully passed a level 2 background screening pursuant to [Section 435.04, F.S.](#), within the calendar year prior to application. Each owner and manager should present to FDLE or one of its approved vendors for fingerprinting. At that time, give the entity ORI number FL924890Z (DOH - OFFICE OF COMPASSIONATE USE). The report will be sent directly to the Office of Compassionate Use. Please submit a list of all owners and managers indicating the date of each individual's most recent Level-2 background screening.

(h) The employment of a medical director who is a physician licensed pursuant to Chapters 458 or 459, F.S., to supervise the activities of the proposed Dispensing Organization. Please address the following items for the physician chosen as medical director:

1. Specialty area, if any;
2. Experience with epileptic patients;
3. Experience with cancer patients;
4. Experience with patients with severe seizures or muscle spasms;
5. Knowledge of the use of low-THC cannabis for treatment of cancer or physical medical conditions that chronically produce symptoms of seizures or severe and persistent muscle spasms;
6. Knowledge of good manufacturing practices;
7. Knowledge of analytical and organic chemistry;
8. Knowledge of analytical laboratory methods;
9. Knowledge of analytical laboratory quality control, including maintaining a chain of custody;
10. Knowledge of, and experience with, CBD/low-THC extraction techniques;
11. Knowledge of CBD/low-THC routes of administration;
12. Experience in or knowledge of clinical trials or observational studies;
13. Knowledge of, and experience with, producing CBD/low-THC products;
14. Experience with or knowledge of botanical medicines;
15. Experience with dispensing medications;
16. Description of how the medical director will supervise the activities of the Dispensing Organization; and,

17. Description of how the Dispensing Organization will ensure it has a medical director at all times.

(i) The ability to post a \$5 million performance bond for the biennial approval cycle.

(3) If the Applicant intends to claim any exemption from public records disclosure under [Section 119.07, F.S.](#), or any other exemption from public records disclosure provided by law for any part of its application, it shall indicate on the application the specific sections for which it claims an exemption and the statutory basis for the exemption. The Applicant shall submit a redacted copy of the application redacting those items identified as exempt.

(4) Failure to submit the \$60,063.00 application fee or documentation sufficient to establish the Applicant meets the requirements of [Section 381.986\(5\)\(b\), F.S.](#), shall result in the application being denied prior to any scoring as contemplated in subsection (5) of this rule.

(5) Any "Application for Low-THC Cannabis Dispensing Organization Approval" and all required exhibits and supporting documents shall be delivered to the Agency Clerk of the Department of Health physically located at 2585 Merchants Row Boulevard in Tallahassee, Florida, no earlier than 10:00 a.m. (Eastern Time), on the effective date of this rule and no later than 5:00 p.m. (Eastern Time), 21 calendar days after the effective date of this rule.

(a) The department will substantively review, evaluate, and score applications using Form DH8007-OCU-2/2015, "Scorecard for Low-THC Cannabis Dispensing Organization Selection" herein incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-05461>. The department's substantive review will be completed by:

1. Director of the Office of Compassionate Use;

2. A member of the Drug Policy Advisory Council appointed by the State Surgeon General; and,

3. A Certified Public Accountant appointed by the State Surgeon General.

(b) Each reviewer will independently review each application and score using Form DH8007-OCU-2/2015, "Scorecard for Low-THC Cannabis Dispensing Organization Selection." Scorecards from each reviewer will be combined to generate an aggregate score for each application. The Applicant with the highest aggregate score in each dispensing region shall be selected as the region's Dispensing Organization.

(c) In the event of a tie in a region, each reviewer will re-review the tied applications and select a winning application. The department will approve the application selected by the majority of the reviewers.

(d) In the event one nursery receives the high score in multiple regions, one of which is the region represented by the address on the nursery's certificate of registration, the Applicant will be approved for that region, and the second highest scored Applicant will be approved for the other region(s). In the event one nursery receives the high score in

multiple regions, none of which is the region represented by the address on the nursery's certificate of registration, the Applicant will be approved for the region for which it had the highest aggregate infrastructure score, and the second highest scored Applicant will be approved for the other region(s).

(e) Upon notification that it has been approved as a region's Dispensing Organization, the Applicant shall have 10 business days to post a \$5 million performance bond. The bond shall:

1. Be payable to the department in the event the Dispensing Organization's approval is revoked;
2. Be written by a surety company licensed by the Florida Office of Insurance Regulation.
3. Be written so that the nursery name on the bond corresponds exactly with the Applicant name.
4. If a bond is canceled and the Dispensing Organization fails to file a new bond with the department in the required amount on or before the effective date of cancellation, the Dispensing Organization's approval shall be revoked.

(f) If the selected Applicant fails to post the bond within the required timeframe, the Applicant with the next highest score in the dispensing region shall be selected and notified.

(g) The surety company can use any form it prefers for the performance bond as long as it complies with this rule. For convenience, the surety company can also use Form DH8008-OCU-2/2015, "Florida Low-THC Cannabis Performance Bond" herein incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-05460>.

Credits

Adopted June 17, 2015.

Authority: 381.986(5)(d) FS. Law Implemented [381.986\(5\)\(b\) FS](#).

Current with amendments available through September 19, 2016.

Rule 64-4.002, F.A.C., 64 FL ADC 64-4.002

West's Florida Administrative Code
Title 64. Department of Health
Chapter 64-4. Compassionate Use

Rule 64-4.004, F.A.C.
Fla. Admin. Code r. 64-4.004

64-4.004. Revocation of Dispensing Organization Approval.

Currentness

(1) The department shall revoke its approval of the Dispensing Organization if the Dispensing Organization does any of the following:

(a) Cultivates low-THC cannabis before obtaining department authorization;

(b) Knowingly dispenses Derivative Product to an individual other than a qualified patient or a qualified patient's legal representative without notifying the department and taking appropriate corrective action;

(2) The department may revoke its approval of the Dispensing Organization if any of the following failures impact the accessibility, availability, or safety of the Derivative Product and are not corrected within 30 calendar days after notification to the Dispensing Organization of the failure:

(a) Failure to comply with the requirements in [Section 381.986, F.S.](#), or this rule chapter;

(b) Failure to implement the policies and procedures or comply with the statements provided to the department with the original or renewal application;

(3) The department may revoke its approval of the Dispensing Organization for failure to meet the following deadlines if failure is not corrected within 10 calendar days:

(a) Failure to seek Cultivation Authorization within 75 calendar days of application approval; or

(b) Failure to begin dispensing within 210 calendar days of the being granted the Cultivation Authorization requested in subsection 64-4.005(2), F.A.C.

Credits

Adopted June 17, 2015.

Authority: 381.986(5)(d) FS. Law Implemented [381.986\(5\)\(b\) FS](#).

Current with amendments available through September 19, 2016.

Rule 64-4.004, F.A.C., 64 FL ADC 64-4.004

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West's Florida Administrative Code
Title 64. Department of Health
Chapter 64-4. Compassionate Use

Rule 64-4.005, F.A.C.
Fla. Admin. Code r. 64-4.005

64-4.005. Inspection and Authorization Procedures.

Currentness

(1) Submission of an application for Dispensing Organization approval or renewal constitutes permission for entry by the department at any reasonable time during the approval or renewal process, into any Dispensing Organization facility to inspect any portion of the facility; review the records required pursuant to [Section 381.986, F.S.](#), or this chapter; and identify samples of any low-THC cannabis or Derivative Product for laboratory analysis, the results of which shall be forwarded to the department. All inspectors shall follow the Dispensing Organization's Visitation Protocol when conducting any inspection.

(2) A Dispensing Organization must request Cultivation Authorization within 75 days of being notified that it has been approved as a region's Dispensing Organization. No less than 30 calendar days prior to the initial cultivation of low-THC cannabis, the Dispensing Organization shall notify the department that the Dispensing Organization is ready to begin cultivation, the Dispensing Organization is in compliance with [Section 381.986, F.S.](#), and this rule chapter and is seeking Cultivation Authorization. No low-THC cannabis plant source material may be present in any Dispensing Organization facility prior to Cultivation Authorization.

(3) No less than 10 calendar days prior to the initial processing of low-THC cannabis, the Dispensing Organization shall notify the department that the Dispensing Organization is ready to begin processing, the Dispensing Organization is in compliance with [Section 381.986, F.S.](#), and this chapter, and is seeking Processing Authorization.

(4) A Dispensing Organization must begin dispensing Derivative Product within 210 days of being granted Cultivation Authorization. No less than 10 calendar days prior to the initial dispensing of Derivative Product, the Dispensing Organization shall notify the department that the Dispensing Organization is ready to begin dispensing, the Dispensing Organization is in compliance with [Section 381.986, F.S.](#), and this chapter, and is seeking Dispensing Authorization.

(5) If the department identifies a violation of [Section 381.986, F.S.](#), or this chapter during an inspection of a Dispensing Organization facility, the Dispensing Organization shall notify the department in writing, within 20 calendar days after the date of receipt of the written notice of violation, identifying the corrective action taken and the date of the correction.

Credits

Adopted June 17, 2015.

Authority: 381.986(5)(d) FS. Law Implemented [381.986\(5\)\(b\) FS.](#)

Current with amendments available through September 19, 2016.

Rule 64-4.005, F.A.C., 64 FL ADC 64-4.005

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West's Florida Administrative Code
Title 64. Department of Health
Chapter 64-4. Compassionate Use

Rule 64-4.009, F.A.C.
Fla. Admin. Code r. 64-4.009

64-4.009. Compassionate Use Registry.

Currentness

(1) Ordering physicians licensed under Chapters 458 or 459, F.S., meeting the educational requirements of [Section 381.986\(4\), F.S.](#), may access the Compassionate Use Registry using their existing MQA Services credentials.

(2) Other persons may request access to the Compassionate Use Registry by completing form DH8009-OCU-2/2015, "Request for Access to the Compassionate Use Registry," herein incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-05459>. Those requesting access must meet one of the following criteria:

(a) Authorized employee of a Dispensing Organization;

(b) Law enforcement official; or

(c) Authorized employee of the department.

(3) Persons seeking to access to the registry shall have successfully completed a department-approved course in their responsibilities related to patient confidentiality and shall make documentation of completion available to the department upon request.

(4) Before dispensing any Derivative Product to a qualified registered patient or the patient's legal representative, the Dispensing Organization must verify that the patient has an active registration, the order presented matches the order contents as recorded by the physician in the registry, and the order has not already been dispensed.

(5) The Dispensing Organization shall enter a dispensing action into the registry immediately upon dispensing the Derivative Product to the qualified registered patient or the patient's legal representative.

Credits

Adopted June 17, 2015.

Authority: 381.986(5)(d) FS. Law Implemented 381.986(5)(a); [837.06 FS](#).

Current with amendments available through September 19, 2016.

Rule 64-4.009, F.A.C., 64 FL ADC 64-4.009

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Select Year:

The 2016 Florida Statutes

[Title XXXIII](#)
REGULATION OF TRADE, COMMERCE, INVESTMENTS,
AND SOLICITATIONS

[Chapter 499](#)
FLORIDA DRUG AND
COSMETIC ACT

[View Entire
Chapter](#)

499.0295 Experimental treatments for terminal conditions. –

- (1) This section may be cited as the “Right to Try Act.”
- (2) As used in this section, the term:
 - (a) “Dispensing organization” means an organization approved by the Department of Health under s. [381.986\(5\)](#) to cultivate, process, transport, and dispense low-THC cannabis, medical cannabis, and cannabis delivery devices.
 - (b) “Eligible patient” means a person who:
 1. Has a terminal condition that is attested to by the patient’s physician and confirmed by a second independent evaluation by a board-certified physician in an appropriate specialty for that condition;
 2. Has considered all other treatment options for the terminal condition currently approved by the United States Food and Drug Administration;
 3. Has given written informed consent for the use of an investigational drug, biological product, or device; and
 4. Has documentation from his or her treating physician that the patient meets the requirements of this paragraph.
 - (c) “Investigational drug, biological product, or device” means:
 1. A drug, biological product, or device that has successfully completed phase 1 of a clinical trial but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration; or
 2. Medical cannabis that is manufactured and sold by a dispensing organization.
 - (d) “Terminal condition” means a progressive disease or medical or surgical condition that causes significant functional impairment, is not considered by a treating physician to be reversible even with the administration of available treatment options currently approved by the United States Food and Drug Administration, and, without the administration of life-sustaining procedures, will result in death within 1 year after diagnosis if the condition runs its normal course.
 - (e) “Written informed consent” means a document that is signed by a patient, a parent of a minor patient, a court-appointed guardian for a patient, or a health care surrogate designated by a patient and includes:
 1. An explanation of the currently approved products and treatments for the patient’s terminal condition.
 2. An attestation that the patient concurs with his or her physician in believing that all currently approved products and treatments are unlikely to prolong the patient’s life.
 3. Identification of the specific investigational drug, biological product, or device that the patient is seeking to use.
 4. A realistic description of the most likely outcomes of using the investigational drug, biological product, or device. The description shall include the possibility that new, unanticipated, different, or worse symptoms might result and death could be hastened by the proposed treatment. The description shall be based on the physician’s knowledge of the proposed treatment for the patient’s terminal condition.
 5. A statement that the patient’s health plan or third-party administrator and physician are not obligated to pay for care or treatment consequent to the use of the investigational drug, biological product, or device unless required to do so by law or contract.

6. A statement that the patient's eligibility for hospice care may be withdrawn if the patient begins treatment with the investigational drug, biological product, or device and that hospice care may be reinstated if the treatment ends and the patient meets hospice eligibility requirements.

7. A statement that the patient understands he or she is liable for all expenses consequent to the use of the investigational drug, biological product, or device and that liability extends to the patient's estate, unless a contract between the patient and the manufacturer of the investigational drug, biological product, or device states otherwise.

(3) Upon the request of an eligible patient, a manufacturer may, or upon a physician's order pursuant to s. 381.986, a dispensing organization may:

(a) Make its investigational drug, biological product, or device available under this section.

(b) Provide an investigational drug, biological product, device, or cannabis delivery device as defined in s. 381.986 to an eligible patient without receiving compensation.

(c) Require an eligible patient to pay the costs of, or the costs associated with, the manufacture of the investigational drug, biological product, device, or cannabis delivery device as defined in s. 381.986.

(4) A health plan, third-party administrator, or governmental agency may provide coverage for the cost of, or the cost of services related to the use of, an investigational drug, biological product, or device.

(5) A hospital or health care facility licensed under chapter 395 is not required to provide new or additional services unless those services are approved by the hospital or health care facility.

(6) If an eligible patient dies while using an investigational drug, biological product, or device pursuant to this section, the patient's heirs are not liable for any outstanding debt related to the patient's use of the investigational drug, biological product, or device.

(7) A licensing board may not revoke, fail to renew, suspend, or take any action against a physician's license issued under chapter 458 or chapter 459 based solely on the physician's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product, or device. A state entity responsible for Medicare certification may not take action against a physician's Medicare certification based solely on the physician's recommendation that an eligible patient have access to an investigational drug, biological product, or device.

(8) This section does not create a private cause of action against the manufacturer of an investigational drug, biological product, or device; against a person or entity involved in the care of an eligible patient who is using the investigational drug, biological product, or device; or for any harm to the eligible patient that is a result of the use of the investigational drug, biological product, or device if the manufacturer or other person or entity complies in good faith with the terms of this section and exercises reasonable care.

(9) This section does not expand the coverage an insurer must provide under the Florida Insurance Code and does not affect mandatory health coverage for participation in clinical trials.

History.—s. 1, ch. 2015-107; s. 2, ch. 2016-123.