

**ORDINANCE NO. 16-17**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCES AT CHAPTER 78. ZONING; AT SECTION 78-4, DEFINITIONS. TO CREATE DEFINITIONS FOR THE TERMS “MARIJUANA,” “MEDICAL MARIJUANA TREATMENT CENTER,” “MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY” AND TO REVISE THE DEFINITION FOR “RETAIL SALES AND SERVICE” TO EXCLUDE MEDICAL MARIJUANA TREATMENT CENTER AND MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY THEREFROM; AT SECTION 78-178, C-3 GENERAL COMMERCIAL DISTRICT, SUBSECTION (B) PERMITTED USES, TO CREATE AN ENTIRELY NEW NUMBER (20) PROVIDING REGULATIONS FOR THE LOCATION OF MEDICAL MARIJUANA TREATMENT CENTERS IN THE VILLAGE; AND AT ARTICLE IX, SUPPLEMENTAL REGULATIONS TO CREATE AN ENTIRELY NEW SECTION 78-307 BANNING MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES WITHIN THE VILLAGE; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 78. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Village of Tequesta zoning code is currently silent with regard to regulation of medical marijuana; and

**WHEREAS**, the 2014 Florida Legislature approved Senate Bill 1030 providing for the growing, processing, and distributing of specific forms of low-THC (non-euphoric) cannabis to qualified patients and their legal representatives for the treatment of listed medical conditions, effective June 16, 2014 as Chapter 2014-157, Laws of Florida, and codified at Section 381.986, Florida Statutes (“Senate Bill 1030”); and

**WHEREAS**, the Florida Department of Health adopted Chapter 64-4, Florida Administrative Code, to implement Senate Bill 1030; and

**WHEREAS**, the 2016 Florida Legislature approved House Bill 307, which among other things, amended Senate Bill 1030 and provided for the growing, processing, and distributing of specific forms of medical (euphoric) cannabis to qualified patients and their legal representatives for the treatment of listed medical conditions, effective March 25, 2016 as Chapter 2016-123, Laws of Florida, and codified at Sections 381.986 and 499.0295, Florida Statutes (“House Bill 307”); and

**WHEREAS**, on November 8, 2016, Florida voters approved an amendment to the Florida Constitution to allow for broader medical use of any kind of marijuana (including euphoric strains) within the State (“Amendment 2”); and

**WHEREAS**, Amendment 2 authorizes and defines “Medical Marijuana Treatment Centers” to encompass the entire supply chain (cultivation, processing, storage, distribution etc.), not just retail sales to qualified patients; and

**WHEREAS**, Amendment 2 permits the use of additional alternative forms of marijuana (marijuana in all its forms including low-THC cannabis, together referred to as “marijuana”) and alternative dispensing methods (including, but not limited to, smoking and food products); and

**WHEREAS**, despite the adoption of Senate Bill 1030, House Bill 307, and Amendment 2, the activities these laws condone remain illegal under federal law; and

**WHEREAS**, the 2017 Florida Legislature approved Senate Bill 8A during special session which was signed into law on June 23, 2017 as Chapter 2017-232, Laws of Florida, providing unified regulations for medical marijuana treatment centers and medical marijuana treatment center dispensing facilities; and

**WHEREAS**, Senate Bill 8A expressly preempts to the state regulation of the cultivation, processing and delivery of marijuana by medical marijuana treatment centers, except that municipalities can: 1) limit the location of medical marijuana treatment center cultivating or processing facilities within 500 feet of schools, and 2) require medical marijuana treatment center facilities to comply with state building and fire codes; and

**WHEREAS**, Senate Bill 8A allows municipalities to ban, by ordinance, medical marijuana treatment center dispensing facilities from being located within the boundaries of the municipality; and

**WHEREAS**, the Village Council of the Village of Tequesta believes it to be in the best interests of the health, safety, and welfare of the citizens of the Village of Tequesta that the Village amend its code to provide permissible regulations as set forth in this ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, THAT:**

**Section 1:** Chapter 78. Zoning. of the Code of Ordinances of the Village of Tequesta is hereby amended at Section 78-4, Definitions, to create new definitions for the terms “Marijuana,” “Medical marijuana treatment center,” and “Medical marijuana treatment center dispensing facility” and to revise the definition for “Retail sales and service” to exclude Medical

marijuana treatment center and Medical marijuana treatment center dispensing facility therefrom; providing that the new and revised definitions at Sections 78-4 shall hereafter read as follows:

**Sec. 78-4. Definitions.**

Marijuana 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, salt, derivative, mixture, or preparation of the plant or seed or resin, including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient. Marijuana includes any strain of cannabis or Marijuana, in any form, that is authorized by state law to be dispensed or sold in the State of Florida. Also referred to as "Medical marijuana."

Medical marijuana treatment center means any facility licensed by the Florida Department of Health to acquire, cultivate, possess, process (including but not limited to development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, store, or administer Marijuana, products containing Marijuana, related supplies, or educational materials, as authorized by state law. A Medical marijuana treatment center may include retail sales or dispensing of Marijuana. A facility which provides only retail sales or dispensing of Marijuana shall not be classified as a Medical marijuana treatment center under this chapter. Also may be referred to as a "medical marijuana treatment facility" or "dispensing organization" or other similar term recognized by state law. Medical marijuana treatment centers are permitted uses confined to the C-3 general commercial district.

Medical marijuana treatment center dispensing facility means a retail establishment, licensed by the Florida Department of Health as a "medical marijuana treatment facility," "medical marijuana treatment center," "dispensing organization," "dispensing organization facility" or similar use, that sells and dispenses Marijuana, products containing Marijuana, or related supplies, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of Marijuana or Marijuana product, and does not allow on-site consumption of Marijuana. A Medical marijuana treatment center shall not be construed to be a Medical marijuana treatment center dispensing facility. Medical marijuana treatment center dispensing facilities are not permitted anywhere within the boundaries of the Village.

*Retail sales and service* means the selling of goods in small quantities directly to the consumer in establishments which provide a service or offer a product to the general public. This includes a pharmacy which means a retail establishment primarily offering goods for retail sale on-site dispensing of prescription drugs, non-prescription drugs or both. A retail pharmacy may also offer accessory services such as photo processing, eyeglass care, etc. This does not include a Medical marijuana treatment center or Medical marijuana treatment center dispensing facility which are specifically defined and provided for as separate and distinct uses.

(1) Large scale retail sales and services means retail and/or service uses that are regional (beyond village limits) serving in nature as opposed to small scale retail sales and services which are local (village) serving in nature. Large scale retail sales and services are tenant areas or individually owned units in excess of 5,000 square feet.

(2) Small scale retail sales and service means retail and/or service uses that are local (village) serving in nature as opposed to large scale retail sales and services which are regional serving in nature. Small scale retail sales and services shall not exceed 5,000 square feet in gross leasable area for each tenant area or individually owned unit.

*[All other definitions in this section shall remain in full force and effect as previously adopted]*

**Section 2:** Chapter 78. Zoning. of the Code of Ordinances of the Village of Tequesta is hereby amended at Section 78-178, C-3 General Commercial District, subsection (b) Permitted Uses, to create an entirely new number (20) providing regulations for the location of Medical marijuana treatment centers in the Village; providing that the new regulations for Medical marijuana treatment centers at Section 78-178(b)(20) shall hereafter read as follows:

**78-178. C-3 general commercial district.**

(b) Permitted uses. Permitted uses in the C-3 district are as follows:

*[(1) through (19) shall remain in full force and effect as previously adopted]*

(20) Medical marijuana treatment centers, subject to the following requirements:

a. Survey. Medical Marijuana treatment center applicants and those entities or persons seeking a zoning confirmation letter for Medical marijuana treatment centers shall be required to provide a survey sealed by a Florida-registered land surveyor who is licensed by the State of Florida. The survey shall indicate the distance between the proposed Medical marijuana treatment

center and any real property that comprises a public or private elementary school, middle school, or secondary school.

b. *Location requirements.* No Medical marijuana treatment center cultivating or processing facility shall be located closer than 500 feet from the real property that comprises a public or private elementary school, middle school, or secondary school. All distances shall be measured from property line to property line in a straight path without regard to intervening structures or objects. Location requirements may not be varied.

c. *License or permit fees.* Medical marijuana treatment centers shall be charged all license or permit fees in an amount equal to the license or permit fees charged to pharmacies pursuant to section 381.986, F.S. Any person or entity applying for or renewing a business tax receipt for a medical marijuana treatment center within the village shall exhibit an active state license, or proof of same, before such business tax receipt may be issued.

d. *Compliance with State Codes.* Medical marijuana treatment centers must comply with the Florida Building Code, the Florida Fire Prevention Code, or any local amendments thereto.

e. *Statutory compliance.* Medical marijuana treatment centers shall establish compliance with all applicable provisions of Section 381.986, Florida Statutes, as that section may be amended from time to time.

**Section 3:** Chapter 78. Zoning. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article IX, Supplemental Regulations, to create an entirely new Section 78-307 in order to ban Medical marijuana treatment center dispensing facilities within the Village; providing that Section 78-307 shall hereafter read as follows:

**78-307. Medical marijuana treatment center dispensing facilities.**

Medical marijuana treatment center dispensing facilities, as defined in Section 78-4 of the Code, are banned and therefore strictly prohibited from locating in any Zoning District within the Village, as authorized by Senate Bill 8A signed into law on June 23, 2017 as Chapter 2017-232, Laws of Florida.

**Section 4:** Each and every other Section and Subsection of Chapter 78. Zoning. shall remain in full force and effect as previously adopted.

**Section 5:** All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

**Section 6:** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**Section 7:** Specific authority is hereby granted to codify this Ordinance.

**Section 8:** This Ordinance shall take effect immediately upon passage.