

# **Medical Marijuana**

**Applicant**  
**Board of County Commissioners**

**Legislative**

**Countywide**



## MEMORANDUM

DATE: October 27, 2014

TO: Honorable Board of County Commissioners  
Planning and Zoning Board

FROM: Ty Harris, Community Development Department Director  
Shaun Cullinan, Charlotte County Planning and Zoning Official

RE: Revisions to Section 3-9-2. Definitions, Section 3-9-39. Office, Medical and Institutional, and Section 3-9-81. Pain Management Clinics and Medical Marijuana

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### **Reason for Revisions**

In anticipation of the passing of the Constitutional Amendment No.2 known as "Medical Marijuana" in November, 2014, which would allow the medical use of marijuana for individuals with debilitating diseases determined by a licensed Florida physician, several governments within the State of Florida have revised their Codes and Ordinances to provide regulations on medical marijuana. While Staff has reviewed some of the legislation in other States, it is not known how the Legislature of the State of Florida may regulate this.

Staff is requesting, on behalf of the Charlotte County Board of County Commissioners (Board), to adopt an Ordinance relating to Medical Marijuana. An Ordinance of the Board of Commissioners of Charlotte County, Florida, providing that the Code of Laws and Ordinances of Charlotte County, Florida, be amended by revising Section 3-9-2, Definitions, to provide for definitions of Marijuana, Marijuana Farm, Medical Marijuana Dispensary, Medical Marijuana Treatment Center, Medical Marijuana Use, Non-Medical Marijuana Sales, Personal Caregiver (Medical Marijuana Related), and Qualifying Patient (Medical Marijuana Related); amending Section 3-9-81, "Pain Management Clinics," by (a) renaming it "Pain Management Clinics and Medical Marijuana," and (b) by prohibiting the growth of Marijuana, Marijuana Farms, Marijuana Sales, Medical Marijuana Dispensaries and Medical Marijuana Treatment Centers within Charlotte County; amending Section 3-9-

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39, Office, Medical and Institutional, to add Medical Marijuana Dispensary and Medical Marijuana Treatment Center as a Special Exception; providing for conflict with other Ordinances; providing for severability; and providing for an effective date.

The Board has therefore instructed County Staff to amend the Codes and Ordinances of Charlotte County to regulate the location of medical marijuana dispensaries, and treatment facilities for the protection of the health, safety, and welfare of the citizenry. Some of our neighboring governments which have enacted similar Ordinances include Sarasota County and the City of Naples, while others are preparing similar Ordinances, or taking a wait and see approach to what the Legislature does if the Amendment is passed.

### **Detail Revisions**

#### 1. Adding the following definitions to Section 3-9-2. Rules of Construction; Definitions

**Marijuana:** Marijuana has the meaning given cannabis in Section 893.02(3), Florida Statutes (2014).

**Marijuana Farm:** means any property used in whole or in part for the growing or cultivation of marijuana plant(s).

**Medical Marijuana Dispensary:** means a facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana products, or plant(s) are delivered, purchased, possessed, or dispensed for medical purposes.

**Medical Marijuana Treatment Center:** means an entity that acquires, cultivates possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana products containing marijuana or related supplies, to qualifying patients or their personal caregivers.

**Medical Marijuana Use:** means the acquisition, possession, use, delivery, transfer or administration of marijuana or related supplies by a qualifying patient or personal caregiver for use by a qualifying patient for the treatment of a debilitating medical condition.

**Non-Medical Marijuana Sales:** means the purchase, sale, transfer or delivery of marijuana, cannabis, cannabis-based products or cannabis plant(s) when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law.

**Personal caregiver:** means a person who is at least 21 years old who has agreed to assist with a qualifying patient's medical use of marijuana and has a caregiver identification card issued by the Florida Department of Health. A personal caregiver may assist no more than five qualifying patients at one time. An employee of a hospice provider, nursing or medical facility may serve as a personal caregiver to more than give qualifying patients as permitted by the Florida Department of Health. Personal caregivers are prohibited from consuming marijuana obtained for the personal, medical use by the qualifying patient.

**Qualifying patient:** means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient

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identification card. If the Florida Department of Health does not begin issuing identification cards within nine months after the effective date of the Constitutional amendment, then a valid physician certification will serve as a patient identification card in order to allow a person to become a “qualifying patient” until the Florida Department of Health begins issuing identification cards.

2. Revising Section 3-9-39. Office, Medical and Institutional by adding Medical Marijuana Dispensary and Medical Marijuana Treatment Center as a Special Exception.
3. Revising Section 3-9-81. Pain Management Clinics and Medical Marijuana by setting location criteria in order to prohibit the growth of Marijuana, Marijuana Farms, Marijuana Sales, Medical Marijuana Dispensaries and Medical Marijuana Treatment Centers within Charlotte County. (Attachment 1)

### **Recommendation**

Staff is recommending the Board approve revisions to Section 3-9-2. Rules of Construction; Definitions, Section 3-9-39. Office, Medical and Institutional, and Section 3-9-81. Pain Management Clinics and Medical Marijuana.

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1 **Sec. 3-9-~~90.181~~. Pain Mmanagement Clinics, and Medical Marijuana**

2 (a) *Intent.* The intent of this section is to provide development, location, and operation criteria for pain  
3 management clinics and medical marijuana in order to protect the health, safety, and welfare of the  
4 general public.

5 (b) *Applicability.* This section is applicable to all pain management clinics and medical marijuana within  
6 unincorporated Charlotte County.

7 (c) The growth of marijuana and operation of a marijuana farm shall be prohibited within the County.

8 (d) Operation of a medical marijuana dispensary, operation of a medical marijuana treatment center, or  
9 the sale or dispensation of medical marijuana shall be only allowed under a Special Exception within  
10 the Office, Medical, and Institutional (OM) Zoning.

11 (e) *Separation requirements.* Pain management clinics and pharmacies shall not be colocated on the  
12 same property. Further, pain management clinics shall not operate within ~~one thousand (1,000)~~ feet  
13 of any pharmacy, school, day care center (child), or house of worship. Pain management clinics also  
14 shall not operate within two (2) miles of Interstate 75. Pain management clinics shall not operate  
15 within five (5) miles of another pain management clinic. Distances shall be measured by a straight  
16 line without regard to intervening buildings from the centerpoint of the building within which the  
17 proposed pain management clinic is to be located to the centerpoint of the building in which the  
18 pharmacy, school, day care facility, or place of worship is located, or centerpoint of the right-of-way  
19 for Interstate 75. The use of aerial maps and a geographic information system shall be a sufficient  
20 method to measure any separation distance.

21 (f) *Location requirement.* The sale or dispensation of medical marijuana and operation of a medical  
22 marijuana treatment center shall be prohibited within 1,000 feet of any established school, day care  
23 center (child), or house of worship. The distance of 1,000 feet shall be measured as the shortest  
24 distance between the lot on which the existing school, day care center (child), or house of worship is  
25 located and the lot on which medical marijuana is to be sold.

26 (g) *Operating hours.* Pain management clinics—clinics, operation of a medical marijuana dispensary,  
27 operation of a medical marijuana treatment center, or the sale or dispensation of medical marijuana  
28 shall only be allowed to operate between 7:00 a.m. and 7:00 p.m., Monday through Friday, and  
29 between 7:00 a.m. and 12:00 p.m. on Saturdays, and—Pain management clinics shall not operate on  
30 Sundays.

31 (Ord. No. 2011-030, § 4, 7-26-11)

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33  
34 **Attachment 1**