AGENDA
Regular City Commission Meeting

6:00 PM - Thursday, November 19, 2020 - City Hall

INVOCATION

PLEDGE OF ALLEGIANCE: VICE MAYOR LEE

CALL TO ORDER

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

1. AGENDA UPDATE

2. PRESENTATIONS

   2.1 Recognition of Eagle Scout designees from Troop 250
   Staff Report #20-0253 - Html,Staff Report #20-0253 - Html

   2.2 Presentation of Quarterly Report by Spencer Follmar, SpenceTF LLC, regarding drive-in theater project
   Staff Report #20-0252 - Html

3. AUDIENCE TO BE HEARD

4. CONSENT AGENDA

   4.1 Resolution Number 20-83: Purchase in excess of $50,000 for a 2020 John Deere 5090E Tractor and Rhino TS12 Bush Hog
   Staff Report #20-0238 - Html
   Resolution No. 20-83

   4.2 Resolution Number 20-85: Bid Award for the Continuing Services Agreement for Roofing Construction for Various City Projects
   Staff Report #20-0248 - Html
   Resolution No. 20-85 Continuing Services For Roofing Projects

   4.3 Resolution Number 20-86: Expressing support for the Lake County Commission proposal to the Florida Association of Counties to amend the allowed use of the Tourist Development Tax
   Staff Report #20-0254 - Html
   FAC Policy Proposal_8-13-20_final
   Resolution No. 20-86

5. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS

   5.1 Ordinance Number 20-44: Amendment to Chapter 100 of the Land Development Regulations
   Staff Report #20-0250 - Html
   Staff Report Ordinance No. 20-44
   Ordinance No. 20-44 LDR Amendment

5.2 Ordinance Number 20-45: Amendment to the Land Development Regulations, Chapter 109, Section 109-4 Use Regulations Table

Staff Report #20-0251 - Html
Staff Report Ordinance No. 20-45
Ordinance No. 20-45 LDR Amendment

5.3 Ordinance Number 20-46: Amending Chapter 100 of the Land Development Regulations - Definition of Pharmacy to Include Dispensaries of Medical Marijuana (Cannabis)

Staff Report #20-0249 - Html
Staff Report Ordinance No. 20-46 (1)
Ordinance No. 20-46 LDR Amendment
FS 381.986 Current FS 2020

6. OTHER BUSINESS

7. FUTURE AGENDA ITEMS

8. COMMENTS

8.1 City Commission

8.2 City Manager

8.3 City Attorney

8.4 Mayor

9. ADJOURNMENT

This Agenda is provided to the Commission only as a guide, and in no way limits their consideration to the items contained hereon. The Commission has the sole right to determine those items they will discuss, consider, act upon, or fail to act upon. Changes or amendments to this Agenda may occur at any time prior to, or during the scheduled meeting. It is recommended that if you have an interest in the meeting, you make every attempt to attend the meeting. This Agenda is provided only as a courtesy, and such provision in no way infers or conveys that the Agenda appearing here is, or will be the Agenda considered at the meeting.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (Florida Statutes, 286.0105). In accordance with the Americans with Disabilities Act of 1990, persons needing a special accommodation to participate in this proceeding should contact the City Clerk 48 hours prior to any meeting so arrangements can be made. Telephone (352) 483-5430 for assistance.

"Any invocation that may be offered before the official start of the Commission meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Commission and the public. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Commission, and the Commission is not allowed by law to endorse the religious beliefs or views of this, or any other speaker.

City of Eustis
P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission

FROM: Ronald Neibert, City Manager

DATE: November 19, 2020

RE: RECOGNITION OF EAGLE SCOUT DESIGNEES FROM TROOP 250

Introduction:
Eustis Boy Scout Troop 250 recently designated four outstanding Scouts as Eagle Scouts. Mayor Holland will present each Scout with a Certificate of Recognition on behalf of the City. The Scouts to be recognized are Andrew Bartels, Gauge Simpson, Eli Smith and Hunter Wiedeman.

Reviewed by:

Ronald Neibert, City Manager	Approved - 13 Nov 2020
Mary Montez, City Clerk	Approved - 13 Nov 2020

City of Eustis
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Staff Report

TO: Eustis City Commission

FROM: Ronald Neibert, City Manager

DATE: November 19, 2020

RE: PRESENTATION OF QUARTERLY REPORT BY SPENCER FOLLMAR, SPENCETF LLC, REGARDING DRIVE-IN THEATER PROJECT

Introduction:
Pursuant to the Commission's request, Spencer Follmar, representing SpenceTF LLC, will present a quarterly report regarding the progress on the due diligence and plans for the drive-in theater project.

Reviewed by:

Ronald Neibert, City Manager	Approved - 13 Nov 2020
Mary Montez, City Clerk	Approved - 13 Nov 2020

City of Eustis
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Staff Report

TO: Eustis City Commission

FROM: Ronald Neibert, City Manager

DATE: November 19, 2020

RE: RESOLUTION NUMBER 20-83: PURCHASE IN EXCESS OF $50,000 FOR A 2020 JOHN DEERE 5090E TRACTOR AND RHINO TS12 BUSH HOG

Introduction:

Resolution Number 20-83 approves an expenditure in excess of $50,000 and authorizes the Finance Director to execute an agreement with Everglades Farm Equipment for the purchase of a 2020 John Deere 5090E tractor with a Rhino TS12 bush hog.

Background:

The Wastewater Department's tractor is due for replacement. The approved FY 2020-21 Capital Budget includes an allocation of $70,000 for the purchase of a new one. Staff has secured a quote from Everglades Farm Equipment, in Leesburg, Florida, based on piggybacking the Florida Sheriff's Association Contract FSA20-EQU18.0

The 2020 John Deere 5090E Utility Tractor is equipped with power reverse transmission, standard cab, mechanical suspension seat, and four-wheel drive for a cost of $54,965. The 2020 Rhino TS12 bush hog attachment is priced at $11,549, with a total cost of $66,514. With piggybacking the FSA Contract, the City will see a cost savings of $12,783.15

This replacement tractor is essential to scour and maintain the RIBs (Rapid infiltration Basins) at the Eastern Wastewater Treatment Facility. The facility increased from two RIBs to six RIBS after the 2018 plant expansion. The RIBs must be scoured a minimum of once a week, sometimes more often, to maintain function.

The approved 2020-2021 Capital Improvement Plan has $70,000 programmed for this purchase in Account #042-8600-535-66-53. The City Purchasing Ordinance requires that the City Commission approve any purchase exceeding $50,000.

Recommended Action:

Staff recommends approval of Resolution Number 20-83.

Alternatives:
Alternatives:

1. Approve Resolution Number 20-83
2. Reject Resolution Number 20-83

Discussion of Alternatives:

1. Alternative 1 would approve Resolution Number 20-83.
   Advantages:
- The City would have new, reliable equipment for maintaining the Eastern WWTP's operations.
- The action is consistent with the approved 2020/21 Capital Budget.

  Disadvantages:
- The action approves an expenditure of $66,514.

2. Alternative 2 would reject Resolution Number 20-83.

   Advantages:
- There are no advantages to rejecting this action.

  Disadvantages:
- The City would not have reliable equipment for maintaining the Rapid Infiltration Basins and emergency operations.

Reviewed By:
Bill Johnston, Wastewater Superintendent
Sally Mayer, Administrative Assistant-Public Utilities

Prepared By:
Vicky McGhee, Senior Staff Assistant-Wastewater

Attachments:
Resolution Number 20-83
Quote available upon request

Budget Impact:
The funds for the proposed purchase have been included in the approved Fiscal Year 2020/2021 CIP budget, Account #042-8600-535-66-53.

Attachments:
Resolution No. 20-83

Reviewed by:

Ronald Neibert, City Manager Approved - 29 Oct 2020

Mary Montez, City Clerk Approved - 30 Oct 2020

RESOLUTION NUMBER 20-83

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA, APPROVING AN EXPENDITURE IN EXCESS OF $50,000 FOR A 2020 JOHN DEERE 5090E TRACTOR AND BUSH HOG.

WHEREAS, the City of Eustis Wastewater Department's utility tractor is scheduled for replacement; and

WHEREAS, Staff has sufficient funding for this equipment within the approved FY 2020/2021 Capital Improvement Budget; and

WHEREAS, Staff has located a tractor with bush hog attachment through Everglades Farm Equipment, piggybacking Florida Sheriff's Association contract FSA20-EQU18.0; and

WHEREAS, City of Eustis Purchasing Ordinance requires the City Commission approve any purchase in excess of $50,000.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Eustis, Lake County, Florida, as follows:

(1) That the City Commission hereby authorizes a purchase in excess of $50,000 to purchase a 2020 John Deere tractor and bush hog attachment from Everglades Farm Equipment.

(2) That the City Commission hereby authorizes the City Manager to execute all agreements and contracts associated with the approved purchase.

DONE AND RESOLVED this 19th day of November 2020, in regular session of the City Commission of the City of Eustis, Florida.

CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA

_____

Michael L. Holland
Mayor/Commission

er

ATTEST:

_____

Mary C.
Montez, City
Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me, by physical presence, this 19th day of November, 2020, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

_____
Notary Public -
State of Florida
My Commission
Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content for the use and reliance of the City Commission of the City of Eustis, Florida.

_____
City Attorney's Office

Date

CERTIFICATE OF POSTING

The foregoing Resolution Number 20-83 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

_____
Mary C. Montez, City Clerk

City of Eustis
P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission

FROM: Ronald Neibert, City Manager

DATE: November 19, 2020

RE: RESOLUTION NUMBER 20-85: BID AWARD FOR THE CONTINUING SERVICES AGREEMENT FOR ROOFING CONSTRUCTION FOR VARIOUS CITY PROJECTS

Introduction:
Resolution Number 20-85 awards RFQ Number 010-20 to both Advanced Roofing and Eustis Roofing; and authorizes the City Manager to execute agreements with them for continuing services for various roofing and replacement construction throughout the City.

Background:
On October 8, 2020, the Purchasing Department advertised a Request for Qualifications for a Continuing Services Contract to provide construction services for roofing and replacement at various projects throughout the City. The department received two responses on November 3, 2020. The Evaluation Committee met on Thursday, November 5, 2020, to review and rank the proposals. The Evaluation Committee chose both respondents, Advanced Roofing and Eustis Roofing, as the Number 1 choices based on the proposal responses. (Evaluation sheet available upon request.)

Services will be used for various projects as identified by City Staff. Under these agreements, the contractors will provide all labor, supervision, equipment, machinery, tools, materials, transportation, and other incidentals required for roofing repairs and replacement within the City. There are no minimum or maximum quantities of work guaranteed under these contracts. The pre-qualified contractors will be invited to submit bids for the Repair and Replacement of roofs throughout the City in an “as-needed” basis for an initial contract period of three years with three one-year renewals, upon mutual consent of both parties.

Recommended Action:
Staff recommends approval of Resolution Number 20-85.

Alternatives:
Alternatives:
1. Approve Resolution Number 20-85.

2. Defeat Resolution Number 20-85.

Discussion of Alternatives:

1. Alternative 1 approves the Resolution.
   Advantages:
   - The City's Public Works employees will be freed up to work on other pertinent projects while the ongoing roofing construction/repairs will continue to progress.
   - The Companies perform on an as-needed basis, and the City does not guarantee any minimum amount of work throughout the term of the agreement. There is no recurring cost commitment.
   - Each individual project will be separately negotiated under a Guaranteed Maximum Price (GMP) cost proposal for completing the work.

   Disadvantages:
   - There are no disadvantages to this resolution.

2. Alternative 2 defeats the Resolution.
   Advantages:

- The City incurs no additional expense.

Disadvantages:

- Valuable city staff time would be expended on roofing maintenance rather than using their expertise on furthering capital improvements projects.

Reviewed By:
Rick Gierok, P.E., Director of Public Works/City Engineer

Prepared By:
Sally Mayer, Administrative Assistant, Public Utilities

Attachments:

- Resolution Number 20-85

Budget Impact:

1. Budget Impact: The FY 2020/21 Capital Improvement Budget includes funding for this service.
2. Staffing Impact: Public Works staff will manage the roofing and replacement construction contracts.

Attachments:
Resolution No. 20-85 Continuing Services For Roofing Projects

Reviewed by:

Ronald Neibert, City Manager	Approved - 13 Nov 2020
Mary Montez, City Clerk	Approved - 13 Nov 2020

RESOLUTION NUMBER 20-85

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA, AWARDING RFQ NUMBER 010-20 TO TWO RECIPIENTS, ADVANCED ROOFING AND EUSTIS ROOFING, FOR THE CONTINUING SERVICES AGREEMENT FOR VARIOUS ROOFING AND REPLACEMENT CONSTRUCTION PROJECTS THROUGHOUT THE CITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACTS.

WHEREAS, the City of Eustis, Florida, advertised invitations to bid for continuing services for Citywide Annual Roofing and Replacement Services RFQ Number 010-20, on October 8, 2020; and

WHEREAS, the City received two replies on November 3, 2020, in response to said invitation; and

WHEREAS, both Advanced Roofing and Eustis Roofing submissions were responsible bidders possessing the required qualifications and experience to perform the roofing services; and

WHEREAS, the City has budgeted adequate funds to cover the costs associated with these Continuing Services Agreements.

NOW, THEREFORE, BE IT RESOLVED, by the City Commission of the City of Eustis as follows:

(1) That the City Manager is hereby authorized to accept the submissions from Advanced Roofing of Sanford, Florida; and Eustis Roofing of Tavares, Florida based on the experience and qualifications submitted in their proposals for continuing services for roofing and replacement construction; and

(2) That the City Manager is hereby authorized to execute all agreements and contracts with both Advance Roofing and Eustis Roofing according to the advertised scope of work.

DONE AND RESOLVED, this 19th day of November, 2020, in regular session of the City Commission of the City of Eustis, Lake County, Florida.

CITY COMMISSION OF THE
CITY OF EUSTIS, FLORIDA

_____
Michael L. Holland
Mayor/Commissioner

ATTEST:

_____
Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me, by physical presence, this 19th day of November, 2020, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

_____
Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content for the use and reliance of the City Commission of the City of Eustis, Florida.

_____
City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Resolution Number 20-85 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

_____
Mary C. Montez, City Clerk

City of Eustis
P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission

FROM: Ronald Neibert, City Manager

DATE: November 19, 2020

RE: RESOLUTION NUMBER 20-86: EXPRESSING SUPPORT FOR THE LAKE COUNTY COMMISSION PROPOSAL TO THE FLORIDA ASSOCIATION OF COUNTIES TO AMEND THE ALLOWED USE OF THE TOURIST DEVELOPMENT TAX

Introduction:
The Board of County Commissioners submitted a policy proposal to the Florida Association of Counties to support an amendment to the Tourist Development Tax. The amendment, if approved by the Legislature, would allow TDT monies to be used to cover the costs of PD&E or other planning studies for trails and other allowable infrastructure. County Attorney Melanie Marsh has reached out to the cities with a sample resolution of support. A draft resolution will be attached the first of the week.

Background:
Attached is a copy of the Florida Association of Counties policy proposal and Resolution Number 20-86 expressing the City Commission's support for the policy amendment.

Attachments:
Resolution No. 20-86
FAC Policy Proposal_8-13-20_final

Reviewed by:

Ronald Neibert, City Manager	Approved - 13 Nov 2020
Mary Montez, City Clerk	Approved - 13 Nov 2020

EXPAND THE USE OF TOURIST DEVELOPMENT TAX TO ALLOW FOR PLANNING STUDIES

FAC STAFF RECOMMENDATION:

PROPOSED POLICY STATEMENT:
SUPPORT the amendment to Section 125.0104, Florida Statutes, to expand the use of the Tourist Development Tax to pay for feasibility and Planning, Design and Environment (PD&E) studies for eligible projects.

BACKGROUND:
Section 125.0104, Florida Statutes, allows counties to impose a tax within its boundaries on transient rental transactions. Subsection (5)(a)1 allows the funds to be used to "acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote" a variety of tourism-related venues; but by listing in such detail how the money can be spent, the statute effectively disallows the use of the funds for feasibility and PD&E studies which are an integral part of acquiring and constructing these kinds of infrastructure.

In 2018, the Legislature amended Section 125.0104(5), Florida Statutes, and added a new subsection that allows counties receiving more than $10 million in tourist development taxes each fiscal year to use those funds for any "related land acquisition, land improvement, *design and engineering costs, and all other professional and related costs* required to bring public facilities into service." Although the 2018 amendment also expanded the types of tourism-related facilities that could be funded to include roads, sewer, solid waste and other types of infrastructure, the Legislature also recognized that design and engineering was an integral part of bringing those facilities in service.

That same analysis should be applied and the statute clarified so counties that receive less than $10 million in tourism dollars have the same opportunity to utilize those funds for design and engineering costs associated with the allowable uses under Section 125.0104(5)(a) and (5)(b), Florida Statutes. See Exhibit A for proposed language.

ANALYSIS:
Lake County and other counties throughout Florida should be treated equally when it comes to funding engineering and design costs associated with bringing tourism-related facilities in service.

FISCAL IMPACT:
By expanding the use of tourism dollars to fund design and engineering of allowable facilities, facilities could potentially come in service quicker as local governments would not have to allocate dollars from other funding sources to pay for this integral part of developing a tourism-related facility.

SUBMITTING COUNTY: Lake County, Florida

ASSIGNED COMMITTEE:

BOARD SUPPORT:

EXHIBIT A

PROPOSED AMENDMENTS TO SECTION 125.0104(5), FLORIDA STATUTES
(Tourist Development Tax; procedure for levying; authorized users; referendum; enforcement)

(5) AUTHORIZED USES OF REVENUE.—

(a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:

1. To plan through the use of feasibility studies, acquire, design, engineer, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:

a. Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district in which the tax is levied;

b. Auditoriums that are publicly owned but are operated by organizations that are exempt from federal taxation pursuant to 26 U.S.C. s. 501(c)(3) and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied; or

c. Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;

2. To promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;

3. To promote and advertise tourism in this state and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

4. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency;

5. To finance beach park facilities, or beach, channel, estuary, or lagoon improvement, maintenance, renourishment, restoration, and erosion control, including construction of beach groins and shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, channel, estuary, lagoon, or inland lake or river. However, any funds identified by a county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan of the state's Beach Management Plan, pursuant to s. 161.091, or funds contractually obligated by a county in the financial plan for a federally authorized shore protection project may not be used or loaned for any other purpose. In counties of fewer than 100,000 population, up to 10 percent of the revenues from the tourist development tax may be used for beach park facilities; or

6. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or finance public facilities within the boundaries of the county or subcounty special taxing district in which the tax is levied, if the public facilities are needed to increase tourist-related business activities in the county or subcounty special district and are

recommended by the county tourist development council created pursuant to paragraph (4)(e). Tax revenues may be used for any related land acquisition, land improvement, design and engineering costs, and all other professional and related costs required to bring the public facilities into service. As used in this subparagraph, the term "public facilities" means major capital improvements that have a life expectancy of 5 or more years, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, and pedestrian facilities. Tax revenues may be used for these purposes only if the following conditions are satisfied:

a. In the county fiscal year immediately preceding the fiscal year in which the tax revenues were initially used for such purposes, at least $10 million in tourist development tax revenue was received;

b. The county governing board approves the use for the proposed public facilities by a vote of at least two-thirds of its membership;

c. No more than 70 percent of the cost of the proposed public facilities will be paid for with tourist development tax revenues, and sources of funding for the remaining cost are identified and confirmed by the county governing board;

d. At least 40 percent of all tourist development tax revenues collected in the county are spent to promote and advertise tourism as provided by this subsection; and

e. An independent professional analysis, performed at the expense of the county tourist development council, demonstrates the positive impact of the infrastructure project on tourist-related businesses in the county.

Subparagraphs 1. and 2. may be implemented through service contracts and leases with lessees that have sufficient expertise or financial capability to operate such facilities.

(b) Tax revenues received pursuant to this section by a county of less than 950,000 population imposing a tourist development tax may only be used by that county for the following purposes in addition to those purposes allowed pursuant to paragraph (a): to plan through the use of feasibility studies, acquire, design, engineer, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more zoological parks, fishing piers, trails, or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. All population figures relating to this subsection shall be based on the most recent population estimates prepared pursuant to the provisions of s. 186.901. These population estimates shall be those in effect on July 1 of each year.

(c) A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, which meets the following criteria may use up to 10 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical services as defined in s. 401.107(3), and law enforcement services, which are needed to address impacts related to increased tourism and visitors to an area. However, if taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency

medical services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:

1. Generate a minimum of $10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section;

2. Have at least three municipalities; and

3. Have an estimated population of less than 225,000, according to the most recent population estimate prepared pursuant to s. 186.901, excluding the inmate population.

The board of county commissioners must by majority vote approve reimbursement made pursuant to this paragraph upon receipt of a recommendation from the tourist development council.

(d) The revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in subparagraphs (a)1., 2., and 5. or for the purpose of refunding bonds previously issued for such purposes, or both; however, no more than 50 percent of the revenues from the tourist development tax may be pledged to secure and liquidate revenue bonds or revenue refunding bonds issued for the purposes set forth in subparagraph (a)5. Such revenue bonds and revenue refunding bonds may be authorized and issued in such principal amounts, with such interest rates and maturity dates, and subject to such other terms, conditions, and covenants as the governing board of the county shall provide. The Legislature intends that this paragraph be full and complete authority for accomplishing such purposes, but such authority is supplemental and additional to, and not in derogation of, any powers now existing or later conferred under law.

(e) Any use of the local option tourist development tax revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraphs (a)-(d) of this subsection is expressly prohibited.

RESOLUTION NUMBER 20-86

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA; SUPPORTING THE FLORIDA ASSOCIATION OF COUNTIES ADOPTING A POLICY STATEMENT TO EXPAND THE USE OF TOURIST DEVELOPMENT TAXES FOR FEASIBILITY STUDIES, DESIGN AND ENGINEERING COSTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in August 2020, the Lake County Board of County Commissioners submitted a proposed policy statement to the Florida Association of Counties (FAC) for consideration; and

WHEREAS, the proposed policy statement recommended that FAC support an amendment to Section 125.0104, Florida Statutes, to expand the use of the Tourist Development Tax to pay for feasibility, Planning, Design and Environment (PD&E) studies for eligible projects; and

WHEREAS, in 2018 the Florida Legislature amended Section 125.0104, Florida Statutes, to include as an allowable use design and engineering costs and other professional fees to bring public facilities into service but only for counties that received more than $10,000,000 in tourist development funding; and

WHEREAS, the proposed amendment would provide the same ability for counties that receive less than $10,000,000 in tourist development funding to cover the costs for planning studies needed to bring public facilities into service such as multi-use trails; and

WHEREAS, the Eustis City Commission supports the FAC adopting the Tourist Development Tax policy statement;

NOW, THEREFORE, BE IT RESOLVED BY THE EUSTIS CITY COMMISSION AS FOLLOWS:

SECTION 1. That the above stated recitals are incorporated herein.

SECTION 2. That the Eustis City Commission supports the Florida Association of Counties adopting the Tourist Development Tax policy statement which proposes an amendment to Section 125.0104, Florida Statutes, to allow as an eligible expense feasibility studies and design and engineering costs to bring eligible public facilities into service.

DONE AND RESOLVED this 19th day of November 2020 in regular session of the City Commission of the City of Eustis, Florida.

CITY COMMISSION OF THE
CITY OF EUSTIS, FLORIDA

_____

Michael L. Holland
Mayor/Commissioner

ATTEST:

_____
Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me, by physical presence, this 19th day of November, 2020, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

_____
Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content for the use and reliance of the City Commission of the City of Eustis, Florida.

_____
City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Resolution Number 20-86 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

_____
Mary C. Montez, City Clerk

City of Eustis
P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission

FROM: Ronald Neibert, City Manager

DATE: November 19, 2020

RE: ORDINANCE NUMBER 20-44: AMENDMENT TO CHAPTER 100 OF THE LAND DEVELOPMENT REGULATIONS

Introduction:
Ordinance Number 20-44 amends the Land Development Regulations, Chapter 100, Definitions to eliminate ambiguity, clarify the City Commission's legislative intent, and provide for consistency with the Comprehensive Plan.

Background:
See attached Staff Report.

Recommended Action:
The administration recommends approval of Ordinance Number 20-44.

Alternatives:
1. Approve Ordinance Number 20-44
2. Deny Ordinance Number 20-44

Attachments:
Staff Report Ordinance No. 20-44
Ordinance No. 20-44 LDR Amendment

Reviewed by:

City of Eustis
P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

TO: EUSTIS CITY COMMISSION

FROM: RONALD R. NEIBERT, CITY MANAGER

DATE: NOVEMBER 5, 2020

RE: ORDINANCE NUMBER 20-44: AMENDMENT TO CHAPTER 100 OF THE LAND DEVELOPMENT REGULATIONS

Introduction:
Ordinance Number 20-44 amends the Land Development Regulations, Chapter 100, Definitions to eliminate ambiguity, clarify the City Commission's legislative intent, and provide for consistency with the Comprehensive Plan.

Recommended Action:
The administration recommends approval of Ordinance Number 20-44.

Background:
Periodic revisions and updates to the Land Development Regulations eliminate ambiguity, clarify the City Commission's legislative intent, and provide for consistency with the Comprehensive Plan. The following outlines the proposed amendments and discusses the reasons for clarifying the language:

Chapter 100, Definitions:

A. Amend the definition of abut or abutting as follows:

Abut or abutting. To physically touch or border upon, not separated by a right-of-way or street~~; or to share a common property line or be separated from such a common border by a right-of-way, alley, or easement of record~~.

The word abut or abutting is used fifteen times in the Land Development Regulations (LDRs). (Used twelve times in the Code of Ordinances). The definition in Chapter 100 is applicable to regulations in three different chapters of the LDRs. (Chapters 102, 109 and 115). In several instances, the word abut, as defined, significantly impacts the applicability of design district regulations and residential compatibility; and such definition creates ambiguity in application of the regulations.

The LDR definition which currently includes the phrase, "or to share a common property line or be separated from a common border by a right-of-way, alley, or easement of record," is contrary to the common definition of abut, which is defined by the Oxford Dictionary as:

abut

(of an area of land or a building) be next to or have a common boundary with.

'gardens abutting Prescott Street'

Touch or lean on. 'masonry may crumble where a roof abuts it'

As an example of the ambiguity in the language, Section 102-24 – Modifications to approved PUD overlay site plans/preliminary plats addresses triggers which determine if a modification is minor or substantial. In some cases, the determine is made based on distances from the boundary of the property or portions of the property. The table footnote states, "*The measurement of distances in the table above shall include only abutting property, and shall not include any property across a street," which language is contrary to the definition of abut or abutting in Chapter 100.

Another example applies to Section 115-3.2.(c) of the Land Development Regulations (LDRs), states the following:

> ***Transitions within a design district/edge condition standards. When any suburban design district abuts an existing development, whether residential or commercial, the following shall occur:***
>
> ***(1) The new residential building lot typologies that are proposed adjacent to existing or platted residential lots may not be smaller than 85 percent of the lot width or intensity of the existing adjacent residential lot(s).***

While the introductory paragraph discusses abutting existing development, paragraph (1) requires application of the regulation to adjacent existing or platted residential lots. The LDRs define abut or abutting as, "To physically touch or border upon; or to share a common property line or be separated from such a common border by a right-of-way, alley, or easement of record." But, the regulations do not specifically define "adjacent," rather directing the definition as generally accepted in common usage. The Oxford Dictionary defines adjacent as:

adjacent
Next to or adjoining something else. 'adjacent rooms'
Geometry (of angles) having a common vertex and a common side.

Therefore, practical application of the regulations is open to more than one interpretation (ambiguous):

1. ***Application of the regulation to mean abut and adjacent are synonymous, therefore requiring lot widths of new lots across a right-of-way, alley, or***

easement of record to be 85% of the width of lots in existing abutting developments; or

2. ***Application of the regulation to mean lot sizes in abutting developments are reviewed, yet requiring lot widths of new lots only where adjoining/having a common boundary to be 85% of the width of lots in existing adjacent developments.***

The proposed definition change eliminates ambiguity and clarifies the legislative intent of the City Commission.

B. Amend the definition of impervious surface, maximum as follows:

Impervious surface, maximum. Determined by dividing the gross impervious surface of all impervious surfaces and structures on a building lot by the total area of the building lot.

The Land Development Regulations define impervious surface as, "Any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including compacted sand, clay, or lime rock, as well as most conventionally surfaced streets, roofs, sidewalks, and parking lots." Yet the definition of maximum impervious surface incorrectly directs to consider only structures on a building lot.

The proposed definition change eliminates ambiguity, ensures the proper calculation of maximum impervious surface area, and provides for consistency with the Comprehensive Plan.

C. Amend the definition of open space, as follows:

Open space. By calculation, that minimum proportion of a site that is devoted to open space and designated to regulate the intensity of development and preserve natural areas; the land area that remains undeveloped or minimally developed, such as trails and boardwalks, as part of a natural resource preserve, active or passive recreation areas and land preserved for conservation purposes. Open space may also include landscape buffers and common landscaped areas of the development. Open space excludes water bodies, wetlands, private residential lots [with exception of section 115-4.1(a)], street rights-of-way, and impervious surfaces (unless otherwise provided as a part of a recreational facility). Golf courses shall be generally excluded with the exception that areas of a golf course that are naturally vegetated and not subject to chemical application may be credited towards the minimum open space requirements, and provided that the golf course is certified as being in compliance with best management practices described in "Protecting Florida's Springs-Land Use Planning Strategies and Best Management Practices" (DCA/DEP - November, 2002). No more than 50 percent of the pervious area

occupied by a golf course may count toward the minimum open space requirement. Open space may include permeable stormwater management areas if enhanced as amenities to the development consistent with the standards provided in ~~section 115-5 (e)~~ Section 115-4.9(d). Open space shall be calculated as a percentage of the net buildable acreage of a parcel, where net buildable acreage is defined as the total acreage less wetlands and water bodies.

The proposed definition change updates the section referencing stormwater regulations and design as an amenity, which section was renumbered via a prior LDR amendment.

Alternatives:

1. Approve Ordinance 20-44
2. Deny Ordinance Number 20-44.

Discussion of Alternatives:

1. Alternative 1 approves Ordinance 20-44.

   Advantages:
   - Approval of the amendments are necessary to eliminate ambiguity, clarify the City Commission's legislative intent, and provide for consistency with the Comprehensive Plan.
   - The action is consistent with the goals, objectives, and policies of the Comprehensive Plan.

   Disadvantages:
   - There are no disadvantages to approving the ordinance.

2. Alternative 2 denies Ordinance Number 20-44.

   Advantages:
   - The City Commission could consider other revisions to the Land Development Regulations.

   Disadvantages:
   - The City can expect ongoing issues with conflicting interpretations regarding applicability of regulations due to ambiguity.
   - The Land Development Regulations would be inconsistent with the Comprehensive Plan.

Community Input

Development Services has properly advertised the ordinance and there is an opportunity for community input at the public hearing.

Budget / Staff Impact:

None

Prepared By:

Lori Barnes, AICP, CPM, Development Services Director

Attachments: Ordinance Number 20-44

ORDINANCE NUMBER 20-44

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS, CHAPTER 100, DEFINITIONS; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Eustis City Commission adopted revised Land Development Regulations under Ordinance 09-33 on July 16, 2009, amended by Ordinance 15-13 on October 1, 2015, Ordinance 16-18 on April 7, 2016, Ordinance 16-13 on May 19, 2016, Ordinance 16-31 on December 15, 2016, Ordinance 17-17 on November 2, 2017, Ordinance 19-12 on June 6, 2019, and Ordinance 19-22 on August 1, 2019; and

WHEREAS, the City Commission finds it necessary to periodically revise and update the Land Development Regulations; and

WHEREAS, the City Commission finds the proposed revisions are necessary to eliminate ambiguity, clarify the City Commission's legislative intent, and provide for consistency with the Comprehensive Plan; and

WHEREAS, the Local Planning Agency reviewed the proposed revisions to the Land Development Regulations and finds them to be in compliance with the Comprehensive Plan.

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS:

SECTION 1.

That the City of Eustis Land Development Regulations are hereby amended as show in the redline/strike through below:

A. The following definitions in Chapter 100, Definitions are amended as follows while the remainder of the chapter remains unchanged:

Abut or abutting. To physically touch or border upon, not separated by a right-of-way or street~~; or to share a common property line or be separated from such a common border by a right-of-way, alley, or easement of record~~.

Impervious surface, maximum. Determined by dividing the gross impervious surface of all impervious surfaces and structures on a building lot by the total area of the building lot.

Open space. By calculation, that minimum proportion of a site that is devoted to open space and designated to regulate the intensity of development and preserve natural areas; the land area that remains undeveloped or minimally developed, such as trails and boardwalks, as part of a natural resource preserve, active or passive recreation areas and land preserved for conservation purposes. Open space may also include landscape buffers and common landscaped areas of the development. Open space excludes water bodies, wetlands, private residential lots [with exception of section 115-4.1(a)], street rights-of-way, and impervious surfaces (unless

otherwise provided as a part of a recreational facility). Golf courses shall be generally excluded with the exception that areas of a golf course that are naturally vegetated and not subject to chemical application may be credited towards the minimum open space requirements, and provided that the golf course is certified as being in compliance with best management practices described in "Protecting Florida's Springs-Land Use Planning Strategies and Best Management Practices" (DCA/DEP - November, 2002). No more than 50 percent of the pervious area occupied by a golf course may count toward the minimum open space requirement. Open space may include permeable stormwater management areas if enhanced as amenities to the development consistent with the standards provided in ~~section 115-5 (e)~~ Section 115-4.9(d). Open space shall be calculated as a percentage of the net buildable acreage of a parcel, where net buildable acreage is defined as the total acreage less wetlands and water bodies.

SECTION 2.

That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3.

That it is the intention of the City Commission of the City of Eustis that the provisions of this Ordinance shall become and be made a part of the Land Development Regulations in the City of Eustis Code of Ordinances and that the sections of this Ordinance may be re-numbered or re-lettered and the word “Ordinance” may be changed to “Section”, “Article”, or such other appropriate word or phrase to accomplish such intentions.

SECTION 4.

That should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 5.

That this Ordinance shall become effective upon passing.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this 19th day of November 2020.

CITY COMMISSION OF THE
CITY OF EUSTIS, FLORIDA

_____

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me, by physical presence, this 19th day of November, 2020, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content for the use and reliance of the City Commission of the City of Eustis, Florida.

City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 20-44 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk

City of Eustis
P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission

FROM: Ronald Neibert, City Manager

DATE: November 19, 2020

RE: ORDINANCE NUMBER 20-45: AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS, CHAPTER 109, SECTION 109-4 USE REGULATIONS TABLE

Introduction:
Ordinance Number 20-45 amends the Land Development Regulations, Chapter 109, Section 109-4 Use Regulations Table to provide for consistency with the Comprehensive Plan, and clarify the City Commission's legislative intent.

Background:
See attached Staff Report.

Recommended Action:
The administration recommends approval of Ordinance Number 20-45.

Alternatives:
1. Approve Ordinance Number 20-45
2. Deny Ordinance Number 20-45.

Attachments:
Staff Report Ordinance No. 20-45
Ordinance No. 20-45 LDR Amendment

Reviewed by:

City of Eustis
P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

TO: EUSTIS CITY COMMISSION

FROM: RONALD R. NEIBERT, CITY MANAGER

DATE: NOVEMBER 5, 2020

RE: ORDINANCE NUMBER 20-45: AMENDMENT TO CHAPTER 109 OF THE LAND DEVELOPMENT REGULATIONS

Introduction:
Ordinance Number 20-45 amends the Land Development Regulations, Chapter 109, Section 109-4 Use Regulations Table to provide for consistency with the Comprehensive Plan, and clarify the City Commission's legislative intent.

Recommended Action:
The administration recommends approval of Ordinance Number 20-45.

Background:
Periodic revisions and updates to the Land Development Regulations provide for consistency with the Comprehensive Plan, and clarify the City Commission's legislative intent. The following outlines the proposed amendments and discusses the reasons for clarifying the language:

<u>Chapter 109, Section 109.4 Use Regulations Table:</u>

A. Amend the Use Regulations Table to remove group homes as a permitted use in the Public Institutional land use district:

	Residential				Commercial and Industrial		Mixed Use				Other			Standards
SPECIFIC USE	RR	SR	UR	MH	GC	GI	CBD	RT	MCR	MCI	PI	AG	CON	
KEY: P = Permitted Use; L = Permitted Subject to Limitations In Standards Column; C = Conditional Use; Blank = Not Permitted														
Agricultural														
Agricultural, general	C	C	C	C	C	C	C	C	C	C		P	L,C	4
Commercial poultry farm												C		
Commercial swine farm												C		
Residential														
Accessory Apt.	C	C	P				P	P	P			C		
Bed & Breakfast	C	C	C	C	P		P	P	P			C		
Boarding and Rooming House			C		P		C	C	P					
Group Home; 6 or fewer residents	P	P	P		C		P	P	P		~~P~~	P		
Group Home; 7 or more residents	C	C	C		C		C	P	P		~~P~~	C		
Home occupation	L	L	L	L	P		P	P	P			L		6; additional standards in Sec. 110-5.9
Live Work			C				P	P	P					
Mobile Home				P								C		
Multi-family		L	P		L		P	P	P					2, 7, 8 (as part of PUD)
Recreational vehicle park				P										
Single family detached	P	P	P	P				P	P			P		
Single family attached (duplex, row house, townhouse)		P	P					P	P					

The Public and Institutional (PI) land use designation applies to public and quasi-public properties and other facilities that provide a community service. The Comprehensive Plan outlines general range of uses as follows: Uses include school, recreation, and public utility properties and other governmental facilities. Cemeteries are also included in this category.

The LDRs Use Regulation Table includes no other residential uses as permitted, conditional or limited uses in PI, and the Comprehensive Plan does not contemplate the inclusion of residential uses in the PI land use district.

This proposed amendment eliminates inconsistency with the Comprehensive Plan.

B. Amend the Use Regulations Table to add professional services and general office as a permitted use in the General Industrial land use district:

	Residential				Commercial and Industrial		Mixed Use				Other			Standards
SPECIFIC USE	RR	SR	UR	MH	GC	GI	CBD	RT	MCR	MCI	PI	AG	CON	
Vehicle service, major						P				P				
Office														
Professional services and general office			L		P	P	P	P	P	P				5,7

The absence of professional services and general office (i.e. contractor's office) as a permitted use in the General Industrial (GI) land use district is an apparent oversight that makes innumerable businesses in GI land use districts non-conforming uses.

This proposed amendment corrects an oversight.

Alternatives:

1. Approve Ordinance Number 20-45
2. Deny Ordinance Number 20-45.

Discussion of Alternatives:

1. Alternative 1 approves Ordinance Number 20-45.

   Advantages:

   - Approval of the amendments are necessary provide for consistency with the Comprehensive Plan, and clarify the City Commission's legislative intent.
   - The action is consistent with the goals, objectives, and policies of the Comprehensive Plan.

   Disadvantages:

   - There are no disadvantages to approving the ordinance.

2. Alternative 2 denies Ordinance Number 20-45.
   Advantages:
   - The City Commission could consider other revisions to the Land Development Regulations.

   Disadvantages:
   - The Land Development Regulations would be inconsistent with the Comprehensive Plan.
   - Existing office uses in General Industrial districts would remain non-conforming uses, expansion of which would not be permitted. New office uses would not be permitted to locate in General Industrial.

Community Input
Development Services has properly advertised the ordinance and there is an opportunity for community input at the public hearing.

Budget / Staff Impact:
None

Prepared By:
Lori Barnes, AICP, CPM, Development Services Director

Attachments:
Ordinance Number 20-45

ORDINANCE NUMBER 20-45

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS, SECTION 109.4 USE REGULATIONS TABLE; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Eustis City Commission adopted revised Land Development Regulations under Ordinance 09-33 on July 16, 2009, amended by Ordinance 15-13 on October 1, 2015, Ordinance 16-18 on April 7, 2016, Ordinance 16-13 on May 19, 2016, Ordinance 16-31 on December 15, 2016, Ordinance 17-17 on November 2, 2017, Ordinance 19-12 on June 6, 2019, and Ordinance 19-22 on August 1, 2019; and

WHEREAS, the City Commission finds it necessary to periodically revise and update the Land Development Regulations; and

WHEREAS, the City Commission finds the proposed revisions are necessary to provide for consistency with the Comprehensive Plan, and clarify the City Commission's legislative intent; and

WHEREAS, the Local Planning Agency reviewed the proposed revisions to the Land Development Regulations and finds them to be in compliance with the Comprehensive Plan.

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS:

SECTION 1.

That the City of Eustis Land Development Regulations are hereby amended as show in the redline/strike through below:

A. Section 109.4 Use Regulations Table is amended to remove group homes as a permitted use in the Public and Institutional land use district:

	Residential				Commercial and Industrial		Mixed Use				Other			Standards
SPECIFIC USE	**RR**	**SR**	**UR**	**MH**	**GC**	**GI**	**CBD**	**RT**	**MCR**	**MCI**	**PI**	**AG**	**CON**	
KEY: P = Permitted Use; L = Permitted Subject to Limitations In Standards Column; C = Conditional Use; Blank = Not Permitted														
Agricultural														
Agricultural, general	C	C	C	C	C	C	C	C	C	C		P	L,C	4
Commercial poultry farm												C		
Commercial swine farm												C		
Residential														
Accessory Apt.	C	C	P				P	P	P			C		
Bed & Breakfast	C	C	C	C	P		P	P	P			C		
Boarding and Rooming House			C		P		C	C	P					
Group Home; 6 or fewer residents	P	P	P		C		P	P	P		~~P~~	P		
Group Home; 7 or more residents	C	C	C		C		C	P	P		~~P~~	C		
Home occupation	L	L	L	L	P		P	P	P			L		6; additional standards in Sec. 110-5.9
Live Work			C				P	P	P					
Mobile Home				P								C		
Multi-family		L	P		L		P	P	P					2, 7, 8 (as part of PUD)

B. Section 109.4 Use Regulations Table is amended to add professional services and general office as a permitted use in the General Industrial land use district:

	Residential				Commercial and Industrial		Mixed Use				Other			Standards
SPECIFIC USE	RR	SR	UR	MH	GC	GI	CBD	RT	MCR	MCI	PI	AG	CON	
Vehicle service, major						P				P				
Office														
Professional services and general office			L		P	P	P	P	P	P				5,7

SECTION 2.
That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3.
That it is the intention of the City Commission of the City of Eustis that the provisions of this Ordinance shall become and be made a part of the Land Development Regulations in the City of Eustis Code of Ordinances and that the sections of this Ordinance may be re-numbered or re-lettered and the word "Ordinance" may be changed to "Section", "Article", or such other appropriate word or phrase to accomplish such intentions.

SECTION 4.
That should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 5.
That this Ordinance shall become effective upon passing.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this 19th day of November 2020.

CITY COMMISSION OF THE
CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me, by physical presence, this 19th day of November, 2020, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

_____
Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content for the use and reliance of the City Commission of the City of Eustis, Florida.

_____
City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 20-45 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

_____
Mary C. Montez, City Clerk

City of Eustis
P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission

FROM: Ronald Neibert, City Manager

DATE: November 19, 2020

RE: ORDINANCE NUMBER 20-46: AMENDING CHAPTER 100 OF THE LAND DEVELOPMENT REGULATIONS - DEFINITION OF PHARMACY TO INCLUDE DISPENSARIES OF MEDICAL MARIJUANA (CANNABIS)

Introduction:
Ordinance Number 20-46 amends Chapter 100 of the Land Development Regulations to provide that, for purposes of these regulations, dispensaries of medical marijuana (cannabis), shall be considered pharmacies and shall be permitted within the city limits of Eustis.

Background:
See attached Staff Report.

Recommended Action:
The City Commission has discretion whether to approve or deny Ordinance Number 20-46. Either approving the ordinance (allowing dispensaries) or denying the ordinance (leaving the current city regulations in place that ban dispensaries) is consistent with state law.

Alternatives:
1. Approve Ordinance Number 20-46.
2. Deny Ordinance Number 20-46.

Budget Impact:

Attachments:
Staff Report Ordinance No. 20-46 (1)
Ordinance No. 20-46 LDR Amendment
FS 381.986 Current FS 2020

Reviewed by:

City of Eustis
P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

TO: EUSTIS CITY COMMISSION

FROM: RONALD R. NEIBERT, CITY MANAGER

DATE: NOVEMBER 5, 2020

RE: ORDINANCE NUMBER 20-46: AMENDMENT TO CHAPTER 100 OF THE LAND DEVELOPMENT REGULATIONS

Introduction:
Ordinance Number 20-46 amends the Land Development Regulations (LDRs) by revising the definition of "Pharmacy," to provide that, for purposes of these regulations, dispensaries of medical marijuana (cannabis) shall be considered pharmacies and shall be permitted within the city limits of Eustis.

Recommended Action:
The City Commission has discretion whether to approve or deny Ordinance Number 20-46. Either approving the ordinance (allowing dispensaries) or denying the ordinance (leaving the current city regulations in place that ban dispensaries) is consistent with state law.

Background:
1. On September 21, 2017, the City Commission adopted Ordinance 17-11, excluding medical marijuana dispensaries from the definition of pharmacy and banning such dispensaries from operating in the city limits.
2. At the July 20, 2017, City Commission meeting, staff discussed the newly adopted state law that permits local governments to either treat medical marijuana dispensaries the same as pharmacies under their regulations or ban them within their jurisdictions. City Commission directed staff to prepare a draft ordinance proposing a ban for their consideration.
3. On June 23, 2017, the Florida Legislature approved amendments to Chapter 381.986 Florida Statutes to create rules for medical marijuana use, which regulations permit local governments to either ban medical marijuana dispensaries within their boundaries or treat those facilities in the same manner as pharmacies.
4. In December 2016, as part of an overall update, staff presented and City Commission considered and approved regulations to permit medical marijuana dispensaries in the same land use districts as retail pharmacies.
5. The Florida Medical Marijuana Legalization Initiative, also known as Amendment 2, was on the November 8, 2016, ballot in Florida as an initiated constitutional amendment. Medical marijuana was approved by 71% of Florida voters.

Proposed Amendment to the LDRs

Pharmacy. A place where medicines are compounded or dispensed. For purposes of these regulations, dispensaries of medical marijuana (cannabis), as permitted by the Florida Statutes and approved by the ~~Florida Health Department Office of Compassionate Use~~ **Office of Medical Marijuana Use**, Florida Health Department, shall ~~**not**~~ be considered pharmacies. ~~Furthermore, pursuant to the adoption of Ordinance 17-11, medical marijuana (cannabis) dispensaries shall be banned and prohibited within the city limits of Eustis.~~

Considerations:

- As of October 23, 2020, the Florida Department of Health reported 435,105 qualified medical marijuana patients, 2,675 qualified physicians, and 286 dispensing organizations.
- The State regulations permit municipalities to either ban or treat these facilities like pharmacies; no other restrictions may be applied by local governments, unless those restrictions are equally applied to pharmacies.
- The State regulations do not permit local governments to limit the number of dispensaries in their jurisdiction.
- The State regulations do not permit facilities within 500 feet of public or private schools.
- A medical marijuana treatment center's trade name and logo (signage) may not contain wording or images commonly associated with marketing targeted toward children or which promote recreational use of marijuana.
- Although 33 states have legalized medical marijuana, marijuana remains classified as a Schedule I substance under the Controlled Substances Act. However, Division B, Section 537 of the Consolidated Appropriations Act of 2017 signed by President Trump on May 5, 2017, prohibits the Federal Department of Justice from using any funds to prevent any state from implementing medical marijuana laws.

Alternatives:

1. Approve Ordinance Number 20-46.
2. Deny Ordinance Number 20-46.

Discussion of Alternatives:

1. Alternative 1 approves Ordinance 20-46.

   Advantages:
   - The action is consistent with state law.
   - Persons with medical marijuana prescriptions may have a more convenient location to obtain their prescription.

   Disadvantages:
   - Dispensaries may be located in the city limits without limit to the number or location beyond the distance from schools outlined in the F.S.

2. Alternative 2 denies Ordinance Number 20-46.
   Advantages:
   - The action is consistent with state law.
   - No amendment to the LDRs would be needed.

   Disadvantages:
   - No dispensaries could be located in the city limits.
   - Persons with medical marijuana prescriptions could continue to face additional cost to obtain their prescription either due to travel or payment for delivery services.

Community Input
Development Services has properly advertised the ordinance and there is an opportunity for community input at the public hearing.

Budget / Staff Impact:
None

Prepared By:
Lori Barnes, AICP, CPM, Development Services Director

Attachments:
Ordinance Number 20-46
Florida Statutes 381.986

ORDINANCE NUMBER 20-46

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA; AMENDING CHAPTER 100 OF THE LAND DEVELOPMENT REGULATIONS TO REVISE THE DEFINITION OF "PHARMACY," TO PROVIDE THAT, FOR PURPOSES OF THESE REGULATIONS, DISPENSARIES OF MEDICAL MARIJUANA (CANNABIS), AS PERMITTED BY THE FLORIDA STATUTES 381.896 AND APPROVED BY THE OFFICE OF MEDICAL MARIJUANA USE, FLORIDA HEALTH DEPARTMENT, SHALL BE CONSIDERED PHARMACIES, AND THAT SUCH DISPENSARIES SHALL BE PERMITTED WITHIN THE CITY LIMITS OF EUSTIS; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Eustis City Commission adopted revised Land Development Regulations under Ordinance 09-33 on July 16, 2009, amended by Ordinance 15-13 on October 1, 2015, Ordinance 16-18 on April 7, 2016, Ordinance 16-13 on May 19, 2016, Ordinance 16-31 on December 15, 2016, Ordinance 17-17 on November 2, 2017, Ordinance 19-12 on June 6, 2019, and Ordinance 19-22 on August 1, 2019; and

WHEREAS, on or about June 23, 2017, Florida Governor Rick Scott signed Senate Bill Number 8-A which creates a unified regulatory structure for sale, use, distribution, and consumption of medical marijuana in the state of Florida ("the legislation"); and

WHEREAS, the legislation permits a municipality to ban medical marijuana treatment center dispensing facilities by ordinance, which the Eustis City Commission banned under Ordinance Number 17-11 on September 21, 2017; and

WHEREAS, although marijuana is still illegal under federal law, Division B, Section 537 of the Consolidated Appropriations Act of 2017 signed by President Trump on May 5, 2017, prohibits the Federal Department of Justice from using any funds to prevent any state from implementing medical marijuana laws; and

WHEREAS, the Eustis City Commission, after duly noticed public hearings, now finds and has determined it is in the best interest of its citizens to allow qualified patients more convenient access to medical marijuana (cannabis) by permitting medical marijuana (cannabis) treatment center dispensing facilities within the city limits of Eustis; and

WHEREAS, the Local Planning Agency has reviewed the proposed revisions to the Land Development Regulations and found them to be in compliance with the Comprehensive Plan.

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS:

SECTION 1.

That the City of Eustis Land Development Regulations are hereby amended as shown in the redline/strike through below:

Chapter 100, Definitions: *Pharmacy*. A place where medicines are compounded or dispensed. For purposes of these regulations, dispensaries of medical marijuana (cannabis), as permitted by the Florida Statutes and approved by the ~~Florida Health Department Office of Compassionate Use~~ **Office of Medical Marijuana Use**, shall ~~**not**~~ be considered pharmacies. ~~Furthermore, pursuant to the adoption of Ordinance 17-11, medical marijuana (cannabis) dispensaries shall be banned and prohibited within the city limits of Eustis.~~

SECTION 2.
That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3.
That it is the intention of the City Commission of the City of Eustis that the provisions of this Ordinance shall become and be made a part of the Land Development Regulations in the City of Eustis Code of Ordinances and that the sections of this Ordinance may be re-numbered or re-lettered and the word "Ordinance" may be changed to "Section", "Article", or such other appropriate word or phrase to accomplish such intentions.

SECTION 4.
That should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 5.
That this Ordinance shall become effective upon passing.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this 19th day of November 2020.

CITY COMMISSION OF THE
CITY OF EUSTIS, FLORIDA

_____
Michael L. Holland
Mayor/Commissioner

ATTEST:

_____
Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me, by physical presence, this 19th day of November, 2020, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

_____
Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content for the use and reliance of the City Commission of the City of Eustis, Florida.

_____
City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 20-46 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

_____
Mary C. Montez, City Clerk

[1]**381.986 Medical use of marijuana.**—

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

(a) "Caregiver" means a resident of this state who has agreed to assist with a qualified patient's medical use of marijuana, has a caregiver identification card, and meets the requirements of subsection (6).

(b) "Chronic nonmalignant pain" means pain that is caused by a qualifying medical condition or that originates from a qualifying medical condition and persists beyond the usual course of that qualifying medical condition.

(c) "Close relative" means a spouse, parent, sibling, grandparent, child, or grandchild, whether related by whole or half blood, by marriage, or by adoption.

(d) "Edibles" means commercially produced food items made with marijuana oil, but no other form of marijuana, that are produced and dispensed by a medical marijuana treatment center.

(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 from a medical marijuana treatment center.

(f) "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 its seeds or resin, including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient.

(g) "Marijuana delivery device" means an object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing marijuana into the human body, and which is dispensed from a medical marijuana treatment center for medical use by a qualified patient, except that delivery devices intended for the medical use of marijuana by smoking need not be dispensed from a medical marijuana treatment center in order to qualify as marijuana delivery devices.

(h) "Marijuana testing laboratory" means a facility that collects and analyzes marijuana samples from a medical marijuana treatment center and has been certified by the department pursuant to s. 381.988.

(i) "Medical director" means a person who holds an active, unrestricted license as an allopathic physician under chapter 458 or osteopathic physician under chapter 459 and is in compliance with the requirements of paragraph (3)(c).

(j) "Medical use" means the acquisition, possession, use, delivery, transfer, or administration of marijuana authorized by a physician certification. The term does not include:

1. Possession, use, or administration of marijuana that was not purchased or acquired from a medical marijuana treatment center.

2. Possession, use, or administration of marijuana in the form of commercially produced food items other than edibles or of marijuana seeds.

3. Use or administration of any form or amount of marijuana in a manner that is inconsistent with the qualified physician's directions or physician certification.

4. Transfer of marijuana to a person other than the qualified patient for whom it was authorized or the qualified patient's caregiver on behalf of the qualified patient.

5. Use or administration of marijuana in the following locations:

a. On any form of public transportation, except for low-THC cannabis not in a form for smoking.

b. In any public place, except for low-THC cannabis not in a form for smoking.

c. In a qualified patient's place of employment, except when permitted 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, except as provided in s. 1006.062.

f. In a school bus, a vehicle, an aircraft, or a motorboat, except for low-THC cannabis not in a form for smoking.

6. The smoking of marijuana in an enclosed indoor workplace as defined in s. 386.203(5).

(k) "Physician certification" means a qualified physician's authorization for a qualified patient to receive marijuana and a marijuana delivery device from a medical marijuana treatment center.

(l) "Qualified patient" means a resident of this state who has been added to the medical marijuana use registry by a qualified physician to receive marijuana or a marijuana delivery device for a medical use and who has a qualified patient identification card.

(m) "Qualified physician" means a person who holds an active, unrestricted license as an allopathic physician under chapter 458 or as an osteopathic physician under chapter 459 and is in compliance with the physician education requirements of subsection (3).

(n) "Smoking" means burning or igniting a substance and inhaling the smoke.

(o) "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 without the administration of life-sustaining procedures, and will result in death within 1 year after diagnosis if the condition runs its normal course.

(2) QUALIFYING MEDICAL CONDITIONS.—A patient must be diagnosed with at least one of the following conditions to qualify to receive marijuana or a marijuana delivery device:

(a) Cancer.

(b) Epilepsy.

(c) Glaucoma.

(d) Positive status for human immunodeficiency virus.

(e) Acquired immune deficiency syndrome.

(f) Posttraumatic stress disorder.

(g) Amyotrophic lateral sclerosis.

(h) Crohn's disease.

(i) Parkinson's disease.

(j) Multiple sclerosis.

(k) Medical conditions of the same kind or class as or comparable to those enumerated in paragraphs (a)-(j).

(l) A terminal condition diagnosed by a physician other than the qualified physician issuing the physician certification.

(m) Chronic nonmalignant pain.

(3) QUALIFIED PHYSICIANS AND MEDICAL DIRECTORS.—

(a) Before being approved as a qualified physician, as defined in paragraph (1)(m), and before each license renewal, a physician must successfully complete a 2-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association which encompass the requirements of this section and any rules adopted hereunder. The course and examination shall be administered at least annually and may be offered in a distance learning format, including an electronic, online format that is available upon request. The price of the course may not exceed $500. A physician who has met the physician education requirements of former s. 381.986(4), Florida Statutes 2016, before June 23, 2017, shall be deemed to be in compliance with this paragraph from June 23, 2017, until 90 days after the course and examination required by this paragraph become available.

(b) A qualified physician may not be employed by, or have any direct or indirect economic interest in, a medical marijuana treatment center or marijuana testing laboratory.

(c) Before being employed as a medical director, as defined in paragraph (1)(i), and before each license renewal, a medical director must successfully complete a 2-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association which encompass the requirements of this section and any rules adopted hereunder. The course and examination shall be administered at least annually and may be offered in a distance learning format, including an electronic, online format that is available upon request. The price of the course may not exceed $500.

(4) PHYSICIAN CERTIFICATION.—

(a) A qualified physician may issue a physician certification only if the qualified physician:

1. Conducted a physical examination while physically present in the same room as the patient and a full assessment of the medical history of the patient.

2. Diagnosed the patient with at least one qualifying medical condition.

3. Determined that the medical use of marijuana would likely outweigh the potential health risks for the patient, and such determination must be documented in the patient's medical record. If a patient is younger than 18 years of age, a second physician must concur with this determination, and such concurrence must be documented in the patient's medical record.

4. Determined whether the patient is pregnant and documented such determination in the patient's medical record. A physician may not issue a physician certification, except for low-THC cannabis, to a patient who is pregnant.

5. Reviewed the patient's controlled drug prescription history in the prescription drug monitoring program database established pursuant to s. 893.055.

6. Reviews the medical marijuana use registry and confirmed that the patient does not have an active physician certification from another qualified physician.

7. Registers as the issuer of the physician certification for the named qualified patient on the medical marijuana use registry in an electronic manner determined by the department, and:

a. Enters into the registry the contents of the physician certification, including the patient's qualifying condition and the dosage not to exceed the daily dose amount determined by the department, the amount and forms of marijuana authorized for the patient, and any types of marijuana delivery devices needed by the patient for the medical use of marijuana.

b. Updates the registry within 7 days after any change is made to the original physician certification to reflect such change.

c. Deactivates the registration of the qualified patient and the patient's caregiver when the physician no longer recommends the medical use of marijuana for the patient.

8. Obtains the voluntary and informed written consent of the patient for medical use of marijuana each time the qualified physician issues a physician certification for the patient, which shall be maintained in the patient's medical record. The patient, or the patient's parent or legal guardian if the patient is a minor, must sign the informed consent acknowledging that the qualified physician has sufficiently explained its content. The qualified physician must use a standardized informed consent form adopted in rule by the Board of Medicine and the Board of Osteopathic Medicine, which must include, at a minimum, information related to:

a. The Federal Government's classification of marijuana as a Schedule I controlled substance.
b. The approval and oversight status of marijuana by the Food and Drug Administration.
c. The current state of research on the efficacy of marijuana to treat the qualifying conditions set forth in this section.
d. The potential for addiction.
e. The potential effect that marijuana may have on a patient's coordination, motor skills, and cognition, including a warning against operating heavy machinery, operating a motor vehicle, or engaging in activities that require a person to be alert or respond quickly.
f. The potential side effects of marijuana use, including the negative health risks associated with smoking marijuana.
g. The risks, benefits, and drug interactions of marijuana.
h. That the patient's de-identified health information contained in the physician certification and medical marijuana use registry may be used for research purposes.

(b) If a qualified physician issues a physician certification for a qualified patient diagnosed with a qualifying medical condition pursuant to paragraph (2)(k), the physician must submit the following to the applicable board within 14 days after issuing the physician certification:
1. Documentation supporting the qualified physician's opinion that the medical condition is of the same kind or class as the conditions in paragraphs (2)(a)-(j).
2. Documentation that establishes the efficacy of marijuana as treatment for the condition.
3. Documentation supporting the qualified physician's opinion that the benefits of medical use of marijuana would likely outweigh the potential health risks for the patient.
4. Any other documentation as required by board rule.

The department must submit such documentation to the Consortium for Medical Marijuana Clinical Outcomes Research established pursuant to s. 1004.4351.

(c) If a qualified physician determines that smoking is an appropriate route of administration for a qualified patient, other than a patient diagnosed with a terminal condition, the qualified physician must submit the following documentation to the applicable board:
1. A list of other routes of administration, if any, certified by a qualified physician that the patient has tried, the length of time the patient used such routes of administration, and an assessment of the effectiveness of those routes of administration in treating the qualified patient's qualifying condition.
2. Research documenting the effectiveness of smoking as a route of administration to treat similarly situated patients with the same qualifying condition as the qualified patient.
3. A statement signed by the qualified physician documenting the qualified physician's opinion that the benefits of smoking marijuana for medical use outweigh the risks for the qualified patient.

(d) A qualified physician may not issue a physician certification for marijuana in a form for smoking to a patient under 18 years of age unless the patient is diagnosed with a terminal condition, the qualified physician determines that smoking is the most effective route of administration for the patient, and a second physician who is a board-certified pediatrician concurs with such determination. Such determination and concurrence must be documented in the patient's medical record and in the medical marijuana use registry. The certifying physician must obtain the written informed consent of such patient's parent or legal guardian before issuing a physician certification to the patient for marijuana in a form for smoking. The qualified physician must use a standardized informed consent form adopted in rule by the Board of Medicine and the Board of Osteopathic Medicine which must include information concerning the negative health effects of smoking marijuana on persons under 18 years of age and an acknowledgment that the qualified physician has sufficiently explained the contents of the form.

(e) The Board of Medicine and the Board of Osteopathic Medicine shall review the documentation submitted pursuant to paragraph (c) and shall each, by July 1, 2021, adopt by rule practice standards for the certification of smoking as a route of administration.

(f) A qualified physician may not issue a physician certification for more than three 70-day supply limits of marijuana or more than six 35-day supply limits of marijuana in a form for smoking. The department shall quantify by rule a daily dose amount with equivalent dose amounts for each allowable form of marijuana dispensed by a medical marijuana treatment center. The department shall use the daily dose amount to calculate a 70-day supply.
1. A qualified physician may request an exception to the daily dose amount limit, the 35-day supply limit of marijuana in a form for smoking, and the 4-ounce possession limit of marijuana in a form for smoking established in paragraph (14)(a). The request shall be made electronically on a form adopted by the department in rule and must include, at a minimum:
a. The qualified patient's qualifying medical condition.
b. The dosage and route of administration that was insufficient to provide relief to the qualified patient.
c. A description of how the patient will benefit from an increased amount.
d. The minimum daily dose amount of marijuana that would be sufficient for the treatment of the qualified patient's qualifying medical condition.
2. A qualified physician must provide the qualified patient's records upon the request of the department.
3. The department shall approve or disapprove the request within 14 days after receipt of the complete documentation required by this paragraph. The request shall be deemed approved if the department fails to act within this time period.

(g) A qualified physician must evaluate an existing qualified patient at least once every 30 weeks before issuing a new physician certification. A physician must:
1. Determine if the patient still meets the requirements to be issued a physician certification under paragraph (a).
2. Identify and document in the qualified patient's medical records whether the qualified patient experienced either of the following related to the medical use of marijuana:

a. An adverse drug interaction with any prescription or nonprescription medication; or

b. A reduction in the use of, or dependence on, other types of controlled substances as defined in s. 893.02.

3. Submit a report with the findings required pursuant to subparagraph 2. to the department. The department shall submit such reports to the Consortium for Medical Marijuana Clinical Outcomes Research established pursuant to s. 1004.4351.

(h) An active order for low-THC cannabis or medical cannabis issued pursuant to former s. 381.986, Florida Statutes 2016, and registered with the compassionate use registry before June 23, 2017, is deemed a physician certification, and all patients possessing such orders are deemed qualified patients until the department begins issuing medical marijuana use registry identification cards.

(i) The department shall monitor physician registration in the medical marijuana use registry and the issuance of physician certifications for practices that could facilitate unlawful diversion or misuse of marijuana or a marijuana delivery device and shall take disciplinary action as appropriate.

(j) The Board of Medicine and the Board of Osteopathic Medicine shall jointly create a physician certification pattern review panel that shall review all physician certifications submitted to the medical marijuana use registry. The panel shall track and report the number of physician certifications and the qualifying medical conditions, dosage, supply amount, and form of marijuana certified. The panel shall report the data both by individual qualified physician and in the aggregate, by county, and statewide. The physician certification pattern review panel shall, beginning January 1, 2018, submit an annual report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(k) The department, the Board of Medicine, and the Board of Osteopathic Medicine may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(5) MEDICAL MARIJUANA USE REGISTRY.—

(a) The department shall create and maintain a secure, electronic, and online medical marijuana use registry for physicians, patients, and caregivers as provided under this section. The medical marijuana use registry must be accessible to law enforcement agencies, qualified physicians, and medical marijuana treatment centers to verify the authorization of a qualified patient or a caregiver to possess marijuana or a marijuana delivery device and record the marijuana or marijuana delivery device dispensed. The medical marijuana use registry must also be accessible to practitioners licensed to prescribe prescription drugs to ensure proper care for patients before medications that may interact with the medical use of marijuana are prescribed. The medical marijuana use registry must prevent an active registration of a qualified patient by multiple physicians.

(b) The department shall determine whether an individual is a resident of this state for the purpose of registration of qualified patients and caregivers in the medical marijuana use registry. To prove residency:

1. An adult resident must provide the department with a copy of his or her valid Florida driver license issued under s. 322.18 or a copy of a valid Florida identification card issued under s. 322.051.

2. An adult seasonal resident who cannot meet the requirements of subparagraph 1. may provide the department with a copy of two of the following that show proof of residential address:

a. A deed, mortgage, monthly mortgage statement, mortgage payment booklet or residential rental or lease agreement.

b. One proof of residential address from the seasonal resident's parent, step-parent, legal guardian or other person with whom the seasonal resident resides and a statement from the person with whom the seasonal resident resides stating that the seasonal resident does reside with him or her.

c. A utility hookup or work order dated within 60 days before registration in the medical use registry.

d. A utility bill, not more than 2 months old.

e. Mail from a financial institution, including checking, savings, or investment account statements, not more than 2 months old.

f. Mail from a federal, state, county, or municipal government agency, not more than 2 months old.

g. Any other documentation that provides proof of residential address as determined by department rule.

3. A minor must provide the department with a certified copy of a birth certificate or a current record of registration from a Florida K-12 school and must have a parent or legal guardian who meets the requirements of subparagraph 1.

For the purposes of this paragraph, the term "seasonal resident" means any person who temporarily resides in this state for a period of at least 31 consecutive days in each calendar year, maintains a temporary residence in this state, returns to the state or jurisdiction of his or her residence at least one time during each calendar year, and is registered to vote or pays income tax in another state or jurisdiction.

(c) The department may suspend or revoke the registration of a qualified patient or caregiver if the qualified patient or caregiver:

1. Provides misleading, incorrect, false, or fraudulent information to the department;

2. Obtains a supply of marijuana in an amount greater than the amount authorized by the physician certification;

3. Falsifies, alters, or otherwise modifies an identification card;

4. Fails to timely notify the department of any changes to his or her qualified patient status; or

5. Violates the requirements of this section or any rule adopted under this section.

(d) The department shall immediately suspend the registration of a qualified patient charged with a violation of chapter 893 until final disposition of any alleged offense. Thereafter, the department may extend the suspension, revoke the registration, or reinstate the registration.

(e) The department shall immediately suspend the registration of any caregiver charged with a violation of chapter 893 until final disposition of any alleged offense. The department shall revoke a caregiver registration if the caregiver does not meet the requirements of subparagraph (6)(b)6.

(f) The department may revoke the registration of a qualified patient or caregiver who cultivates marijuana or who acquires, possesses, or delivers marijuana from any person or entity other than a medical marijuana treatment center.

(g) The department shall revoke the registration of a qualified patient, and the patient's associated caregiver, upon notification that the patient no longer meets the criteria of a qualified patient.

(h) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(6) CAREGIVERS.—

(a) The department must register an individual as a caregiver on the medical marijuana use registry and issue a caregiver identification card if an individual designated by a qualified patient meets all of the requirements of this subsection and department rule.

(b) A caregiver must:

1. Not be a qualified physician and not be employed by or have an economic interest in a medical marijuana treatment center or a marijuana testing laboratory.

2. Be 21 years of age or older and a resident of this state.

3. Agree in writing to assist with the qualified patient's medical use of marijuana.

4. Be registered in the medical marijuana use registry as a caregiver for no more than one qualified patient, except as provided in this paragraph.

5. Successfully complete a caregiver certification course developed and administered by the department or its designee, which must be renewed biennially. The price of the course may not exceed $100.

6. Pass a background screening pursuant to subsection (9), unless the patient is a close relative of the caregiver.

(c) A qualified patient may designate no more than one caregiver to assist with the qualified patient's medical use of marijuana, unless:

1. The qualified patient is a minor and the designated caregivers are parents or legal guardians of the qualified patient;

2. The qualified patient is an adult who has an intellectual or developmental disability that prevents the patient from being able to protect or care for himself or herself without assistance or supervision and the designated caregivers are the parents or legal guardians of the qualified patient;

3. The qualified patient is admitted to a hospice program; or

4. The qualified patient is participating in a research program in a teaching nursing home pursuant to s. 1004.4351.

(d) A caregiver may be registered in the medical marijuana use registry as a designated caregiver for no more than one qualified patient, unless:

1. The caregiver is a parent or legal guardian of more than one minor who is a qualified patient;

2. The caregiver is a parent or legal guardian of more than one adult who is a qualified patient and who has an intellectual or developmental disability that prevents the patient from being able to protect or care for himself or herself without assistance or supervision;

3. All qualified patients the caregiver has agreed to assist are admitted to a hospice program and have requested the assistance of that caregiver with the medical use of marijuana; the caregiver is an employee of the hospice; and the caregiver provides personal care or other services directly to clients of the hospice in the scope of that employment; or

4. All qualified patients the caregiver has agreed to assist are participating in a research program in a teaching nursing home pursuant to s. 1004.4351.

(e) A caregiver may not receive compensation, other than actual expenses incurred, for any services provided to the qualified patient.

(f) If a qualified patient is younger than 18 years of age, only a caregiver may purchase or administer marijuana for medical use by the qualified patient. The qualified patient may not purchase marijuana.

(g) A caregiver must be in immediate possession of his or her medical marijuana use registry identification card at all times when in possession of marijuana or a marijuana delivery device and must present his or her medical marijuana use registry identification card upon the request of a law enforcement officer.

(h) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(7) IDENTIFICATION CARDS.—

(a) The department shall issue medical marijuana use registry identification cards for qualified patients and caregivers who are residents of this state, which must be renewed annually. The identification cards must be resistant to counterfeiting and tampering and must include, at a minimum, the following:

1. The name, address, and date of birth of the qualified patient or caregiver.

2. A full-face, passport-type, color photograph of the qualified patient or caregiver taken within the 90 days immediately preceding registration or the Florida driver license or Florida identification card photograph of the qualified patient or caregiver obtained directly from the Department of Highway Safety and Motor Vehicles.

3. Identification as a qualified patient or a caregiver.

4. The unique numeric identifier used for the qualified patient in the medical marijuana use registry.

5. For a caregiver, the name and unique numeric identifier of the caregiver and the qualified patient or patients that the caregiver is assisting.

6. The expiration date of the identification card.

(b) The department must receive written consent from a qualified patient's parent or legal guardian before it may issue an identification card to a qualified patient who is a minor.

(c) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing procedures for the issuance, renewal, suspension, replacement, surrender, and revocation of medical marijuana use registry identification cards pursuant to this section and shall begin issuing qualified patient identification cards by October 3, 2017.

(d) Applications for identification cards must be submitted on a form prescribed by the department. The department may charge a reasonable fee associated with the issuance, replacement, and renewal of identification cards. The department shall allocate $10 of the

identification card fee to the Division of Research at Florida Agricultural and Mechanical University for the purpose of educating minorities about marijuana for medical use and the impact of the unlawful use of marijuana on minority communities. The department shall contract with a third-party vendor to issue identification cards. The vendor selected by the department must have experience performing similar functions for other state agencies.

(e) A qualified patient or caregiver shall return his or her identification card to the department within 5 business days after revocation.

(8) MEDICAL MARIJUANA TREATMENT CENTERS.—

(a) The department shall license medical marijuana treatment centers to ensure reasonable statewide accessibility and availability as necessary for qualified patients registered in the medical marijuana use registry and who are issued a physician certification under this section.

1. As soon as practicable, but no later than July 3, 2017, the department shall license as a medical marijuana treatment center any entity that holds an active, unrestricted license to cultivate, process, transport, and dispense low-THC cannabis, medical cannabis, and cannabis delivery devices, under former s. 381.986, Florida Statutes 2016, before July 1, 2017, and which meets the requirements of this section. In addition to the authority granted under this section, these entities are authorized to dispense low-THC cannabis, medical cannabis, and cannabis delivery devices ordered pursuant to former s. 381.986, Florida Statutes 2016, which were entered into the compassionate use registry before July 1, 2017, and are authorized to begin dispensing marijuana under this section on July 3, 2017. The department may grant variances from the representations made in such an entity's original application for approval under former s. 381.986, Florida Statutes 2014, pursuant to paragraph (e).

2. The department shall license as medical marijuana treatment centers 10 applicants that meet the requirements of this section, under the following parameters:

a. As soon as practicable, but no later than August 1, 2017, the department shall license any applicant whose application was reviewed, evaluated, and scored by the department and which was denied a dispensing organization license by the department under former s. 381.986, Florida Statutes 2014; which had one or more administrative or judicial challenges pending as of January 1, 2017, or had a final ranking within one point of the highest final ranking in its region under former s. 381.986, Florida Statutes 2014; which meets the requirements of this section; and which provides documentation to the department that it has the existing infrastructure and technical and technological ability to begin cultivating marijuana within 30 days after registration as a medical marijuana treatment center.

b. As soon as practicable, the department shall license one 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). An applicant licensed under this sub-subparagraph is exempt from the requirement of subparagraph (b)2.

c. As soon as practicable, but no later than October 3, 2017, the department shall license applicants that meet the requirements of this section in sufficient numbers to result in 10 total licenses issued under this subparagraph, while accounting for the number of licenses issued under sub-subparagraphs a. and b.

3. For up to two of the licenses issued under subparagraph 2., the department shall give preference to applicants that demonstrate in their applications that they own one or more facilities that are, or were, used for the canning, concentrating, or otherwise processing of citrus fruit or citrus molasses and will use or convert the facility or facilities for the processing of marijuana.

4. Within 6 months after the registration of 100,000 active qualified patients in the medical marijuana use registry, the department shall license four additional medical marijuana treatment centers that meet the requirements of this section. Thereafter, the department shall license four medical marijuana treatment centers within 6 months after the registration of each additional 100,000 active qualified patients in the medical marijuana use registry that meet the requirements of this section.

5. Dispensing facilities are subject to the following requirements:

a. A medical marijuana treatment center may not establish or operate more than a statewide maximum of 25 dispensing facilities, unless the medical marijuana use registry reaches a total of 100,000 active registered qualified patients. When the medical marijuana use registry reaches 100,000 active registered qualified patients, and then upon each further instance of the total active registered qualified patients increasing by 100,000, the statewide maximum number of dispensing facilities that each licensed medical marijuana treatment center may establish and operate increases by five.

b. A medical marijuana treatment center may not establish more than the maximum number of dispensing facilities allowed in each of the Northwest, Northeast, Central, Southwest, and Southeast Regions. The department shall determine a medical marijuana treatment center's maximum number of dispensing facilities allowed in each region by calculating the percentage of the total statewide population contained within that region and multiplying that percentage by the medical marijuana treatment center's statewide maximum number of dispensing facilities established under sub-subparagraph a., rounded to the nearest whole number. The department shall ensure that such rounding does not cause a medical marijuana treatment center's total number of statewide dispensing facilities to exceed its statewide maximum. The department shall initially calculate the maximum number of dispensing facilities allowed in each region for each medical marijuana treatment center using county population estimates from the Florida Estimates of Population 2016, as published by the Office of Economic and Demographic Research, and shall perform recalculations following the official release of county population data resulting from each United States Decennial Census. For the purposes of this subparagraph:

(I) The Northwest Region consists of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington Counties.

(II) The Northeast Region consists of Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Marion, Nassau, Putnam, St. Johns, Suwannee, and Union Counties.

(III) The Central Region consists of Brevard, Citrus, Hardee, Hernando, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, St. Lucie, Sumter, and Volusia Counties.

(IV) The Southwest Region consists of Charlotte, Collier, DeSoto, Glades, Hendry, Highlands, Hillsborough, Lee, Manatee, Okeechobee, and

Sarasota Counties.

(V) The Southeast Region consists of Broward, Miami-Dade, Martin, Monroe, and Palm Beach Counties.

c. If a medical marijuana treatment center establishes a number of dispensing facilities within a region that is less than the number allowed for that region under sub-subparagraph b., the medical marijuana treatment center may sell one or more of its unused dispensing facility slots to other licensed medical marijuana treatment centers. For each dispensing facility slot that a medical marijuana treatment center sells, that medical marijuana treatment center's statewide maximum number of dispensing facilities, as determined under sub-subparagraph a., is reduced by one. The statewide maximum number of dispensing facilities for a medical marijuana treatment center that purchases an unused dispensing facility slot is increased by one per slot purchased. Additionally, the sale of a dispensing facility slot shall reduce the seller's regional maximum and increase the purchaser's regional maximum number of dispensing facilities, as determined in sub-subparagraph b., by one for that region. For any slot purchased under this sub-subparagraph, the regional restriction applied to that slot's location under sub-subparagraph b. before the purchase shall remain in effect following the purchase. A medical marijuana treatment center that sells or purchases a dispensing facility slot must notify the department within 3 days of sale.

d. This subparagraph shall expire on April 1, 2020.

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

(b) An applicant for licensure as a medical marijuana treatment center shall apply to the department on a form prescribed by the department and adopted in rule. The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing a procedure for the issuance and biennial renewal of licenses, including initial application and biennial renewal fees sufficient to cover the costs of implementing and administering this section, and establishing supplemental licensure fees for payment beginning May 1, 2018, sufficient to cover the costs of administering ss. 381.989 and 1004.4351. The department shall identify applicants with strong diversity plans reflecting this state's commitment to diversity and implement training programs and other educational programs to enable minority persons and minority business enterprises, as defined in s. 288.703, and veteran business enterprises, as defined in s. 295.187, to compete for medical marijuana treatment center licensure and contracts. Subject to the requirements in subparagraphs (a)2.-4., the department shall issue a license to an applicant if the applicant meets the requirements of this section and pays the initial application fee. The department shall renew the licensure of a medical marijuana treatment center biennially if the licensee meets the requirements of this section and pays the biennial renewal fee. An individual may not be an applicant, owner, officer, board member, or manager on more than one application for licensure as a medical marijuana treatment center. An individual or entity may not be awarded more than one license as a medical marijuana treatment center. An applicant for licensure as a medical marijuana treatment center must demonstrate:

1. That, for the 5 consecutive years before submitting the application, the applicant has been registered to do business in the state.
2. Possession of a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to s. 581.131.
3. The technical and technological ability to cultivate and produce marijuana, including, but not limited to, low-THC cannabis.
4. The ability to secure the premises, resources, and personnel necessary to operate as a medical marijuana treatment center.
5. 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.
6. An infrastructure reasonably located to dispense marijuana to registered qualified patients statewide or regionally as determined by the department.
7. The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financial statements to the department.

a. Upon approval, the applicant must post a $5 million performance bond issued by an authorized surety insurance company rated in one of the three highest rating categories by a nationally recognized rating service. However, a medical marijuana treatment center serving at least 1,000 qualified patients is only required to maintain a $2 million performance bond.

b. In lieu of the performance bond required under sub-subparagraph a., the applicant may provide an irrevocable letter of credit payable to the department or provide cash to the department. If provided with cash under this sub-subparagraph, the department shall deposit the cash in the Grants and Donations Trust Fund within the Department of Health, subject to the same conditions as the bond regarding requirements for the applicant to forfeit ownership of the funds. If the funds deposited under this sub-subparagraph generate interest, the amount of that interest shall be used by the department for the administration of this section.

8. That all owners, officers, board members, and managers have passed a background screening pursuant to subsection (9).
9. The employment of a medical director to supervise the activities of the medical marijuana treatment center.
10. A diversity plan that promotes and ensures the involvement of minority persons and minority business enterprises, as defined in s. 288.703, or veteran business enterprises, as defined in s. 295.187, in ownership, management, and employment. An applicant for licensure renewal must show the effectiveness of the diversity plan by including the following with his or her application for renewal:

a. Representation of minority persons and veterans in the medical marijuana treatment center's workforce;
b. Efforts to recruit minority persons and veterans for employment; and
c. A record of contracts for services with minority business enterprises and veteran business enterprises.

(c) A medical marijuana treatment center may not make a wholesale purchase of marijuana from, or a distribution of marijuana to, another medical marijuana treatment center, unless the medical marijuana treatment center seeking to make a wholesale purchase of marijuana submits proof of harvest failure to the department.

(d) The department shall establish, maintain, and control a computer software tracking system that traces marijuana from seed to sale and

allows real-time, 24-hour access by the department to data from all medical marijuana treatment centers and marijuana testing laboratories. The tracking system must allow for integration of other seed-to-sale systems and, at a minimum, include notification of when marijuana seeds are planted, when marijuana plants are harvested and destroyed, and when marijuana is transported, sold, stolen, diverted, or lost. Each medical marijuana treatment center shall use the seed-to-sale tracking system established by the department or integrate its own seed-to-sale tracking system with the seed-to-sale tracking system established by the department. Each medical marijuana treatment center may use its own seed-to-sale system until the department establishes a seed-to-sale tracking system. The department may contract with a vendor to establish the seed-to-sale tracking system. The vendor selected by the department may not have a contractual relationship with the department to perform any services pursuant to this section other than the seed-to-sale tracking system. The vendor may not have a direct or indirect financial interest in a medical marijuana treatment center or a marijuana testing laboratory.

(e) A licensed medical marijuana treatment center shall cultivate, process, transport, and dispense marijuana for medical use. A licensed medical marijuana treatment center may not contract for services directly related to the cultivation, processing, and dispensing of marijuana or marijuana delivery devices, except that a medical marijuana treatment center licensed pursuant to subparagraph (a)1. may contract with a single entity for the cultivation, processing, transporting, and dispensing of marijuana and marijuana delivery devices. A licensed medical marijuana treatment center must, at all times, maintain compliance with the criteria demonstrated and representations made in the initial application and the criteria established in this subsection. Upon request, the department may grant a medical marijuana treatment center a variance from the representations made in the initial application. Consideration of such a request shall be based upon the individual facts and circumstances surrounding the request. A variance may not be granted unless the requesting medical marijuana treatment center can demonstrate to the department that it has a proposed alternative to the specific representation made in its application which fulfills the same or a similar purpose as the specific representation in a way that the department can reasonably determine will not be a lower standard than the specific representation in the application. A variance may not be granted from the requirements in subparagraph 2. and subparagraphs (b)1. and 2.

1. A licensed medical marijuana treatment center may transfer ownership to an individual or entity who meets the requirements of this section. A publicly traded corporation or publicly traded company that meets the requirements of this section is not precluded from ownership of a medical marijuana treatment center. To accommodate a change in ownership:

a. The licensed medical marijuana treatment center shall notify the department in writing at least 60 days before the anticipated date of the change of ownership.

b. The individual or entity applying for initial licensure due to a change of ownership must submit an application that must be received by the department at least 60 days before the date of change of ownership.

c. Upon receipt of an application for a license, the department shall examine the application and, within 30 days after receipt, notify the applicant in writing of any apparent errors or omissions and request any additional information required.

d. Requested information omitted from an application for licensure must be filed with the department within 21 days after the department's request for omitted information or the application shall be deemed incomplete and shall be withdrawn from further consideration and the fees shall be forfeited.

Within 30 days after the receipt of a complete application, the department shall approve or deny the application.

2. A medical marijuana treatment center, and any individual or entity who directly or indirectly owns, controls, or holds with power to vote 5 percent or more of the voting shares of a medical marijuana treatment center, may not acquire direct or indirect ownership or control of any voting shares or other form of ownership of any other medical marijuana treatment center.

3. A medical marijuana treatment center may not enter into any form of profit-sharing arrangement with the property owner or lessor of any of its facilities where cultivation, processing, storing, or dispensing of marijuana and marijuana delivery devices occurs.

4. All employees of a medical marijuana treatment center must be 21 years of age or older and have passed a background screening pursuant to subsection (9).

5. Each medical marijuana treatment center must adopt and enforce policies and procedures to ensure employees and volunteers receive training on the legal requirements to dispense marijuana to qualified patients.

6. When growing marijuana, a medical marijuana treatment center:

a. 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.

b. Must grow marijuana within an enclosed structure and in a room separate from any other plant.

c. Must inspect seeds and growing plants for plant pests that endanger or threaten the horticultural and agricultural interests of the state in accordance with chapter 581 and any rules adopted thereunder.

d. Must perform fumigation or treatment of plants, or remove and destroy infested or infected plants, in accordance with chapter 581 and any rules adopted thereunder.

7. Each medical marijuana treatment center must produce and make available for purchase at least one low-THC cannabis product.

8. A medical marijuana treatment center that produces edibles must hold a permit to operate as a food establishment pursuant to chapter 500, the Florida Food Safety Act, and must comply with all the requirements for food establishments pursuant to chapter 500 and any rules adopted thereunder. Edibles may not contain more than 200 milligrams of tetrahydrocannabinol, and a single serving portion of an edible may not exceed 10 milligrams of tetrahydrocannabinol. Edibles may have a potency variance of no greater than 15 percent. Edibles may not be attractive to children; be manufactured in the shape of humans, cartoons, or animals; be manufactured in a form that bears any reasonable resemblance to products available for consumption as commercially available candy; or contain any color additives. To discourage consumption

of edibles by children, the department shall determine by rule any shapes, forms, and ingredients allowed and prohibited for edibles. Medical marijuana treatment centers may not begin processing or dispensing edibles until after the effective date of the rule. The department shall also adopt sanitation rules providing the standards and requirements for the storage, display, or dispensing of edibles.

9. Within 12 months after licensure, a medical marijuana treatment center must demonstrate to the department that all of its processing facilities have passed a Food Safety Good Manufacturing Practices, such as Global Food Safety Initiative or equivalent, inspection by a nationally accredited certifying body. A medical marijuana treatment center must immediately stop processing at any facility which fails to pass this inspection until it demonstrates to the department that such facility has met this requirement.

10. A medical marijuana treatment center that produces prerolled marijuana cigarettes may not use wrapping paper made with tobacco or hemp.

11. When processing marijuana, a medical marijuana treatment center must:

a. Process the marijuana within an enclosed structure and in a room separate from other plants or products.

b. Comply with department rules when processing marijuana with hydrocarbon solvents or other solvents or gases exhibiting potential toxicity to humans. The department shall determine by rule the requirements for medical marijuana treatment centers to use such solvents or gases exhibiting potential toxicity to humans.

c. Comply with federal and state laws and regulations and department rules for solid and liquid wastes. The department shall determine by rule procedures for the storage, handling, transportation, management, and disposal of solid and liquid waste generated during marijuana production and processing. The Department of Environmental Protection shall assist the department in developing such rules.

d. Test the processed marijuana using a medical marijuana testing laboratory before it is dispensed. Results must be verified and signed by two medical marijuana treatment center employees. Before dispensing, the medical marijuana treatment center must determine that the test results indicate that low-THC cannabis meets the definition of low-THC cannabis, the concentration of tetrahydrocannabinol meets the potency requirements of this section, the labeling of the concentration of tetrahydrocannabinol and cannabidiol is accurate, and all marijuana is safe for human consumption and free from contaminants that are unsafe for human consumption. The department shall determine by rule which contaminants must be tested for and the maximum levels of each contaminant which are safe for human consumption. The Department of Agriculture and Consumer Services shall assist the department in developing the testing requirements for contaminants that are unsafe for human consumption in edibles. The department shall also determine by rule the procedures for the treatment of marijuana that fails to meet the testing requirements of this section, s. 381.988, or department rule. The department may select a random sample from edibles available for purchase in a dispensing facility which shall be tested by the department to determine that the edible meets the potency requirements of this section, is safe for human consumption, and the labeling of the tetrahydrocannabinol and cannabidiol concentration is accurate. A medical marijuana treatment center may not require payment from the department for the sample. A medical marijuana treatment center must recall edibles, including all edibles made from the same batch of marijuana, which fail to meet the potency requirements of this section, which are unsafe for human consumption, or for which the labeling of the tetrahydrocannabinol and cannabidiol concentration is inaccurate. The medical marijuana treatment center must retain records of all testing and samples of each homogenous batch of marijuana for at least 9 months. The medical marijuana treatment center must contract with a marijuana testing laboratory to perform audits on the medical marijuana treatment center's standard operating procedures, testing records, and samples and provide the results to the department to confirm that the marijuana or low-THC cannabis meets the requirements of this section and that the marijuana or low-THC cannabis is safe for human consumption. A medical marijuana treatment center shall reserve two processed samples from each batch and retain such samples for at least 9 months for the purpose of such audits. A medical marijuana treatment center may use a laboratory that has not been certified by the department under s. 381.988 until such time as at least one laboratory holds the required certification, but in no event later than July 1, 2018.

e. Package the marijuana in compliance with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.

f. Package the marijuana in a receptacle that has a firmly affixed and legible label stating the following information:

(I) The marijuana or low-THC cannabis meets the requirements of sub-subparagraph d.

(II) The name of the medical marijuana treatment center from which the marijuana originates.

(III) The batch number and harvest number from which the marijuana originates and the date dispensed.

(IV) The name of the physician who issued the physician certification.

(V) The name of the patient.

(VI) The product name, if applicable, and dosage form, including concentration of tetrahydrocannabinol and cannabidiol. The product name may not contain wording commonly associated with products marketed by or to children.

(VII) The recommended dose.

(VIII) A warning that it is illegal to transfer medical marijuana to another person.

(IX) A marijuana universal symbol developed by the department.

12. The medical marijuana treatment center shall include in each package a patient package insert with information on the specific product dispensed related to:

a. Clinical pharmacology.

b. Indications and use.

c. Dosage and administration.

d. Dosage forms and strengths.

e. Contraindications.

f. Warnings and precautions.

g. Adverse reactions.

13. In addition to the packaging and labeling requirements specified in subparagraphs 11. and 12., marijuana in a form for smoking must be

packaged in a sealed receptacle with a legible and prominent warning to keep away from children and a warning that states marijuana smoke contains carcinogens and may negatively affect health. Such receptacles for marijuana in a form for smoking must be plain, opaque, and white without depictions of the product or images other than the medical marijuana treatment center's department-approved logo and the marijuana universal symbol.

14. The department shall adopt rules to regulate the types, appearance, and labeling of marijuana delivery devices dispensed from a medical marijuana treatment center. The rules must require marijuana delivery devices to have an appearance consistent with medical use.

15. Each edible shall be individually sealed in plain, opaque wrapping marked only with the marijuana universal symbol. Where practical, each edible shall be marked with the marijuana universal symbol. In addition to the packaging and labeling requirements in subparagraphs 11. and 12., edible receptacles must be plain, opaque, and white without depictions of the product or images other than the medical marijuana treatment center's department-approved logo and the marijuana universal symbol. The receptacle must also include a list of all the edible's ingredients, storage instructions, an expiration date, a legible and prominent warning to keep away from children and pets, and a warning that the edible has not been produced or inspected pursuant to federal food safety laws.

16. When dispensing marijuana or a marijuana delivery device, a medical marijuana treatment center:

a. May dispense any active, valid order for low-THC cannabis, medical cannabis and cannabis delivery devices issued pursuant to former s. 381.986, Florida Statutes 2016, which was entered into the medical marijuana use registry before July 1, 2017.

b. May not dispense more than a 70-day supply of marijuana within any 70-day period to a qualified patient or caregiver. May not dispense more than one 35-day supply of marijuana in a form for smoking within any 35-day period to a qualified patient or caregiver. A 35-day supply of marijuana in a form for smoking may not exceed 2.5 ounces unless an exception to this amount is approved by the department pursuant to paragraph (4)(f).

c. Must have the medical marijuana treatment center's employee who dispenses the marijuana or a marijuana delivery device enter into the medical marijuana use registry his or her name or unique employee identifier.

d. Must verify that the qualified patient and the caregiver, if applicable, each have an active registration in the medical marijuana use registry and an active and valid medical marijuana use registry identification card, the amount and type of marijuana dispensed matches the physician certification in the medical marijuana use registry for that qualified patient, and the physician certification has not already been filled.

e. May not dispense marijuana to a qualified patient who is younger than 18 years of age. If the qualified patient is younger than 18 years of age, marijuana may only be dispensed to the qualified patient's caregiver.

f. May not dispense or sell any other type of cannabis, alcohol, or illicit drug-related product, including pipes or wrapping papers made with tobacco or hemp, other than a marijuana delivery device required for the medical use of marijuana and which is specified in a physician certification.

g. Must, upon dispensing the marijuana or marijuana delivery device, record in the registry the date, time, quantity, and form of marijuana dispensed; the type of marijuana delivery device dispensed; and the name and medical marijuana use registry identification number of the qualified patient or caregiver to whom the marijuana delivery device was dispensed.

h. Must ensure that patient records are not visible to anyone other than the qualified patient, his or her caregiver, and authorized medical marijuana treatment center employees.

(f) To ensure the safety and security of premises where the cultivation, processing, storing, or dispensing of marijuana occurs, and to maintain adequate controls against the diversion, theft, and loss of marijuana or marijuana delivery devices, a medical marijuana treatment center 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; and

b. Maintain a video surveillance system that records continuously 24 hours a day and meets 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.

(IV) Retain video surveillance recordings for at least 45 days or longer upon the request of a law enforcement agency.

2. Ensure that the medical marijuana treatment center's outdoor premises have sufficient lighting from dusk until dawn.

3. Ensure that the indoor premises where dispensing occurs includes a waiting area with sufficient space and seating to accommodate qualified patients and caregivers and at least one private consultation area that is isolated from the waiting area and area where dispensing occurs. A medical marijuana treatment center may not display products or dispense marijuana or marijuana delivery devices in the waiting area.

4. Not dispense from its premises marijuana or a marijuana delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver marijuana to qualified patients 24 hours a day.

5. Store marijuana 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 where cultivation, processing, or storing of marijuana occurs.

7. Require each employee or contractor to wear a photo identification badge at all times while on the premises.

8. Require each visitor to wear a visitor 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 the medical marijuana treatment center is notified or becomes aware of the

theft, diversion, or loss of marijuana.

(g) To ensure the safe transport of marijuana and marijuana delivery devices to medical marijuana treatment centers, marijuana testing laboratories, or qualified patients, a medical marijuana treatment center must:

1. Maintain a marijuana transportation manifest in any vehicle transporting marijuana. The marijuana transportation manifest must be generated from a medical marijuana treatment center's seed-to-sale tracking system and include the:

a. Departure date and approximate time of departure.

b. Name, location address, and license number of the originating medical marijuana treatment center.

c. Name and address of the recipient of the delivery.

d. Quantity and form of any marijuana or marijuana delivery device being transported.

e. Arrival date and estimated time of arrival.

f. Delivery vehicle make and model and license plate number.

g. Name and signature of the medical marijuana treatment center employees delivering the product.

(I) A copy of the marijuana transportation manifest must be provided to each individual, medical marijuana treatment center, or marijuana testing laboratory that receives a delivery. The individual, or a representative of the center or laboratory, must sign a copy of the marijuana transportation manifest acknowledging receipt.

(II) An individual transporting marijuana or a marijuana delivery device must present a copy of the relevant marijuana transportation manifest and his or her employee identification card to a law enforcement officer upon request.

(III) Medical marijuana treatment centers and marijuana testing laboratories must retain copies of all marijuana transportation manifests for at least 3 years.

2. Ensure only vehicles in good working order are used to transport marijuana.

3. Lock marijuana and marijuana delivery devices in a separate compartment or container within the vehicle.

4. Require employees to have possession of their employee identification card at all times when transporting marijuana or marijuana delivery devices.

5. Require at least two persons to be in a vehicle transporting marijuana or marijuana delivery devices, and require at least one person to remain in the vehicle while the marijuana or marijuana delivery device is being delivered.

6. Provide specific safety and security training to employees transporting or delivering marijuana and marijuana delivery devices.

(h) A medical marijuana treatment center may not engage in advertising that is visible to members of the public from any street, sidewalk, park, or other public place, except:

1. The dispensing location of a medical marijuana treatment center may have a sign that is affixed to the outside or hanging in the window of the premises which identifies the dispensary by the licensee's business name, a department-approved trade name, or a department-approved logo. A medical marijuana treatment center's trade name and logo may not contain wording or images commonly associated with marketing targeted toward children or which promote recreational use of marijuana.

2. A medical marijuana treatment center may engage in Internet advertising and marketing under the following conditions:

a. All advertisements must be approved by the department.

b. An advertisement may not have any content that specifically targets individuals under the age of 18, including cartoon characters or similar images.

c. An advertisement may not be an unsolicited pop-up advertisement.

d. Opt-in marketing must include an easy and permanent opt-out feature.

(i) Each medical marijuana treatment center that dispenses marijuana and marijuana delivery devices shall make available to the public on its website:

1. Each marijuana and low-THC product available for purchase, including the form, strain of marijuana from which it was extracted, cannabidiol content, tetrahydrocannabinol content, dose unit, total number of doses available, and the ratio of cannabidiol to tetrahydrocannabinol for each product.

2. The price for a 30-day, 50-day, and 70-day supply at a standard dose for each marijuana and low-THC product available for purchase.

3. The price for each marijuana delivery device available for purchase.

4. If applicable, any discount policies and eligibility criteria for such discounts.

(j) Medical marijuana treatment centers are the sole source from which a qualified patient may legally obtain marijuana.

(k) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(9) BACKGROUND SCREENING.—An individual required to undergo a background screening pursuant to this section must pass a level 2 background screening as provided under chapter 435, which, in addition to the disqualifying offenses provided in s. 435.04, shall exclude an individual who has an arrest awaiting final disposition for, has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to an offense under chapter 837, chapter 895, or chapter 896 or similar law of another jurisdiction.

(a) Such individual must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

(b) Fees for state and federal fingerprint processing and retention shall be borne by the individual. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein.

(c) Fingerprints submitted to the Department of Law Enforcement pursuant to this subsection shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. Any arrest record identified shall be reported to the

department.

(10) MEDICAL MARIJUANA TREATMENT CENTER INSPECTIONS; ADMINISTRATIVE ACTIONS.—

(a) The department shall conduct announced or unannounced inspections of medical marijuana treatment centers to determine compliance with this section or rules adopted pursuant to this section.

(b) The department shall inspect a medical marijuana treatment center upon receiving a complaint or notice that the medical marijuana treatment center has dispensed marijuana containing 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 medical marijuana treatment center to evaluate the medical marijuana treatment center's records, personnel, equipment, processes, security measures, sanitation practices, and quality assurance practices.

(d) The Department of Agriculture and Consumer Services and the department shall enter into an interagency agreement to ensure cooperation and coordination in the performance of their obligations under this section and their respective regulatory and authorizing laws. The department, the Department of Highway Safety and Motor Vehicles, and the Department of Law Enforcement may enter into interagency agreements for the purposes specified in this subsection or subsection (7).

(e) The department shall publish a list of all approved medical marijuana treatment centers, medical directors, and qualified physicians on its website.

(f) The department may impose reasonable fines not to exceed $10,000 on a medical marijuana treatment center for any of the following violations:

1. Violating this section 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 medical marijuana treatment center 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 medical marijuana treatment center.
7. Making or filing a report or record that the medical marijuana treatment center 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 medical marijuana treatment center.
11. Making misleading, deceptive, or fraudulent representations in or related to the business practices of a medical marijuana treatment center.
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 medical marijuana treatment center 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.

(g) The department may suspend, revoke, or refuse to renew a medical marijuana treatment center license if the medical marijuana treatment center commits any of the violations in paragraph (f).

(h) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(11) PREEMPTION.—Regulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers is preempted to the state except as provided in this subsection.

(a) A medical marijuana treatment center cultivating or processing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school.

(b)1. A county or municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality. A county or municipality that does not ban dispensing facilities under this subparagraph may not place specific limits, by ordinance, on the number of dispensing facilities that may locate within that county or municipality.

2. A municipality may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, medical marijuana treatment center dispensing facilities located within the boundaries of that municipality. A county may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, all such dispensing facilities located within the unincorporated areas of that county. Except as provided in paragraph (c), a county or municipality may not enact ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under chapter 465. A municipality or county may not charge a medical marijuana treatment center a license or permit fee in an amount greater than the fee charged by such municipality or county to pharmacies. A dispensing facility location approved by a municipality or county pursuant to former s. 381.986(8)(b), Florida Statutes 2016, is not subject to the location requirements of this subsection.

(c) A medical marijuana treatment center dispensing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location through a formal proceeding open to the public at which the county or municipality determines that the location promotes the public health, safety, and general welfare of the community.

(d) This subsection does not prohibit any local jurisdiction from ensuring medical marijuana treatment center facilities comply with the

Florida Building Code, the Florida Fire Prevention Code, or any local amendments to the Florida Building Code or the Florida Fire Prevention Code.

(12) PENALTIES.—

(a) A qualified physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the qualified physician issues a physician certification for the medical use of marijuana for a patient without a reasonable belief that the patient is suffering from a qualifying medical condition.

(b) A person who fraudulently represents that he or she has a qualifying medical condition to a qualified physician for the purpose of being issued a physician certification commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A qualified patient who uses marijuana, not including low-THC cannabis, or a caregiver who administers marijuana, not including low-THC cannabis, in plain view of or in a place open to the general public; in a school bus, a vehicle, an aircraft, or a boat; or on the grounds of a school except as provided in s. 1006.062, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) A qualified patient or caregiver who cultivates marijuana or who purchases or acquires marijuana from any person or entity other than a medical marijuana treatment center violates s. 893.13 and is subject to the penalties provided therein.

(e)1. A qualified patient or caregiver in possession of marijuana or a marijuana delivery device who fails or refuses to present his or her marijuana use registry identification card upon the request of a law enforcement officer commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless it can be determined through the medical marijuana use registry that the person is authorized to be in possession of that marijuana or marijuana delivery device.

2. A person charged with a violation of this paragraph may not be convicted if, before or at the time of his or her court or hearing appearance, the person produces in court or to the clerk of the court in which the charge is pending a medical marijuana use registry identification card issued to him or her which is valid at the time of his or her arrest. The clerk of the court is authorized to dismiss such case at any time before the defendant's appearance in court. The clerk of the court may assess a fee of $5 for dismissing the case under this paragraph.

(f) A caregiver who violates any of the applicable provisions of this section or applicable department rules, for the first offense, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 and, for a second or subsequent offense, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(g) A qualified physician who issues a physician certification for marijuana or a marijuana delivery device and receives compensation from a medical marijuana treatment center related to the issuance of a physician certification for marijuana or a marijuana delivery device is subject to disciplinary action under the applicable practice act and s. 456.072(1)(n).

(h) A person transporting marijuana or marijuana delivery devices on behalf of a medical marijuana treatment center or marijuana testing laboratory who fails or refuses to present a transportation manifest upon the request of a law enforcement officer commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(i) Persons and entities conducting activities authorized and governed by this section and s. 381.988 are subject to ss. 456.053, 456.054, and 817.505, as applicable.

(j) A person or entity that cultivates, processes, distributes, sells, or dispenses marijuana, as defined in s. 29(b)(4), Art. X of the State Constitution, and is not licensed as a medical marijuana treatment center violates s. 893.13 and is subject to the penalties provided therein.

(k) A person who manufactures, distributes, sells, gives, or possesses with the intent to manufacture, distribute, sell, or give marijuana or a marijuana delivery device that he or she holds out to have originated from a licensed medical marijuana treatment center but that is counterfeit commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purposes of this paragraph, the term "counterfeit" means marijuana; a marijuana delivery device; or a marijuana or marijuana delivery device container, seal, or label which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a licensed medical marijuana treatment center and which thereby falsely purports or is represented to be the product of, or to have been distributed by, that licensed medical marijuana treatment facility.

(l) Any person who possesses or manufactures a blank, forged, stolen, fictitious, fraudulent, counterfeit, or otherwise unlawfully issued medical marijuana use registry identification card commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(13) UNLICENSED ACTIVITY.—

(a) If the department has probable cause to believe that a person or entity that is not registered or licensed with the department has violated this section, s. 381.988, or any rule adopted pursuant to this section, the department may issue and deliver to such person or entity a notice to cease and desist from such violation. The department also may issue and deliver a notice to cease and desist to any person or entity who aids and abets such unlicensed activity. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person or entity who violates any provisions of such order.

(b) In addition to the remedies under paragraph (a), the department may impose by citation an administrative penalty not to exceed $5,000 per incident. The citation shall be issued to the subject and must contain the subject's name and any other information the department determines to be necessary to identify the subject, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. If the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation shall become a final order of the department. The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section. Each day that the unlicensed activity continues after issuance of a notice to cease and desist constitutes a separate violation. The department shall be entitled to recover the costs of investigation and prosecution in addition to the fine levied pursuant to the citation. Service of a citation may be made by personal service or by mail to the subject at the subject's last known address or place of practice. If the department is required to seek enforcement of the cease and desist or agency order, it shall be entitled to collect attorney fees and costs.

(c) In addition to or in lieu of any other administrative remedy, the department may seek the imposition of a civil penalty through the circuit court for any violation for which the department may issue a notice to cease and desist. The civil penalty shall be no less than $5,000 and no more than $10,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department prevails, may also award reasonable costs of investigation and prosecution.

(d) In addition to the other remedies provided in this section, the department or any state attorney may bring an action for an injunction to restrain any unlicensed activity or to enjoin the future operation or maintenance of the unlicensed activity or the performance of any service in violation of this section.

(e) The department must notify local law enforcement of such unlicensed activity for a determination of any criminal violation of chapter 893.

(14) 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 caregiver may purchase from a medical marijuana treatment center for the patient's medical use a marijuana delivery device and up to the amount of marijuana authorized in the physician certification, but may not possess more than a 70-day supply of marijuana, or the greater of 4 ounces of marijuana in a form for smoking or an amount of marijuana in a form for smoking approved by the department pursuant to paragraph (4)(f), at any given time and all marijuana purchased must remain in its original packaging.

(b) Notwithstanding paragraph (a), s. 893.13, s. 893.135, s. 893.147, or any other provision of law, a qualified patient and the qualified patient's caregiver may purchase and possess a marijuana delivery device intended for the medical use of marijuana by smoking from a vendor other than a medical marijuana treatment center.

(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 medical marijuana treatment center and its owners, managers, and employees may manufacture, possess, sell, deliver, distribute, dispense, and lawfully dispose of marijuana or a marijuana delivery device as provided in this section, s. 381.988, and by department rule. For the purposes of this subsection, the terms "manufacture," "possession," "deliver," "distribute," and "dispense" have the same meanings as provided in s. 893.02.

(d) 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 certified marijuana testing laboratory, including an employee of a certified marijuana testing laboratory acting within the scope of his or her employment, may acquire, possess, test, transport, and lawfully dispose of marijuana as provided in this section, in s. 381.988, and by department rule.

(e) A licensed medical marijuana treatment center 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 marijuana or a marijuana delivery device, as provided in this section, in s. 381.988, and by department rule.

(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 marijuana 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.

(g) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section and pursuant to policies and procedures established pursuant to s. 1006.062(8), school personnel may possess marijuana that is obtained for medical use pursuant to this section by a student who is a qualified patient.

(h) 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 research institute established by a public postsecondary educational institution, such as the H. Lee Moffitt Cancer Center and Research Institute, Inc., established under s. 1004.43, or a state university that has achieved the preeminent state research university designation under s. 1001.7065 may possess, test, transport, and lawfully dispose of marijuana for research purposes as provided by this section.

(15) APPLICABILITY.—

(a) This section does not limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy.

(b) This section does not require an employer to accommodate the medical use of marijuana in any workplace or any employee working while under the influence of marijuana.

(c) This section does not create a cause of action against an employer for wrongful discharge or discrimination.

(d) This section does not impair the ability of any party to restrict or limit smoking or vaping marijuana on his or her private property.

(e) This section does not prohibit the medical use of marijuana or a caregiver assisting with the medical use of marijuana in a nursing home facility licensed under part II of chapter 400, a hospice facility licensed under part IV of chapter 400, or an assisted living facility licensed under part I of chapter 429, if the medical use of marijuana is not prohibited in the facility's policies.

(f) Marijuana, as defined in this section, is not reimbursable under chapter 440.

(16) FINES AND FEES.—Fines and fees collected by the department under this section shall be deposited in the Grants and Donations Trust Fund within the Department of Health.

[2](17) Rules adopted pursuant to this section before July 1, 2021, are not subject to ss. 120.54(3)(b) and 120.541. This subsection expires July 1, 2021.

History.—s. 2, ch. 2014-157; s. 1, ch. 2016-123; s. 24, ch. 2016-145; ss. 1, 3, 18, ch. 2017-232; s. 29, ch. 2018-10; s. 43, ch. 2018-110; s. 1, ch. 2018-142; s. 1, ch. 2019-1; s. 39, ch. 2019-116; s. 85, ch. 2020-2; s. 31, ch. 2020-114.

[1]**Note.**—

A. Section 1, ch. 2017-232, provides that "[i]t is the intent of the Legislature to implement s. 29, Article X of the State Constitution by creating a unified regulatory structure. If s. 29, Article X of the State Constitution is amended or a constitutional amendment related to cannabis or marijuana is adopted, this act shall expire 6 months after the effective date of such amendment." If such amendment or adoption takes place, s. 381.986, as amended by s. 1, ch. 2017-232, will read:

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.

B. Section 14(1), ch. 2017-232, as amended by s. 33, ch. 2020-114, "in order to implement Specific Appropriations 468 through 470, 475, and 482 of the 2020-2021 General Appropriations Act," provides that:

"(1) EMERGENCY RULEMAKING.—

"(a) The Department of Health and the applicable boards shall adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, and this section necessary to implement ss. 381.986 and 381.988, Florida Statutes. If an emergency rule adopted under this section is held to be unconstitutional or an invalid exercise of delegated legislative authority, and becomes void, the department or the applicable boards may adopt an emergency rule pursuant to this section to replace the rule that has become void. If the emergency rule adopted to replace the void emergency rule is also held to be unconstitutional or an invalid exercise of delegated legislative authority and becomes void, the department and the applicable boards must follow the nonemergency rulemaking procedures of the Administrative Procedures Act to replace the rule that has become void.

"(b) For emergency rules adopted under this section, the department and the applicable boards need not make the findings required by s. 120.54(4)(a), Florida Statutes. Emergency rules adopted under this section are exempt from ss. 120.54(3)(b) and 120.541, Florida Statutes. The department and the applicable boards shall meet the procedural requirements in s. 120.54(4)(a), Florida Statutes, if the department or the applicable boards have, before July 1, 2019, held any public workshops or hearings on the subject matter of the emergency rules adopted under this subsection. Challenges to emergency rules adopted under this subsection are subject to the time schedules provided in s. 120.56(5), Florida Statutes.

"(c) Emergency rules adopted under this section are exempt from s. 120.54(4)(c), Florida Statutes, and shall remain in effect until replaced by rules adopted under the nonemergency rulemaking procedures of the Administrative Procedures Act. Rules adopted under the nonemergency rulemaking procedures of the Administrative Procedures Act to replace emergency rules adopted under this section are exempt from ss. 120.54(3)(b) and 120.541, Florida Statutes. By July 1, 2021, the department and the applicable boards shall initiate nonemergency rulemaking pursuant to the Administrative Procedures Act to replace all emergency rules adopted under this section by publishing a notice of rule development in the Florida Administrative Register. Except as provided in paragraph (a), after July 1, 2021, the department and applicable boards may not adopt rules pursuant to the emergency rulemaking procedures provided in this section."

C. Section 34, ch. 2020-114, provides that "[t]he amendment to s. 14(1) of chapter 2017-232, Laws of Florida, by this act expires July 1, 2021, and the text of that subsection shall revert to that in existence on June 30, 2019, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section." Effective July 1, 2021, s. 14(1), ch. 2017-232, as amended by s. 34, ch. 2020-114, will read:

"(1) EMERGENCY RULEMAKING.—

"(a) The Department of Health and the applicable boards shall adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, and this section necessary to implement ss. 381.986 and 381.988, Florida Statutes. If an emergency rule adopted under this section is held to be unconstitutional or an invalid exercise of delegated legislative authority, and becomes void, the department or the applicable boards may adopt an emergency rule pursuant to this section to replace the rule that has become void. If the emergency rule adopted to replace the void emergency rule is also held to be unconstitutional or an invalid exercise of delegated legislative authority and becomes void, the department and the applicable boards must follow the nonemergency rulemaking procedures of the Administrative Procedures Act to replace the rule that has become void.

"(b) For emergency rules adopted under this section, the department and the applicable boards need not make the findings required by s. 120.54(4)(a), Florida Statutes. Emergency rules adopted under this section are exempt from ss. 120.54(3)(b) and 120.541, Florida Statutes. The department and the applicable boards shall meet the procedural requirements in s. 120.54(a), Florida Statutes, if the department or the applicable boards have, before [June 23, 2017], held any public workshops or hearings on the subject matter of the emergency rules adopted under this subsection. Challenges to emergency rules adopted under this subsection are subject to the time schedules

provided in s. 120.56(5), Florida Statutes.

"(c) Emergency rules adopted under this section are exempt from s. 120.54(4)(c), Florida Statutes, and shall remain in effect until replaced by rules adopted under the nonemergency rulemaking procedures of the Administrative Procedures Act. By January 1, 2018, the department and the applicable boards shall initiate nonemergency rulemaking pursuant to the Administrative Procedures Act to replace all emergency rules adopted under this section by publishing a notice of rule development in the Florida Administrative Register. Except as provided in paragraph (a), after January 1, 2018, the department and applicable boards may not adopt rules pursuant to the emergency rulemaking procedures provided in this section."

[2]**Note.**—Section 31, ch. 2020-114, amended subsection (17) "[i]n order to implement Specific Appropriations 468 through 470, 475, and 482 of the 2020-2021 General Appropriations Act."

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