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ORDINANCE NO. 2017-XXXX

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL AMENDING ARTICLE 3, CHAPTER 4 (DEFINITIONS), AND ARTICLE 6, CHAPTER 4, SECTION 6.4.3 (USE REGULATIONS SCHEDULE) OF THE LAND DEVELOPMENT REGULATIONS OF THE VILLAGE OF WELLINGTON, FLORIDA, TO DEFINE MEDICAL MARIJUANA DISPENSING ORGANIZATION AND MEDICAL MARIJUANA TREATMENT CENTER AND TO PROHIBIT THE ESTABLISHMENT OR OPERATION OF SUCH FACILITIES; PROVIDING A CONFLICTS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Wellington's Council, pursuant to the authority granted to it in Chapters 163 and 166, *Florida Statutes*, is authorized and empowered to consider changes to its land development regulations; and

WHEREAS, on June 16, 2014, the Compassionate Medical Cannabis Act of 2014 was signed into law and regulation by Section 381.986, *Florida Statutes* to allow certain qualifying patients to obtain and use restricted types of medical marijuana; and

WHEREAS, Florida voters passed Amendment 2 on November 8, 2016, adopting Article X, Section 29 of the Florida Constitution expanding the availability of medical marijuana to patients with a greater number of diseases, disorders and conditions, and

WHEREAS, on June 14, 2017, Chapter 2017-232, Laws of Florida was signed into law, implementing Article X, Section 29 of the Florida Constitution; and

WHEREAS, Chapter 64-4 "Compassionate Use" of the Florida Administrative Code has been enacted by the Florida Department of Health with regard to the requirements for dispensing organizations/facilities, including procedures for application review, approval, inspection and authorization of such organizations; and

WHEREAS, Marijuana is still listed as a Schedule 1 substance under the Federal Controlled Substances Act and is prohibited by Federal Law; and

WHEREAS, due to the historical prohibition of marijuana, Wellington does not currently have any land development regulations addressing or governing the use of real property for the purposes or cultivating, processing, distributing or selling marijuana or any of its byproducts or related activities; and

WHEREAS, Wellington's Council has determined that Medical Marijuana Treatment Centers and Dispensing Organizations/facilities could have significant impact on the developments and surrounding areas where they are located with respect to traffic, congestion, public safety, surrounding property values, demand for Village services and other

1 aspects of the general welfare; and
2

3 **WHEREAS**, Wellington's Council desires to promote effective development regulation
4 pursuant to the provisions of Chapter 2017-232, Laws of Florida and Chapter 64-4 of the
5 Florida Administrative Code but wishes to preserve the status quo while researching, studying
6 and analyzing the potential impact of Medical Marijuana Treatment Centers and Dispensing
7 Organizations/facilities upon adjacent uses and surrounding areas with respect to traffic,
8 congestion, surrounding property values, demand for Village services and other aspects of the
9 general welfare; and
10

11 **WHEREAS**, Wellington's Council finds that options for regulating the operation of Medical
12 Marijuana Treatment Centers and Dispensing Organizations/facilities under the provisions of
13 Chapter 2017-232, Laws of Florida and Chapter 64-4 "Compassionate Use" of the Florida
14 Administrative Code are insufficient to appropriately govern such uses and related activities to
15 mitigate their potential impacts on traffic, congestion, surrounding property values, demand for
16 Village services and other aspects of the general welfare; and
17

18 **WHEREAS**, the Planning, Zoning and Adjustment Board, acting as the Local Planning
19 Agency, after notice and public hearing on _____, has reviewed the proposed Ordinance
20 and determined that the proposed amendments are consistent with Wellington's
21 Comprehensive Plan; and
22

23 **WHEREAS**, Wellington's Council has taken the recommendations from the Local
24 Planning Agency, Wellington staff and the comments from the public into consideration when
25 considering the provisions that are the subject of this Ordinance.
26

27 **NOW, THEREFORE, BE IT ORDAINED BY THE WELLINGTON, FLORIDA'S**
28 **COUNCIL THAT:**
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30 **SECTION 1.** Article 3, Chapter 4 (DEFINITIONS), is hereby amended to include new
31 definitions in alphabetical order, as follows:
32

33 **Medical Marijuana Dispensing Organization/Facility** means an organization
34 approved by the Florida Department of Health to cultivate, process and dispense low-THC
35 cannabis or medical cannabis pursuant to the provisions of Chapter 2017-232, Laws of Florida
36 and Chapter 64-4 "Compassionate Use" of the Florida Administrative Code.
37

38 **Medical Marijuana Treatment Center** means an entity that acquires, cultivates,
39 possesses, processes (including development of related products such as food, tinctures,
40 aerosols, oils or ointments), transfers, sells, distributes, dispenses or administers marijuana,
41 products containing marijuana, related supplies, or educational materials to qualifying patients
42 or their professional caregivers, and is registered by the Florida Department of Health.
43

44 **SECTION 2.** Article 6, Chapter 4, Section 6.4.3.E (Use regulations schedule) is hereby
45 amended, as follows:
46

47 **E. Prohibited Uses.** Uses not identified in a particular district column as permitted
48 by right, as a conditional use, or a special use, are not allowed in such district unless otherwise

expressly permitted under this Code. However, pursuant to the allowances provided by Chapter 2017-232, Laws of Florida and Chapter 64-4 of the Florida Administrative Code, Medical Marijuana Treatment Centers and Dispensing Organization/Facilities are prohibited in all Land Use designations and Zoning districts.

SECTION 3. Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington Ordinance, Resolution, or Municipal Code provision; then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

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

SECTION 5. This Ordinance shall become effective immediately upon adoption of the Village Council following second reading.

PASSED this ____ day of _____, 2017 on first reading.

PASSED AND ADOPTED this ____ day of _____, 2017, on second and final reading.

WELLINGTON

FOR

AGAINST

BY: _____

Anne Gerwig, Mayor

John T. McGovern, Vice Mayor

Michael Drahos, Councilman

Michael J. Napoleone Councilman

Tanya Siskind, Councilwoman

ATTEST:

BY: _____

Chevelle Nubin, Clerk

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**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____
Laurie Cohen, Village Attorney