



## Agenda Item Summary

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**File ID:** 18-0505

**PH-1**

**Meeting Date:** 7/10/2018

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**PLACEMENT:** Public Hearings

**TITLE:**

**SECOND PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING ARTICLE 3, LAND DEVELOPMENT REGULATIONS, MARTIN COUNTY CODE TO ESTABLISH STANDARDS FOR DISPENSARIES**

**EXECUTIVE SUMMARY:**

This is the second public hearing to consider adoption of an ordinance amending Article 3, Land Development Regulations to permit medical marijuana dispensaries.

**DEPARTMENT:** Growth Management

**PREPARED BY:** **Name:** Nicki van Vonno, AICP  
**Title:** Director, Growth Management Department

**REQUESTED BY:**

**PRESET:**

**PROCEDURES:** None

**BACKGROUND/RELATED STRATEGIC GOAL:**

The use of medical marijuana was approved by Florida voters via Constitutional Amendment 2 on August 8, 2016. The amendment became effective on January 3, 2017. During the 2017 Special Session that concluded in June, the Legislature adopted SB 8-A, relating to medical marijuana. Governor Scott signed the bill on June 23, 2017 and it is now law and is effective as Section 381.986, Florida Statutes.

Section 381.986 includes provisions regarding how local jurisdictions may regulate Medical Marijuana Treatment Centers. Local governments are precluded from regulating the cultivation, processing and dispensing of medical marijuana. Based on the language in State Statute, Martin County must amend its Land Development Regulations to comply with State requirements, or the County can choose to prohibit dispensing facilities in unincorporated Martin County.

The Local Planning Agency held its public hearing on April 19, 2018 and recommended approval of the draft ordinance. On June 12, 2018 the County Commission held their first public hearing on this amendment.

**ISSUES:**

None

**LEGAL SUFFICIENCY REVIEW:**

This is a legislative matter. Legislative decisions are those in which the local government formulates policy rather than applying specific rules to a particular situation. A local government's approval or denial of an issue in its legislative capacity is typically subject to a fairly debatable standard of review. Fairly debatable means that the government's action must be upheld if reasonable minds could differ as to the propriety of the decision reached. Decisions subject to the fairly debatable standard of review need only be rationally related to a legitimate public purpose, such as the health, safety, and welfare of the public, to be valid. Given this broad discretion, only decisions that are arbitrary and capricious or illegal are subject to serious legal challenge.

**RECOMMENDED ACTION:**

**RECOMMENDATION**

Move that the Board adopt the attached draft ordinance amending Article 3, Martin County LDR.

**ALTERNATIVE RECOMMENDATIONS**

Move that staff provide additional information and that the public hearing be continued to a date certain.

**FISCAL IMPACT:**

**RECOMMENDATION**

Staff time.

Funding Source	County Funds	Non-County Funds
Subtotal		
Project Total		

**ALTERNATIVE RECOMMENDATIONS**

Staff time.

**DOCUMENT(S) REQUIRING ACTION:**

- ☐ Budget Transfer / Amendment   ☐ Chair Letter   ☐ Contract / Agreement  
☐ Grant / Application   ☐ Notice   ☒ Ordinance   ☐ Resolution  
☐ Other: