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**ORDINANCE
NUMBER 2018 - ____**

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**AN ORDINANCE OF THE CITY OF LABELLE,
FLORIDA, AMENDING ARTICLE V, ADDING
SECTION 4-82 OF THE CITY OF LABELLE LAND
DEVELOPMENT CODE TO PROHIBIT MEDICAL
MARIJUANA FACILITIES WITHIN THE
BOUNDARIES OF THE CITY; PROVIDING FOR
CODIFICATION, SEVERABILITY, CONFLICTS
AND AN EFFECTIVE DATE.**

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WHEREAS, the City of LaBelle, Florida has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida; Chapters 163 and 166; and Section 381.986 Florida Statutes; and

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WHEREAS, The Marijuana Policy Group has published a memorandum called “Municipal Dispensary Allocation: Florida,” which evaluated the market need for medical marijuana dispensing facilities and the harmful consequences and secondary effects of over-saturation of medical marijuana dispensing facilities within the market place; and

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WHEREAS, The Marijuana Policy Group determined that Florida should have no more than one dispensing facility for each fifty-thousand residents and the optimal ratio is one dispensing facility per 67,222 residents, and the City of LaBelle has a population (approximately 5,000) below such ratios; and

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WHEREAS, the City Commission had previously enacted Ordinance 2017-06 instituting a temporary moratorium on cannabis dispensing businesses, generally, while the Florida Legislature established a regulatory framework to implement and expand the legal medical use of cannabis; and

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WHEREAS, the City Commission thereafter enacted Ordinance 2018-06 extending the temporary moratorium on cannabis dispensing businesses while a permanent ban could be implemented in accordance with Florida law; and

WHEREAS, Section 381.986(11), Florida Statutes, now authorizes a county or municipality to “ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality;” and

WHEREAS, Section 381.986, Florida Statutes, severely limits, through State preemption, the City’s control over the zoning and permitting of medical marijuana dispensaries, thereby substantially restricting the City’s ability to protect surrounding land uses for which dispensaries may not be compatible; and

46 **WHEREAS**, given, among other things, the potential negative secondary land
47 use effects of medical marijuana dispensing facilities, The Marijuana Policy Group’s
48 analysis of optimal population ratios (residents per dispensing facility) and the statutory
49 restrictions on local government authority to regulate number and location of dispensing
50 facilities if not banned, there is a rational basis for the City to exercise its authority under
51 381.986(11), Florida Statutes to ban dispensing facilities within the boundaries of the
52 City; and

53
54 **WHEREAS**, the City Commission has all powers of self-government not
55 inconsistent with general or special law, including the power and authority to adopt
56 ordinances providing for the public health, safety and welfare of the residents of the City
57 of LaBelle; and

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59 **WHEREAS**, the City finds that this Ordinance is in the interests of the public
60 health, safety, and welfare.

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62 **NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City
63 of LaBelle, Florida:

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65 **Section 1.** Recitals. The foregoing recitals are hereby ratified and confirmed as
66 being true and correct and are hereby made a part of this Ordinance and adopted as
67 legislative findings.

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69 **Section 2.** Amendment of the City Code. Article V, Supplementary District
70 Regulations, of the City of LaBelle Land Development Code is hereby amended to add
71 the following new provisions:

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73 Section. 4-82 – Medical Marijuana Treatment Center Dispensing Facilities.

- 74
75 (a) Prohibition. Medical Marijuana Treatment Center Dispensing Facilities are
76 prohibited within the boundaries of the City. The City will not accept, process or
77 approve any request or application for a development order, building permit or
78 other approval associated with a proposed Medical Marijuana Treatment Center
79 Dispensing Facility.
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81 (b) Definition. For the purposes of this section, the term “Medical Marijuana
82 Treatment Center Dispensing Facility” means any facility where medical
83 marijuana or any product derived therefrom is dispensed.
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85 (c) Interpretation. This section and the terms used herein shall be interpreted in
86 accordance with Section 381.986, Florida Statutes, and Chapter 64-4 of the Florida
87 Administrative Code. The intent of this section is to ban medical marijuana
88 treatment center dispensing facilities from being located within the boundaries of
89 the City as authorized by Section 381.986(11), Florida Statutes.

92 **Section 3. Moratorium Contingency.** In the event that Section 381.986, Florida
93 Statutes, is amended or interpreted by a court of competent jurisdiction in a way as to
94 eliminate or prevent the City’s ability to ban or prohibit Marijuana Treatment Center
95 Dispensing Facilities within the City’s boundaries, upon the effective date of such, an
96 automatic one-year moratorium will go into place on the acceptance, processing and
97 approval of Marijuana Treatment Center Facilities (including by way of acceptance,
98 proceeding and approval of applications for development orders and permits) within the
99 City boundaries in order to give the City time to evaluate changes in the applicable law,
100 the City’s ability to regulate such uses and activities and potentially enact local
101 legislation regarding the same. Such one-year moratorium may be terminated early
102 through superseding resolution or ordinance of the City Commission.
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104 **Section 4. Codification.** This Ordinance shall be incorporated into the City of
105 LaBelle Land Development Code. The sections of this Ordinance can be renumbered or
106 re-lettered to the appropriate word or phrase to accomplish codification. Omissions,
107 grammatical, and typographical errors as well as clarifications of ambiguous wording
108 that do not affect the intent of this Ordinance may be authorized by the Mayor without
109 the need for a public hearing.
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111 **Section 5. Severability.** In the event that any portion of this Ordinance is for
112 any reason held invalid or unconstitutional by any court of competent jurisdiction, such
113 portion shall be deemed a separate, distinct and independent provision, and such holding
114 shall not affect the validity of the remaining portions of this Ordinance.
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116 **Section 6. Conflicts.** The provisions of this Ordinance shall supersede any
117 provision of existing ordinances in conflict herewith to the extent of said conflict.
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119 **Section 7. Effective Date.** This ordinance shall become effective immediately
120 upon adoption by the City Commission of the City of LaBelle, Florida.
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PASSED AND DULY ADOPTED this ____ day of _____, 2018.

Attest: **CITY OF LABELLE, FLORIDA**

By: _____ By: _____
Thomas A. Smith, David A. Lyons, Mayor
Clerk-Commissioner

Reviewed for legal sufficiency:

By: _____
Derek P. Rooney, Esq., City Attorney

Vote:	AYE	NAY
Mayor Lyons	_____	_____
Commissioner Smith	_____	_____
Commissioner Wilkins	_____	_____
Commissioner Akin	_____	_____
Commissioner Zimmerly	_____	_____