

Ordinance 2018-02

AN ORDINANCE AMENDING DIVISION 7, INTRODUCTION TO DISTRICT REGULATIONS, OF THE LAND DEVELOPMENT CODE OF THE CITY OF ST. PETE BEACH, FLORIDA, BY ADDING A NEW SECTION TO BE NUMBERED AND ENTITLED AS SECTION 7.6, MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES PROHIBITED, BY PROHIBITING MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES FROM BEING LOCATED WITHIN THE BOUNDARIES OF THE CITY OF ST. PETE BEACH, AS AUTHORIZED BY SECTION 381.986, FLORIDA STATUTES; PROVIDING LEGISLATIVE FINDINGS; PROVIDING A MORATORIUM CONTINGENCY; PROVIDING FOR CONFLICTS, SEVERABILITY, CONSTRUCTION, PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of St. Pete Beach (the "City"), has the authority to adopt this Ordinance pursuant to Section 2, Article VIII of the Constitution of the State of Florida; Chapters 163 & 166, Florida Statutes; and Section 381.986, Florida Statutes; and

WHEREAS, The Marijuana Policy Group has published a memorandum entitled "Municipal Dispensary Allocation: Florida" that, among other findings, determined the harmful consequences of the saturation and concentration of facilities in small population areas like St. Pete Beach, Florida; and

WHEREAS, under the statute the "regulation of cultivation, processing, and delivery by marijuana treatment centers is preempted to the state except as provided in Section 381.986(11), Florida Statutes, which 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(11) further provides that "[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," and that "[e]xcept 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"; and

WHEREAS, Section 381.986, Florida Statutes, severely limits, through state preemption, the City's regulatory control over the zoning and permitting of medical marijuana treatment center dispensing facilities; and

WHEREAS, the City Commission has determined that the adoption of this ordinance is in the interest of the health, safety, and welfare of the general public.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH FLORIDA, HEREBY ORDAINS:

SECTION 1. The foregoing recitals are incorporated herein by reference, are made a part of this Ordinance, and constitute the legislative findings of the City of St. Pete Beach City Commission.

SECTION 2. Division 7, Introduction to District Regulations of the Land Development Code of the City of St. Pete Beach is hereby amended by adding a new section to be numbered and entitled as Section 7.6, "Medical Marijuana Treatment Center Dispensing Facilities, Prohibited," which shall read as follows:

Section 7.6 - Medical Marijuana Treatment Center Dispensing Facilities, Prohibited.

- (a) **Prohibition.** Medical Marijuana Treatment Center Dispensing Facilities are prohibited and shall not be located within the boundaries of the City. The City shall not accept, process or approve any request or application for a development order, building permit or other approval pertaining to or associated with a proposed Medical Marijuana Treatment Center Dispensing Facility.
- (b) **Definition.** The term "Medical Marijuana Treatment Center Dispensing Facility" shall mean any facility where medical marijuana or any product derived therefrom is dispensed.
- (c) **Interpretation.** This section and the terms used herein shall be interpreted in accordance with Florida Statutes and the Florida Administrative Code. The intent of this section is to ban medical marijuana treatment center dispensing facilities from being located within the boundaries of the City as authorized by Florida Statutes.

SECTION 3. In the event Section 381.986, Florida Statutes is repealed or amended by the Florida legislature, or is declared to be invalid or unconstitutional or is otherwise construed by a court of competent jurisdiction in a manner that eliminates or prevents the City's authority or ability to ban or prohibit Medical Marijuana Treatment Center Dispensing Facilities from being located within the City limits, then in such event and upon the effective date of such repeal, amendment or judicial determination, a one-year moratorium shall automatically be in place, without further action by the City Commission, during which no request or application pertaining to or associated with a Marijuana Treatment Center Dispensing Facilities shall be accepted, processed, or approved (and no development order or permit related thereto shall be issued) within the City limits. The purpose of the moratorium period is to provide a reasonable period of time to the City to evaluate changes in the applicable law, and the City's ability to adopt an ordinance establishing reasonable regulations for such uses and activities. The City Commission may by ordinance terminate the moratorium prior to the expiration of the one-year moratorium period.

SECTION 4. Conflicts. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

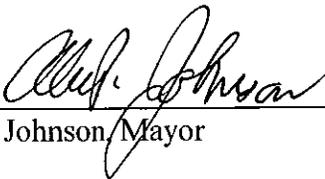
SECTION 5. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6. Construction. This Ordinance is to be liberally construed to accomplish its objectives.

SECTION 7. Publication. This Ordinance shall be published in accordance with the requirements of law.

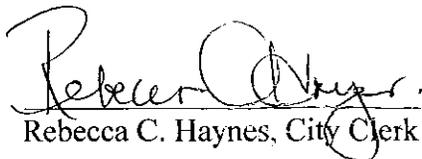
SECTION 8. Effective Date. This ordinance shall take effect immediately upon adoption.

FIRST READING: 05/08/2018
PUBLICATION: 06/01/2018
FINAL READING: 06/12/2018
PUBLIC HEARING: 06/12/2018



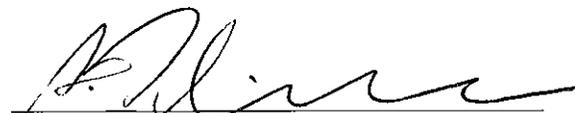
Alan Johnson, Mayor

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law the 12th day of June, 2018.



Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:



Andrew Dickman, City Attorney