


**MEMORANDUM**

**TO:** Mayor O'Brien  
Vice Mayor George  
Commissioner Snodgrass  
Commissioner England  
Commissioner Kostka

**FROM:** Max Royle, City Manager 

**DATE:** July 17, 2017

**SUBJECT:** Regulating Medical Marijuana Dispensing Facilities in the City: Request by City Attorney to Discuss

Attached is an outline from the City Attorney, Mr. Jim Wilson, in which he briefly describes the new law the Florida Legislature passed earlier in 2017. Under that law, the State has pre-empted most local regulations of medical marijuana dispensing facilities. Under the new law, cities and counties can ban such facilities; or, if they allow them, the regulations for such facilities cannot be more restrictive than the regulations governing the permitting and location of pharmacies.

In our City, the Land Development Regulations allow pharmacies in all commercial and in Institutional land use districts (Table 3.02.02, Table of Uses of Land Use District).

The commercial districts in the City are: the commercial areas between Pope Road and 16<sup>th</sup> Street; from the center line of A1A Beach Boulevard 300 feet to the west and 150 feet to the east, from Pope Road to the Public shopping plaza; the shopping plaza itself; and the areas east of SR-A1A from Pope Road to 16<sup>th</sup> Street; and east and west of SR-A1A from the junction with A1A Beach Boulevard south to the small strip center on the east side of the highway, south of Sandpiper Boulevard. There's also a commercial area in the Sea Grove subdivision, which is a planned unit development.

The institutional land use districts include Ron Parker Park, the pier park and adjacent facilities, such as the fire station and former city hall, and where the current city hall and police station are located.

**ACTION REQUESTED**

It is that you discuss with Mr. Wilson the two options that the new State law allows and which one you want to select. Mr. Wilson can then draft an ordinance based on your selection.

## MEMORANDUM

**TO:** Max Royle, City Manager

**FROM:** James Wilson, City Attorney

**DATE:** July 14, 2017

The Florida statutes regulating the production and sale of medical marijuana in accordance with the voters approved constitutional amendment recently went into effect. They contain the legal requirements for the production and distribution of marijuana products to qualified recipients and their caregivers. Of particular interest is section 381.986 (11), which spells out what cities and counties can do to regulate the dispensing facilities. Essentially, that section preempts to the state virtually all regulations regarding the sale of such products. That section does allow a city or county to totally ban medical marijuana treatment center dispensing facilities from being located within the boundaries of a county or municipality. However, if a city or county does not ban such facilities, they may not enact ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining location for pharmacies licensed under chapter 465, Florida Statutes. Cities are also prohibited from placing limits, by ordinance, on the number of dispensing facilities that may locate within the City.

I previously provided you with copies of ordinances that were adopted by the City of St. Augustine that provided certain limits upon marijuana dispensing facilities. However, those ordinances were adopted prior to implementation of state statutes preempting many regulations to the state. Therefore, it appears that those ordinances and other similar ordinances passed by other cities may now have to be amended or repealed.

I think it would be appropriate for you to place this on a City Commission agenda so they may discuss this matter and decide what action, if any they want to take based upon the state law.