

MEMORANDUM

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

FROM: Max Royle, City Manager df

DATE: October 4, 2017

SUBJECT: Ordinance 17-07, Public Hearing and Final Reading: to Prohibit Medical Marijuana Treatment Center Dispensing Facilities in the City for 12 Months

BACKGROUND

You discussed regulating medical marijuana facilities in the City at your August 7th meeting. Attached as pages 1-2 are the minutes of that discussion. You'll note that by consensus you agreed "to establish a ban with a sunset clause of 12 months." Mr. Wilson included that provision in Ordinance 17-07 (pages 3-4), which you approved on first reading at your September 18, 2017, meeting.

ACTION REQUESTED

It's that you hold the public hearing and pass Ordinance 17-07 on its second and final reading.

PLEASE NOTE: The City Manager has noted in his "Reminder" file to bring to your attention at your September, 2018, meeting that Ordinance 17-07 will expire on November 6, 2018, so that you can decide whether to renew the ban.

5. Regulating Medical Marijuana Facilities in the City: (Presenter: Mr. Jim Wilson, City Attorney)

Mayor O'Brien introduced Item 5 and asked City Attorney Wilson for a report.

City Attorney Wilson advised that the state regulations took this out of the hands of local governments. He explained that this has to be treated and regulated as a normal pharmacy. He asked the Commission whether they want to allow dispensaries or not.

Police Chief Hardwick advised that he has concerns. He explained that there could be 475 store fronts in the State of Florida. He commented that there are six in Duvall County, five in Volusia County, one in Ponte Vedra, and one in Orange Park. He advised that the State of Florida said there would be 472,000 patients in the five years in the State. He commented that he understands that people need this, but didn't feel that the City needs to have it here. He explained that the tourists are mostly families who visit our area and he personally doesn't feel that it would be necessary in our City.

Mayor O'Brien advised that he agrees with Police Chief Hardwick because patients can go to a larger jurisdiction to get it.

Commissioner England agreed that this City is too small because we only have two pharmacies, CVS and Walgreens.

Commissioner Snodgrass support a ban and agreed that there are other jurisdictions that patients can get this if they need it.

Commissioner Kostka explained that she respects Police Chief Hardwick's opinion and he sees everything in our City a lot closer than the Commission does. She commented that he has raised a lot of valid points, but wanted to know if a few years from now whether the Commission could address it again to see if dispensaries were needed. She remarked that it is an additional revenue for the City. She advised that she is for the protection and integrity that the City has.

Mayor O'Brien opened the Public Comment section. The following addressed the Commission:

Tom Reynolds, 880 A1A Beach Blvd., St. Augustine Beach, FL, agreed with a temporary ban. He explained that marijuana does help children with seizures.

Nicholas Binder, 232 Big Magnolia Court, St. Augustine Beach, FL, agreed with ban and felt that it was not needed in the City.

Giles Cook, 502 F Street, St. Augustine Beach, FL, requested this would only be a temporary ban for six months and then bring it back for a review. He advised that patients shouldn't have to drive so far for medicine.

Mayor O'Brien closed the Public Comment section and asked for any further Commission discussion.

Mayor O'Brien advised that he would like a ban for one year.

Commissioner Snodgrass and England agreed with one year.

City Attorney Wilson advised that a ban for 12 months could be done by ordinance and see how other jurisdictions do during that time. He advised that the City of St. Augustine is reviewing this subject now as well. He explained that he would prepare an ordinance. He explained that the ordinance could be open ended if the Commission chooses.

Discussion ensued regarding whether to have a sunset on the ordinance; ban it and then repeal the ordinance.

It was the consensus of the Commission to establish a ban with a sunset clause of 12 months.

City Manager Royle advised that the first reading of the ordinance would be at the September 11th Commission meeting.

ORDINANCE 17-07

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE BEACH, CREATING CHAPTER 12, ARTICLE X OF THE ST. AUGUSTINE BEACH CODE TO PROHIBIT MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES WITHIN THE BOUNDARIES OF THE CITY AS AUTHORIZED BY SECTION 381.986, FLORIDA STATUTES; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND EFFECTIVE DATE AND SUNSET PROVISION.

WHEREAS, the City of St. Augustine Beach, Florida has THE AUTHORITY TO ADOPT THIS Ordinance pursuant to Article VIII of the Constitution of the State of Florida; Chapters 163 & 166, Florida Statutes; and Section 381.986, Florida Statutes; and

WHEREAS, potential adverse impacts on the health, safety, and welfare of residents and business from secondary effects associated with the sale and distribution of marijuana exist, potentially including: offensive odors, trespassing, theft, fire hazards, increased crime in and about the medical marijuana dispensing facility business, robberies, negative impacts on nearby businesses, nuisance problems; and

WHEREAS, certain of the above potential adverse impacts are accentuated by the current difficulties experienced by medical marijuana dispensing facility business in obtaining banking services necessitating such to operate on a cash basis; and

WHEREAS, Section 381.986(11), Florida Statutes, authorizes a county or municipality to “ban medical marijuana treatment center dispensing treatment 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 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, the City finds that this Ordinance is in the interests of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE BEACH, FLORIDA:

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

Section 2. Amendment of City Code. Chapter 12, Article X of the City of St. Augustine Beach Code is hereby created as follows:

Article X. Prohibition of medical marijuana dispensing facilities within the City.

Sec. 12-180 – Prohibition on Medical Marijuana Dispensing Facilities.

(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 associated with a proposed Medical Marijuana Treatment Center Dispensing Facility.

- (b) Definition. For the purposes of this section, the term “Medical Marijuana Treatment Center Dispensing Facility” means any facility where marijuana or any product derived therefrom is dispensed at retail.
- (c) Interpretation/Intent. This section and the terms used herein shall be interpreted in accordance with F.S. §381.986 and Ch. 64-4 of 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 F.S. § 381.986(11).

Section 3. Codification. This Ordinance shall be incorporated into the St. Augustine Beach Code, as applicable. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance or the City Code may be freely made.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

Section 6. Effective Date and Sunset Provision. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of St. Augustine Beach, Florida and shall terminate and sunset one year from date of adoption, unless the City Commission rescinds or extends the ordinance by subsequent ordinance.

ADOPTED on this _____ day of _____, 2017 by the City Commission of the City of St. Augustine Beach, Florida.

Attest: _____

Max Royle, City Manager

Rich O'Brien, Mayor

First Reading: : September 18, 2017

Second Reading: _____