



PLANNING BOARD MEETING

CITY OF ST. PETE BEACH

155 Corey Avenue
St. Pete Beach, FL 33706

April 16, 2018
4:00 p.m.

Call to Order
Pledge of Allegiance
Roll Call

- 1. Changes to the Agenda** – Agenda items to be added, moved or deleted will be addressed at this time. Items added will be assigned agenda item numbers and items that are moved will retain the same item numbers. A notation will be made that those items will be taken out of order.
- 2. Audience Comments** – Comments shall be limited to three minutes per person to issues not on the agenda.
- 3. Approval of Minutes- (January)**
- 4. Agenda Items**
 - a. Ordinance 2018-02 – An Ordinance amending the Land Development Code of the City of St. Pete Beach to ban Medical Marijuana Treatment Centers.**
- 5. Adjournment**

APPEAL

APPEAL: Florida Statutes 286.0105 Notices of meetings and hearings must advise that a record is required to appeal. Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

AMERICANS WITH DISABILITIES ACT: Florida Statutes 286.26. Accessibility of public meetings to the physically handicapped. In accordance with the Americans with Disabilities Act and Florida Statutes, persons needing special accommodations to participate in a meeting should contact City Hall at (727) 367-2735 no later than forty-eight (48) hours prior to the meeting for assistance.

Electronic media must be submitted a minimum of 24 hours in advance to cityclerk@stpetebeach.org

The public is cordially invited to attend.

All agenda material is available for review at City Hall.

PLANNING BOARD MINUTES

JANUARY 22, 2018

4:00 P.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT:

Tiffany Secka, Chairwoman
Marvin Shavlan, Vice Chairman
Kristin Bell, Member
Doug Izzo, Member
Jack Ohlhaber, Member

ALSO PRESENT:

Wayne Saunders, City Manager
Andrew Dickman, City Attorney
Jennifer McMahon, Recreation Director
Catherine Porter, Planner II
Mary Jo Murphy, Deputy City Clerk

1. Changes to the Agenda

There were no changes made to the agenda.

2. Audience Comments

There were no audience comments.

3. Agenda Items

Approval of Minutes: October 16, 2017

Member Ohlhaber made a motion to approve the minutes. The motion was seconded by Vice Chair Shavlan and unanimously approved by a roll call vote (5 yeses – 0 nos).

Approval of Minutes: November 13, 2017

Member Izzo made a motion to approve the minutes. The motion was seconded by Member Ohlhaber and unanimously approved by a roll call vote (5 yeses – 0 nos).

4. Agenda Items

a. Ordinance 2017-27

Wayne Saunders, City Manager, reviewed the proposed amendments for Ordinance 2017-27 in regard to special events.

After Board discussion, the following changes were made to the ordinance:

- Page 4 of 5, Sec. 26-33, (b) - The following statement should be included and not have a strikethrough. The semicolon should be deleted and insert a period: “A special event permit shall not be issued unless the city finds the activity which is the subject of the application for the special event permit shall not violate any other laws or ordinances of the city nor result in any condition that may be a threat to the public safety or welfare.” The remainder of (b) will be deleted.
- Page 4 of 5, Sec. 26-33, (e) – Delete the words “just cause” and insert “not in the public interest.”

Jennifer McMahon, Recreation Director, made procedural comments to the Board in regard to special events.

Vice Chair Shavlan commented that in Ordinance 2017-27, Page 3 of 5, Sec. 26-32, (1) the words “...one day” should be “...three days.” Mr. Saunders and Ms. McMahon agreed that it should read as follows: “Any special event with duration of more than one day three days will require approval from the City Commission.”

Chairwoman Secka asked for public comment.

Hearing no audience comments or Board discussion, Chairwoman Secka asked for a motion.

Member Bell made a motion to recommend approval with the changes to Section 26-33, (b) and (e); Sec. 26-32, (1) that were discussed. The motion was seconded by Member Ohlhaber and unanimously approved by a roll call vote (5 yeses – 0 nos).

City Manager Saunders introduced Catherine Porter, Planner II, to the Planning Board and informed the Board that Ms. Porter will be working with the Planning Board until the Community Development Director position is filled.

Mr. Saunders stated that he was aware Ms. Bryla had been reviewing the sections of the Comprehensive Plan with the Board and that he will list it as an agenda item in the future. Chairwoman Secka requested that it be presented in a strikethrough format of the changes made during the previous meeting and to start from the beginning with the process.

5. Adjournment

There being no further business to come before the Board, the meeting was adjourned at 4:20 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Tiffany Secka, Chairwoman

Minutes approved on: _____

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Ordinance No 2018-02 – First Reading and Public Hearing of an Ordinance amending the Land Development Code of the City of St. Pete Beach to ban Medical Marijuana Treatment Centers.

Date: March 13, 2018

Prepared By: Andrew Dickman, City Attorney

Through: Wayne Saunders, City Manager

Summary of Issue: On November 8, 2016, Florida's voters affirmatively selected to amend the Florida Constitution, titled "Use of Marijuana for Debilitating Medical Conditions" ("Amendment 2"). The legislature has incorporated this amendment into Section 381.986 of the Florida Statutes. 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." 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."

Requested Motion: I move to approve Ordinance No. 2018-02 on first reading (read title).

Attachments: Exhibit A – Ordinance 2018-02

**Reviewed by the
City Manager:** _____

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:

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: _____
PUBLISHED: _____
SECOND READING: _____
PUBLISHED: _____

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 this _____ day of _____, 2018.

Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

Andrew Dickman, City Attorney

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: _____

PUBLISHED: _____

SECOND READING: _____

PUBLISHED: _____

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 this _____ day of _____, 2018.

Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

Andrew Dickman, City Attorney