

CITY OF MARGATE, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA, AMENDING APPENDIX "A" THE MARGATE ZONING CODE TO ADD A NEW ARTICLE XLI, TO BE ENTITLED "MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES PROHIBITED"; PROVIDING FOR PURPOSE AND FINDINGS; PROHIBITING MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES WITHIN THE CITY OF MARGATE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Art. X, § 29, Fla. Const., entitled, "Medical Marijuana production, possession and use," was passed by the electors of Florida in November 2016, and amended the Florida Constitution to allow the use of marijuana in certain medical applications; and,

WHEREAS, during the recent 2017 Special Legislative Session, the Florida Legislature passed Senate Bill 8-A, relating to the Medical Use of Marijuana ("SB-8A"), which implements the provisions of Art. X, § 29, Fla. Const.; and,

WHEREAS, Art. X, § 29, Fla. Const. defines Medical Marijuana Treatment Centers ("MMTCs") to mean an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department (of Health); and,

WHEREAS, Governor Scott signed Senate Bill 8-A into law on June 23, 2017, now known as Chapter 2017-232, Laws of Florida, which substantially amends Section 381.986, Florida Statutes, and which provides that "a county or municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality," and,

WHEREAS, notwithstanding the permissibility of the use and distribution of marijuana for medical treatment purposes in the

1 State of Florida, the use and distribution still remains
2 prohibited by the Federal law, the Controlled Substances Act (21
3 U.S.C. § 811), thereby creating confusion regarding the legality
4 of use and distribution of marijuana;
5

6 **WHEREAS**, given the rapidly evolving landscape of medical
7 marijuana in the State of Florida and given that the legislature
8 has allowed local jurisdictions only two options: 1) to allow
9 medical marijuana treatment center dispensaries within their
10 jurisdictional boundaries and regulate same no more stringently
11 than they would regulate pharmacies or 2) to ban medical
12 marijuana treatment center dispensaries within their
13 jurisdictional boundaries altogether, the City Council of the
14 City of Margate finds it to be in the best interest of the
15 health, safety, and welfare of the residents, businesses, and
16 visitors of the City of Margate to prohibit medical marijuana
17 treatment center dispensaries within the jurisdictional
18 boundaries of the City at this time; and
19

20 **WHEREAS**, the City Commission, pursuant to the authority
21 provided to the City in Section 381.986(11), Florida Statutes,
22 desires to prohibit MMTCs from establishing dispensaries within
23 the municipal limits of the City of Margate.
24

25 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
26 **CITY OF MARGATE, FLORIDA, THAT:**
27

28 **Section 1:** The foregoing "Whereas" clauses are hereby
29 ratified and confirmed as being true and correct and incorporated
30 herein by this reference.
31

32 **Section 2:** Appendix "A" of the City of Margate Code of
33 Ordinances entitled "Margate Zoning Code" is amended to add a
34 new Article XLI to be entitled "Medical Marijuana Dispensing
35 Facilities Prohibited" to read as follows¹:
36

37 Article XLI - Medical Marijuana Treatment Center Dispensing
38 Facilities Prohibited.
39

40 Section 41.1 Purpose, findings, and prohibition
41
42
43
44

45 ¹ CODING: Words in ~~struck through~~ text are deletions from
46 existing text; words in underscoring text are additions to
47 existing text, and **shaded** text reflect changes between
48 First and Second Readings.

1
2 (A) Purpose. It is the purpose of this ordinance to
3 prohibit Medical Marijuana Treatment Centers created
4 pursuant to Art. X, § 29 of the Florida Constitution
5 and Chapter 2017-232 Laws of Florida (Codified in
6 Chapter 381, Florida Statutes) from establishing
7 Medical Marijuana Treatment Center Dispensing
8 Facilities within the municipal limits of the City of
9 Margate.

10
11 (B) Findings. Based on authority granted to
12 municipalities in Section 381.986(11) Florida
13 Statutes, the City Commission finds that a ban on the
14 establishment of Medical Marijuana Treatment Center
15 Dispensaries within the City of Margate is in the best
16 interest of the City.

17
18
19 (C) Prohibition. Medical Marijuana Treatment Center
20 Dispensing Facilities are prohibited within the
21 boundaries of the City of Margate. No variance,
22 special exception or other procedural or regulatory
23 exemption to this City-wide ban may be processed by or
24 granted by the City.

25
26
27 **Section 3: Conflict.** All Ordinances or parts of
28 Ordinances, Resolutions or parts of Resolutions in conflict
29 herewith be, and the same are hereby repealed to the extent of
30 such conflict.

31
32 **Section 4: Severability.** If any clause, section, or
33 other part or application of this Ordinance shall be held by any
34 court of competent jurisdiction to be unconstitutional or
35 invalid, such unconstitutional or invalid part or application
36 shall be considered as eliminated and so not affecting the
37 validity of the remaining portions or applications remaining in
38 full force and effect.

39
40 **Section 5: Codification.** It is the intention of the
41 City Commission of the City of Margate that the provisions of
42 this Ordinance shall become and be made a part of the Code of
43 Ordinances of the City of Margate, Florida, that the Sections of
44 this Ordinance may be renumbered, re-lettered, and the word
45 "Ordinance" may be changed to "Section", "Article" or such other
46 word or phrase in order to accomplish such intention.

Section 6: Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ day of _____ 2017.

PASSED ON SECOND READING THIS _____ day of _____ 2017.

ATTEST:

JOSEPH KAVANAGH
CITY CLERK

MAYOR ARLENE R. SCHWARTZ

RECORD OF VOTE - 1ST READING

RECORD OF VOTE - 2ND READING

Peerman _____
Simone _____
Ruzzano _____
Caggiano _____
Schwartz _____

Peerman _____
Simone _____
Ruzzano _____
Caggiano _____
Schwartz _____