

CITY OF MARGATE, FLORIDA

RESOLUTION NO. 17-160

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA, DIRECTING THE CITY ADMINISTRATION TO PREPARE AN ORDINANCE 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 State of Florida, the use and distribution still remains prohibited by the Federal law, the Controlled Substances Act (21 U.S.C. § 811), thereby creating confusion regarding the legality of use and distribution of marijuana;

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MARGATE, FLORIDA, THAT:

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

Section 2: The City Administration is directed to prepare and submit to the City Commission for review and consideration an amendment to Appendix "A" of the City of Margate Code of Ordinances entitled "Margate Zoning to add a new Article XLI to be entitled "Medical Marijuana Dispensing Facilities Prohibited". The draft ordinance shall contain substantially the following language:

Article XLI - Medical Marijuana Treatment Center Dispensing Facilities Prohibited.

Section 41.1 Purpose, findings, and prohibition

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

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

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

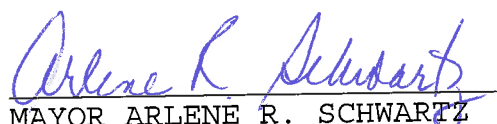
Section 3: Prior Commission Action Rescinded. The previous action by the City Commission directing the preparation of a regulatory ordinance allowing medical marijuana dispensing facilities is hereby rescinded.

Section 4: Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED THIS 18th day of DECEMBER, 2017.

ATTEST:


JOSEPH J. KAVANAGH
CITY CLERK


MAYOR ARLENE R. SCHWARTZ

RECORD OF VOTE

Peerman	NO
Simone	YES
Ruzzano	YES
Caggiano	YES
Schwartz	YES