



Legislation Text

File #: 17-1366, **Version:** 1

TO: Honorable Mayor & Members of the North Port Commission

FROM: Peter D. Lear, CPA, CGMA, City Manager

TITLE: Ordinance No. 2017-11, Second Reading, Petition No. TXT-17-062, Amending the City of North Port Unified Land Development Code and the Administrative Code of the City of North Port to update code language related to cannabis dispensing facilities and medical marijuana treatment centers to be consistent with Florida Constitution Article X, Section 29 and 2017 Senate Bill 8-A.

Recommended Action

Approve Ordinance No. 2017-11, Petition No. TXT-17-062

Background Information

The petition was advertised in a newspaper of general circulation within the City of North Port on August 2, 2017, September 21, 2017, and September 30, 2017 pursuant to the provisions of Section 166.041(3)(a), Florida Statutes and Section 9.01(b) of the Charter of the City of North Port, and Chapter 1, Article II, Section 1-12 of the City's Unified Land Development Code (ULDC) as amended.

On November 22, 2016, the City Commission of the City of North Port adopted Ordinance No. 2016-33, which amended the City of North Port Unified Land Development Code to allow for medical cannabis dispensing facilities to locate within the City of North Port provided they meet the requirements of the ordinance. An amendment was made to the motion, at the adoption hearing, to add a requirement for an 800-foot buffer between any proposed medical cannabis dispensing facility and a residential property. City Commission directed staff to perform an analysis on the impact of this buffer and to return with an update. Staff was also directed to provide an update regarding the section of the ordinance that discusses lease requirements and with information regarding the regulations in cities which already have a medical cannabis dispensing facility located in their boundaries.

Upon conducting the analysis, staff found that the 800-foot buffer added during the adoption hearing was severely limiting to the potential for placement of these facilities. Several scenarios were presented to the City Commission on April 4, 2017, providing options to create greater flexibility for this use. After discussion, City Commission directed staff to remove the 800-foot residential buffer and to reduce the buffer around schools, daycares, and churches from 1500 feet to 800 feet. Direction was also given to remove the restriction on the number of facilities permitted in each Activity Center and the number of facilities citywide.

The research conducted on the lease requirements throughout the City showed that no other use is required to include lease language that would allow for non-compliance with City codes to be a breach of the lease. To maintain consistency, City Commission directed staff to remove this language from the code language for medical cannabis dispensing facilities.

While going through this process, staff was closely monitoring the progress of proposed statutory regulations related to Article X, Section 29 of the Florida Constitution. A bill was being considered by the Florida Legislature for these regulations, which would have included Medical Marijuana Treatment Centers (MMTCs), as defined in Article X, Section 29, in Florida Statutes Section 381.986, which currently regulates Dispensing Organizations. However, on the final day of session, the House of Representatives and Senate were not able to agree on these regulations and the bill died.

During the special session convened by the Governor in early June to address the budget, a Senate Bill 8-A was

introduced to implement Article X, Section 29. This new bill completely changed the preemption language as it relates to local authority. Regulation of the cultivation, processing, and delivery remained entirely preempted to the State. The new Statute language requires them to maintain a 500-foot separation from schools. The major changes in the preemption language came in terms of the dispensing facilities. Local governments are now given the option to ban dispensing facilities, however if they choose not to they may not impose limits on the number of dispensing facilities. Local governments are allowed to regulate criteria for the location of and other permitting requirements for dispensing facilities, provided that any regulations imposed are not more restrictive than those applied to retail pharmacies. The new Statute language requires the dispensing facilities to maintain a 500-foot separation from schools.

Due to the drastic changes to the preemption language in Chapter 2017-232, Laws of Florida, the direction provided by Commission is no longer able to be implemented. The amendments made in this Ordinance serve two primary purposes - to update language for consistency and to comply with the new regulations provided in Chapter 2017-232, Laws of Florida. Chapter 61 of the ULDC and Chapter 34 of the Administrative Code are being amended to update the code language to reflect the terminology of Medical Marijuana Treatment Centers, or MMTCs. Chapters 25 and 53 of the ULDC are being amended to ensure that the Code is not contradictory to State law.

The Planning and Zoning Advisory Board heard this item at a regularly scheduled meeting on August 17, 2017. There was very minimal discussion on this item. A concern was raised regarding the potential future transformation of MMTCs into facilities that will distribute marijuana for recreational use and about the State's removal of home rule. If the City now has the option to ban, it should consider exercising that choice. Counter discussion was raised that an overwhelming number of citizens in the State of Florida voted to support Amendment 2, and that the City has an obligation to implement the will of the people. The board voted 4 to 1 to recommend that the City Commission approve this item.

This item was heard for first reading on September 26, 2017. During this meeting, staff identified that the definitions in the Ordinance were in the ULDC, while all references to these definitions were in the Administrative Code. Staff recommended striking the new definitions from the Ordinance and instead adding a clause to the remaining language in Sec. 34-40 that refers to the definitions provided in Florida Statutes and the State Constitution. Commission approved the continuation of the Ordinance with the recommended amendments to the October 10, 2017 meeting for second reading and adoption.

Strategic Plan

Financially Responsible City Providing Quality Municipal Services

Financial Impact

N/A

Procurement

N/A

Attachments:

1. Ordinance No. 2017-11
2. TXT-17-062, Staff Report

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