



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: November 7, 2017

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Ordinance 17-16, Ban on Medical Marijuana Dispensaries

Background: In December 2016, the City Council adopted resolution 16-19 placing a 90-day moratorium on temporary building and zoning moratorium on the establishment and operation of dispensing facilities within the corporate limits of the City of Belle Isle until adequate regulations have been developed, considered and adopted is in the best interest of the health, safety and general welfare of the community and the residents of the City. This initial moratorium has expired but the City Council would like to extend the moratorium for another 90-day period. The Council then directed the City Manager and City Attorney to draft an ordinance that banned medical marijuana dispensaries in the City.

Staff Recommendation: Read Ordinance 17-16 for the first time

Suggested Motion: I move that we read Ordinance 17-16 for the first time by title only and advertise ordinance 17-16 for a second reading on November 21, 2017 (or December 5, if no November meeting).

Alternatives: Do not adopt the ordinance and allow the public to apply for establishing and operating dispensing facilities in Belle Isle

Fiscal Impact: Unknown at this time how much revenue could be generated.

Attachments: Ordinance 17-16

ORDINANCE NO. 17-16

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING THE CITY CODE TO PROHIBIT MEDICAL MARIJUANA DISPENSING FACILITIES WITHIN THE BOUNDARIES OF THE CITY OF BELLE ISLE AS AUTHORIZED BY SECTION 381.986, FLORIDA STATUTES; CREATING CHAPTER 15, ARTICLE III REGARDING DISPENSING FACILITIES; PROVIDING FOR INTERPRETATION AND DEFINITIONS; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR CODIFICATION; PROVIDING FOR A MORATORIUM CONTINGENCY; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City of Belle Isle has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida; Chapters 163 and 166, Florida Statutes; and Section 381.986, Florida Statutes; and

WHEREAS, The Marijuana Policy Group has published a memorandum called “Municipal Dispensary Allocation: Florida” which evaluated the market need for medical marijuana dispensing facilities and the harmful consequences and secondary effects of oversaturation of medical marijuana dispensing facilities within the market place; and

WHEREAS, the Marijuana Policy Group determined that Florida should have no more than one dispensing facility for each 50,000 residents and the optimal ratio is one dispensing facility per 67,222 residents. The City of Belle Isle has an estimated population of 6,500 residents, well below the estimated ratios; and

WHEREAS, Section 381.986 (11), Florida Statutes, authorizes a municipality to “ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that 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 control over the zoning and permitting of medical marijuana dispensing facilities, thereby substantially restricting the City’s ability to protect surrounding land uses for which dispensing facilities may not be compatible; and

WHEREAS, based on the above considerations, including the Marijuana Policy Group’s analysis of optimal population ratios, the statutory restrictions placed on a municipality if it allows medical marijuana dispensing facilities within its jurisdiction, the potential negative secondary effects of dispensing facilities, and other considerations, there is a rational basis for the City to exercise its authority under Section 381.986(11), Florida Statutes to ban medical marijuana dispensing facilities within the boundaries of the City; and

WHEREAS, the City finds that this Ordinance is in the interests of the health, safety, and welfare of the residents of Belle Isle and the general public.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA:

SECTION 1: RECITALS. The foregoing recitals are ratified and confirmed as being true and correct and are hereby made a part of this ordinance.

SECTION 2: CITY CODE AMENDMENT. Chapter 15 of the Belle Isle City Code is hereby amended to add a new Article III containing the following provisions:

ARTICLE III. – MEDICAL MARIJUANA DISPENSING FACILITIES

Sec. 15-70. Interpretation and Definitions.

(a) This article shall be interpreted in accordance with F.S. § 381.986 and Ch. 64-4 of the Florida Administrative Code, as may from time to time be amended, and all words and phrases used in this article shall have the same meaning as provided therein.

(b) “Medical Marijuana” means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis, which are dispensed or intended for medical use as authorized by Florida law.

(c) “Medical Marijuana Dispensing Facility” means any facility where Medical Marijuana, any product derived from Medical Marijuana, or any Medical Marijuana delivery device is dispensed at retail.

Sec. 15-71. Prohibition of Medical Marijuana Dispensing Facilities.

Medical Marijuana 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 Dispensing Facility.

SECTION 3: CODIFICATION. This Ordinance shall be incorporated into the Belle Isle City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar 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: MORATORIUM CONTINGENCY. In the event Section 381.986, Florida Statute is amended or interpreted by a court of competent jurisdiction in a way as to eliminate or prevent the City's ability to ban or prohibit Medical Marijuana Dispensing Facilities within the City limits, upon the effective date of such, an automatic one-year moratorium shall go into place on the acceptance, processing and approval of applications for any development order, building permit, or other approval associated with a proposed Medical Marijuana Dispensing Facility within the City limits, in order to give the City time to evaluate changes in the applicable law and the City's ability to regulate such uses and activities, and to potentially enact regulations regarding the same. Such one-year moratorium may be terminated at an earlier time or otherwise modified through resolution or ordinance of the City Council.

SECTION 5: 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 of 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 6: 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 7: EFFECTIVE DATE. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

FIRST READING: _____, 2017

SECOND READING: _____, 2017

ADOPTED this ____ day of _____, 2017, by the City Council of the City of Belle Isle, Florida.

CITY COUNCIL
CITY OF BELLE ISLE

Lydia Pisano, Mayor

ATTEST:

Yolanda Quiceno, City Clerk

Date

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