

ORDINANCE NO. 2017-32

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING CHAPTER 86, LAND DEVELOPMENT CODE, ARTICLE V, USE REGULATIONS, DIVISION 9, SPECIFIC USE REGULATIONS BY ADDING SECTION 86-157, MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES, TO PROHIBIT MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES WITHIN THE BOUNDARIES OF THE CITY AS AUTHORIZED BY SECTION 381.986, FLORIDA STATUTES; PROVIDING FOR A MORATORIUM CONTINGENCY; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Venice has the authority to adopt this Ordinance pursuant to 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 called “Municipal Dispensary Allocation: Florida,” which evaluated the market need for medical marijuana dispensing facilities and the harmful consequences and secondary effects of over-saturation 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 fifty-thousand residents and the optimal ratio is one dispensing facility per 67,222 residents, and the City of Venice has a population (approximately 22,000) well below such ratios; and

WHEREAS, Section 381.986(11), Florida Statutes, 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 control over the zoning and permitting of medical marijuana dispensaries, thereby substantially restricting the City’s ability to protect surrounding land uses for which dispensaries may not be compatible; and

WHEREAS, given, among other things, the potential negative secondary land use effects of medical marijuana dispensing facilities, The Marijuana Policy Group's analysis of optimal population ratios (residents per dispensing facility), and the statutory restrictions on local government authority to regulate number and location of dispensing facilities if not banned, there is a rational basis for the City to exercise its authority under Section 381.986(11), Florida Statutes to ban dispensing facilities within the boundaries of the City; and

WHEREAS, the Planning Commission considered this Ordinance and following a duly noticed public hearing on October 17, 2017, forwarded its recommendation for approval and findings of consistency with the comprehensive plan to City Council as required by law; and

WHEREAS, City Council has received and considered the reports of the Planning Commission recommending approval; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, as follows:

SECTION 1. The above whereas clauses are ratified and confirmed as true and correct and are hereby made a part of this Ordinance and adopted as legislative findings.

SECTION 2. Chapter 86, Land Development Code, Article V, Use Regulations, Division 9, Specific Use Regulations, is hereby amended by adding Section 86-157, Medical Marijuana Treatment Center Dispensing Facilities, to read as follows:

Sec. 86-157. – Medical Marijuana Treatment Center Dispensing Facilities.

(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 associated with a proposed Medical Marijuana Treatment Center Dispensing Facility.

(b) Definition. For the purposes of this section, the term “Medical Marijuana Treatment Center Dispensing Facility” means any facility where medical marijuana or any product derived therefrom is dispensed at retail.

(c) Interpretation. This section and the terms used herein shall be interpreted in accordance with F.S. § 381.986 and Ch. 64-4 of 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 F.S. § 381.986(11).

Secs. 86-157~~8~~—86-200. - Reserved.

SECTION 3. Moratorium Contingency. In the event Section 381.986, Florida Statutes 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 Marijuana Treatment Center 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 Marijuana Treatment Center Dispensing Facilities (including by way of acceptance, proceeding and approval of applications for development orders and permits) within the City limits in order to give the City time to evaluate changes in the applicable law, the City's ability to regulate such uses and activities and potentially enact local legislation regarding the same. Such one-year moratorium may be terminated early through resolution or ordinance of the City Council.

SECTION 4. Conflict. All Ordinances or parts of Ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 5. Severability. If any part, section, subsection, or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this ordinance, and all applications thereof not having been declared void, unconstitutional, or invalid, shall remain in full force and effect. The city council specifically declares that no invalid or prescribed provision or application was an inducement to the enactment of this ordinance, and that it would have enacted this ordinance regardless of the invalid or prescribed provision or application.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon approval and adoption as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 14TH DAY OF NOVEMBER, 2017.

First Reading: October 24, 2017
Final Reading: November 14, 2017

Adoption:

John W. Holic, Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

I, LORI STELZER, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council at a meeting thereof duly convened and held on the 14th day of November 2017 a quorum being present.

WITNESS my hand and the official seal of said City this 14th day of November 2017.

Lori Stelzer, MMC, City Clerk

(SEAL)

Approved as to form:

City Attorney