

ORDINANCE NO. 1629

AN ORDINANCE OF THE CITY OF CRESTVIEW, FLORIDA, AMENDING CHAPTER 18, ARTICLE III, CANNABIS RELATED ACTIVITIES; PROVIDING FOR AUTHORITY; PROVIDING FOR THE AMENDMENT OF CHAPTER 18, ARTICLE III, BY REPEALING SECTION 18-77. TEMPORARY MORATORIUM AND REPLACING WITH SECTION 18-77. MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES; AND AMENDING SECTION 18-78, STUDY AND RECOMMENDATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Crestview, Florida (the "City"), a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in Section 166.021(3), Florida Statutes, the governing body of each municipality in the State has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, on November 8, 2016, Florida voters decided to amend the Florida Constitution to legalize the cultivation, production, and dispensing of medical cannabis for a broader population of eligible patients; and

WHEREAS, in 2016 the Florida Legislature amended the Right to Try Act, codified at Section 499.0295, Florida Statutes, which amended the Compassionate Use Act and legalized the cultivation, production, and dispensing of "Medical Cannabis," as defined by Section 381.986(1)(f), Florida Statutes, and derivative products by a licensed dispensing organization to "Eligible Patients," as defined by Section 499.0295, Florida Statutes; and

WHEREAS, the Florida Legislature enacted Senate Bill 8A, with an effective date of July 1, 2017, which substantially reworded Section 381.986, Florida Statutes, and created a comprehensive regulatory scheme for the prescribing, use, permitting, cultivation, processing, transportation and dispensing of Medical Marijuana. Henceforth, the creation a new regulated entity known as a Medical Marijuana Treatment Center (MMTC).

WHEREAS, under the new statute MMTCs are vertically integrated, handling all respects the bringing of medical marijuana to the patient market including all aspects of cultivation, processing, transportation, dispensing and delivery devices.

WHEREAS, Florida Department of Health (DOH) adopted extensive rules governing businesses operated pursuant to these Statutes, including the regulation that to be permitted by the State DOH, a dispensary must be owned by a MMTC.

WHEREAS, cannabis businesses licensed pursuant to the law have begun cultivating cannabis for processing and dispensing; and

WHEREAS, the dispensing of cannabis is currently illegal under federal law and the United States Drug Enforcement Agency has recently confirmed that cannabis remains a Schedule I drug under federal law, but the United States Department of Justice has discussed federal enforcement of such laws with respect to state regulated cannabis operations in the 2012 "Cole Memorandum," and;

WHEREAS, potential adverse impacts on the health, safety, and welfare of residents and business from secondary effects associated with the distribution of cannabis exist, potentially including, offensive odors, trespassing, theft, fire hazards, increased crime in and about the dispensary, robberies, negative impacts on nearby businesses, nuisance problems, and increased DUI incidents; and

WHEREAS, the very restrictive limited preemption in the new version of Section 381.986, Florida Statutes (2017), leaves the City of Crestview few options for the regulation of the number and location of MMTC dispensaries. Basically, other than a complete ban, the City is limited to regulating MMTC dispensaries in the same manner as pharmacies; and

WHEREAS, the City Council is hereby implementing a ban until such time as the State allows more comprehensive local regulation of the location and number of dispensaries; and

WHEREAS, the City Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRESTVIEW, FLORIDA:

SECTION I. AUTHORITY. The authority for enactment of this ordinance is contained in Section 2(b), Article VIII of the Constitution of the State of Florida, Chapter 166.021, Florida Statutes and Section 2, City Charter.

SECTION II. AMENDMENT.

CHAPTER 18, ARTICLE III, CANNABIS RELATED ACTIVITIES. Sections 18-76. Definitions; 18-77. Medical Marijuana Treatment Center Dispensing Facilities; 18-78. Study and Recommendations; 18-79. Penalties; 18-80 to 18-99. Reserved, of the City of Crestview Code of Ordinances is hereby created as follows:

Section 18-76. Definitions:

- a. *Derivative Product* means any form of cannabis suitable for administration to or consumption or use by a Qualified Patient, Eligible Patient, or any other similarly situated individual.
- b. *Dispensing Facility* means any facility, whether in a fixed location or mobile, where Derivative Product, Low-THC Cannabis or Medical Cannabis is dispensed.

- c. *Low-THC Cannabis* means a plant of the genus *cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seed or resin.
- d. *Medical Cannabis* 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.
- e. *Medical Cannabis Activities* means, without limitation, the growing, cultivation, processing, manufacturing, dispensing, distribution, and wholesale and retail sale of Medical Cannabis, Low-THC Cannabis, and Derivative Products, or any subset of such activities, or any related activities.

Section 18-77. Temporary Moratorium.

~~Beginning on the effective date of this Ordinance and continuing through December 1, 2017, or sooner if provided by an ordinance of the City Council, a moratorium is hereby imposed on the opening, relocation, or expansion of any Dispensing Facility within the corporate limits of the City of Crestview, including but not limited to Dispensing Facilities owned or operated by an approved dispensing organization under Section 381.986, Florida Statutes. The City shall not issue any Business Tax Receipts, or licenses of any kind, permitting any Dispensing Facility to do business in the City during the period of the moratorium; nor shall the City accept any applications for any Business Tax Receipts, or licenses of any kind, for any Dispensing Facility to do business in the City during the period of the moratorium. In addition, the moratorium is hereby imposed upon all Medical Cannabis Activities by any person or entity that is not an approved dispensing organization under Section 381.986, Florida Statutes, except where inconsistent with Florida law.~~

Section 18-77. Medical Marijuana Treatment Center Dispensing Facilities.

Excerpt: (Section 381.986(11)(b)1, Florida Statutes (2017). 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. 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.)

The City hereby imposes a ban prohibiting the operation of a Medical Marijuana Treatment Center Dispensing Facility within the corporate limits of the City of Crestview, as allowed in Section 381.986(11)(b)1, Florida Statutes (2017). Effective date: December 1, 2017.

Section 18-78. Study and Recommendations:

~~During the moratorium period~~ as described in Section 18-77 3 of this ordinance, City staff is hereby directed to study monitor the Florida Legislature's statutory regulations concerning Medical Marijuana Treatment Center Dispensing Facilities and formulate periodic reports to the City Council. Staff shall review updates in Medical Cannabis Activities regulations and clinical developments and their impact on the health, safety, and welfare of residents and businesses located within the City. and to develop and recommend regulations for Medical Cannabis Activities in the City, and Staff shall compile any other relevant regulations and recommendations and include in the periodic reports to the City Council.

Section 18-79. Penalties.

Any person or entity who violates any provision of this ordinance, or who fails to comply therewith, shall be subject to the penalties as prescribed in Chapter 1, Section 1-11 of the City's Code of Ordinances, and shall be subject to criminal penalties for violating Chapter 893, Florida Statutes.

Section 18-80 – 18-99. Reserved.

SECTION III: Severability. If any word, phrase, sentence, paragraph or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

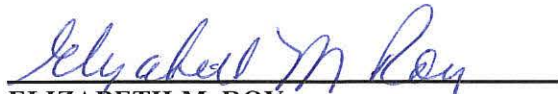
SECTION IV: Repeal of Ordinances in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION V: Effective Date. This ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED ON SECOND READING BY THE CITY COUNCIL OF CRESTVIEW, FLORIDA ON THE 13th DAY OF NOVEMBER 2017.

ATTEST:


J B WHITTEN
Council President


ELIZABETH M. ROY
City Clerk

APPROVED BY ME THIS 13th DAY OF November, 2017.


DAVID CADLE
Mayor