

ORDINANCE NO. 19 - 2017

AN ORDINANCE OF THE CITY OF SEMINOLE, FLORIDA, AMENDING THE CITY OF SEMINOLE CODE OF ORDINANCES, CHAPTER 10, BUSINESSES; CREATING ARTICLE IV. MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES; PROVIDING FOR THE PROHIBITION OF THE SITING OF MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES WITHIN THE INCORPORATED LIMITS OF THE CITY OF SEMINOLE; PROVIDING FOR LEGISLATIVE INTENT; FINDING THE AMENDMENTS CONSISTENT WITH THE CITY COMPREHENSIVE PLAN; PROVIDING FOR MINOR MODIFICATIONS THAT MAY ARISE AT PUBLIC HEARING; PROVIDING FOR RENUMBERING, SCRIVENER'S CORRECTIONS, AND INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE RECOGNITION OF STATE PREEMPTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 8, 2016, Florida voters approved a constitutional amendment (Use of Marijuana for Debilitating Medical Conditions - Amendment 2) to allow for broader medical use of any kind of marijuana (including euphoric strains) within the State; and

WHEREAS, despite the approval of Amendment 2, the activities it permits remain illegal under Federal law; and

WHEREAS, Amendment 2 allows the medical use of marijuana for individuals with debilitating medical conditions as determined by a licensed Florida physician, allows caregivers to assist patients' medical use of marijuana, and directs the Department of Health to register and regulate centers that produce, distribute and dispense marijuana for medical purposes by promulgating regulations and issuing identification cards to patients and caregivers; and

WHEREAS, Amendment 2 went into effect on January 3, 2017, and the Florida Legislature had until July 3, 2017, to create regulations governing the implementation of Amendment 2; and

WHEREAS, on January 24, 2017, the City Council adopted a moratorium on siting of medical marijuana related facilities within the City of Seminole, which moratorium expired on July 3, 2017; and

WHEREAS, the Florida Legislature adopted SB 8-A and the Governor signed the bill into law in June, 2017, to become part of Chapter 381, F.S.; and

WHEREAS, Section 381.986 (11) (b) 1., F.S., grants the authority to a municipality to ban medical marijuana treatment center dispensing facilities from locating within a municipality; and

WHEREAS, with the approval of Amendment 2, the City Council believes it is in the best interests of the citizens of Seminole to ban medical marijuana treatment center dispensing facilities from locating within the city limits of the City of Seminole; and

WHEREAS, significant safety and security issues exist for establishments involved in the dispensing of medical marijuana because these operations maintain large marijuana inventories and are compelled to conduct their business in cash because their activities have not been permitted under Federal law; and

WHEREAS, such businesses are inherently attractive targets for criminals and organized criminal organizations, and therefore it is best interest of the City to ban medical marijuana treatment center dispensing facilities so as to protect and advance the public health, safety and welfare; and

WHEREAS, other attributes of land uses dealing with medical marijuana such as noise, traffic, and odors, have a negative impact on surrounding properties and uses and to City wants attempt to prevent the creation of attractive nuisances; and

WHEREAS, in 1996, California became the first state to legalize the use of medical marijuana, and several other states subsequently enacted laws legalizing medical marijuana in various circumstances; and

WHEREAS, the California Police Chiefs Association developed a Task Force on Medical Marijuana Dispensaries, which prepared the “White Paper on Marijuana Dispensaries” (“White Paper”), published in 2009; and

WHEREAS, the White Paper examined the direct and indirect adverse impacts of marijuana dispensaries in local communities and indicated that marijuana dispensaries may attract or cause ancillary crimes, and may cause adverse effects, such as marijuana smoking in public, the sale of other illegal drugs at dispensaries, loitering and other nuisances, and increased traffic near dispensaries; and

WHEREAS, the White Paper further indicates that marijuana dispensing businesses in a community may contribute to the existence of a secondary market for illegal, street-level distribution of marijuana; and

WHEREAS, the White Paper outlines the following typical complaints received from individuals regarding certain marijuana dispensary areas: high levels of traffic going to and from the dispensaries, people loitering in the parking lot of the dispensaries, people smoking marijuana in the parking lot of the dispensaries, vandalism near dispensaries, threats made by dispensary employees to employees of other businesses, and citizens worried that they may become crime victims due to their proximity to dispensaries; and

WHEREAS, the White Paper found that many medical marijuana dispensary owners had histories of drug and violence-related arrests, that records or lack of records showed that some owners were not properly reporting income generated from the sales of marijuana, that some

medical marijuana businesses were selling to individuals without serious medical conditions, and that the California law had no guidelines on the marijuana which could be sold to an individual; and

WHEREAS, the White Paper ultimately concludes there are many adverse secondary effects created by medical marijuana dispensaries in communities; and

WHEREAS, the City Council has determined that given the potential impacts from the dispensing of medical marijuana, as identified in the White Paper, said dispensing facilities should be banned from being located within the City of Seminole to ensure the health, welfare and safety of businesses, properties, the community, as well as citizens and visitors to the City; and

WHEREAS, the City Council has determined that given the potential impacts from the dispensing of medical marijuana on the surrounding area, said medical marijuana treatment center dispensing facilities should be banned from locating within the City of Seminole; and

WHEREAS, the City Council has determined that it is in the public health, safety and welfare interest to ban the siting of medical marijuana treatment center dispensing facilities from locating within the City of Seminole; and

WHEREAS, the City Council finds the adoption of this Ordinance is in the public interest by serving to promote and protect public health, safety, and welfare and otherwise serves a municipal purpose for the City of Seminole.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SEMINOLE, FLORIDA CITY COUNCIL, AS FOLLOWS;

SECTION 1. Recitals. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative finding of facts of the City Council.

SECTION 2. The City of Seminole Code of Ordinances, Chapter 10, Businesses is hereby amended to create Article IV. Medical Marijuana Treatment Center Dispensing Facilities, where text is to be added as follows:

ARTICLE IV. MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES

Secs. 10-190 – 10-200 Reserved.

Sec. 10-201. Intent

With the approval of Florida Constitutional Amendment #2 (Use of Marijuana for Debilitating Medical Conditions), the City Council believes it is in the best interest of the citizens of Seminole to ban medical marijuana treatment center dispensing facilities from being

located with the City of Seminole, because there are significant safety and security issues that exist for any establishment involved in the dispensing of medical marijuana, because they maintain large drug inventories and are compelled to conduct business in cash, and because their activities have not yet been sanctioned by Federal law. Further, such businesses are inherently attractive targets for criminals, and it is therefore essential that the City prohibit such facilities to protect businesses and the community, to protect and advance the public health, safety and welfare, and to prevent the creation of attractive nuisances. The prohibition of medical marijuana treatment center dispensing facilities contained herein shall be enforced, unless pre-empted by State law or regulations.

Sec. 10-202. Prohibition.

Medical Marijuana Treatment Center Dispensing Facilities as defined in Ch 381, F.S. are prohibited from siting, locating, opening or operating within the incorporated limits of the City of Seminole, Florida, as may be amended from time to time through annexation.

Sec. 10- 203. Enforcement.

Any violation of this Article shall be subject to a hearing to be scheduled before the Code Enforcement Special Magistrate, pursuant to Chapter 2 of the City Code of Ordinances.

Sec. 10-204. Area Embraced

The regulations of this Article shall be solely applicable to, and extend to, all properties, facilities, buildings or uses solely located within the City limits of the City of Seminole.

Section 3. This Ordinance is declared to be adopted in compliance with the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, et. seq., Florida Statutes.

Section 4. It is the intention of the City Council that the new Article and sections within Chapter 10 hereof being amended be ordered properly, numbered correctly, and be free of any scrivener's errors or internal inconsistencies, and that any out of order, misnumbered, mislabeled or inconsistent section(s) contained in this Ordinance shall not affect the validity of any other provisions of this Ordinance.

Section 5. It is the intention of the City Council of the City of Seminole that each provision hereof be considered severable, and that the invalidity of any provision of this Ordinance shall not affect the validity of any other provisions of this Ordinance.

Section 6. The terms of this Ordinance are intended to be in compliance with any State law and State administrative requirements regarding the regulation of medical marijuana under Amendment 2. To the extent that any provision of this Ordinance is determined to be in conflict with, or preempted by State law or State administrative requirements regarding the regulation of medical marijuana, the applicable

portions of State law or State administrative requirements, as applicable, shall be controlling.

Section 7. This ordinance shall become effective immediately upon its adoption at second reading.

APPROVED ON FIRST READING: July 11, 2017


PUBLISHED: July 28, 2017

PASSED AND ADOPTED ON
SECOND AND FINAL READING AT PUBLIC HEARING: August 8, 2017


LESLIE WATERS, MAYOR

I, Patricia Beliveau, City Clerk of the City of Seminole, Florida, County of Pinellas, State of Florida, a municipal corporation do hereby certify the foregoing and hereto attached is a true and correct copy of Ordinance No. 19-2017 which is on file in the City Clerk's Office:

IN WITNESS WHEREOF, I hereunto set my hand and affixed the seal of the City of Seminole, Pinellas County, Florida, this 14 day of August, 2017.


Patricia Beliveau, City Clerk