

ORDINANCE NO. 118

AN ORDINANCE OF THE VILLAGE OF GOLF, FLORIDA, AMENDING THE VILLAGE LAND DEVELOPMENT REGULATIONS ADOPTED BY ORDINANCE NO. 110 AND ADOPTING AN ENTIRELY NEW SECTION TO BE ENTITLED "PROHIBITION OF MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES" AT NEW SECTION 12.01; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF ORDINANCE NO. 110 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Golf desires to update its Land Development Regulations ("LDRs") pursuant to authority granted by the general law contained in Senate Bill 2017-8-A, adopted as Chapter 2017-232, *Laws of Florida*, concerning regulations for medical marijuana treatment centers and their dispensing facilities, as such act was signed into law by Governor Rick Scott on June 23, 2017, implementing the voter approved 2016 amendment to the State Constitution at Article X, s. 29 on the subject of medical marijuana use and regulation; and

WHEREAS, due to the historical, federal prohibition against the sale or use of marijuana, the Village of Golf does not currently have any land development regulations governing the use of real property for the purposes of cultivating, processing, distributing, or selling marijuana, or related activities, and such uses are not permissible within the Village pursuant to Section 10.02 of the LDRs; and

WHEREAS, Chapter 64-4 "Compassionate Use" of the Florida Administrative Code has been enacted to regulate the Department of Health regarding the requirements for dispensing organizations, including procedures for application, review, approval, inspection, and authorization of dispensing organizations, and the Department of Health has commenced its application and review process; and

WHEREAS, Chapter 2017-232, *Laws of Florida*, codified as amendments to Sec. 381.986, F.S., provides that pursuant to subsection 381.986(11)(b)1, F.S., a municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that municipality; and

WHEREAS, the Village of Golf desires to update the LDRs to avail itself of this general law authority to more specifically prohibit medical marijuana treatment center dispensing facilities at any location within the Village; and

WHEREAS, the notice and hearing requirements provided for in the Village Code of Ordinances and state statutes have been satisfied where applicable; and

WHEREAS, the Village Council of the Village of Golf has determined that such amendments to the Land Development Code are in the best interests of the general welfare of the Village of Golf.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF GOLF, FLORIDA THAT:

Section 1. Ordinance No. 110, is hereby amended by adopting a new Section 12.01 to be entitled "Prohibition of Medical Marijuana Treatment Center Dispensing Facilities": providing that Sec 12.01 text amendments shall read as follows:

12.01 PROHIBITION OF MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES

- A. *Purpose.* The purpose of this section is to prohibit the location of any Medical Marijuana Treatment Center Dispensing Facilities ("MMTC Dispensing Facilities") within the corporate boundaries of the Village of Golf pursuant to the specific authorization to do so under state law at Sec. 381.986(11)(b)1, F.S., a portion of an act codified as Chapter 2017-232, *Laws of Florida*.
- B. *Definitions.*
"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 as defined in Chapter 2017-232, *Laws of Florida*, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient pursuant to Sec. 381.986, F.S.

"Medical Marijuana Treatment Center" (MMTC) means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department of Health pursuant to Article X, s. 29 of the State Constitution.
- C. *Prohibition.* MMTC Dispensing Facilities are specifically banned and prohibited from locating within any zoning district of the Village of Golf, Florida.

Section 2: Each and every other section and subsection of Ordinance No. 110, shall remain in full force and effect as previously adopted.

Section 3: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part to be declared invalid.

Section 5: Specific authority is given to codify this Ordinance, if so desired.

Section 6: This Ordinance shall take effect immediately upon second reading and final passage.

FIRST READING this 19th day of September, 2017.

SECOND AND FINAL READING this 18th day of October, 2017.

VILLAGE OF GOLF


✓
Aye

Nay


Mayor Thomas E. Lynch

✓
Aye

Nay


Vice Mayor Michael E. Botos


✓
Aye

Nay


Council Member J. Marshall Duane, III.

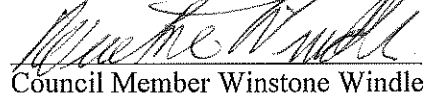
X
Aye

Nay


Council Member Robert C. Buchanan

✓
Aye

Nay

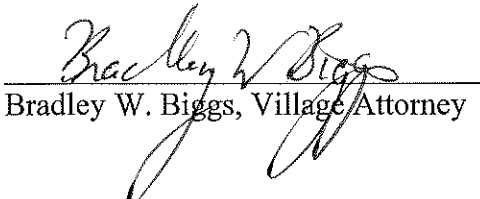

Council Member Winstone Windle

ATTEST:

(SEAL)


Donn Lynn, Village Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY


Bradley W. Biggs, Village Attorney

The Florida Senate

SB 8-A — Medical Use of Marijuana

by Senators Bradley and Young

This summary is provided for information only and does not represent the opinion of any Senator, Senate Officer, or Senate Office.

Prepared by: Health Policy Committee (HP)

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The bill implements the provisions of Art. X, s. 29, of the State Constitution. The bill builds on the existing compassionate use of low-THC and medical cannabis program with additional provisions to implement the Constitutional Amendment passed by Florida voters in the 2016 General Election.

Provisions in the bill relating to patients:

- Exempt marijuana and marijuana delivery devices from sales and use tax that would otherwise be imposed under ch. 212, F.S.
- Establish procedures for physicians to issue physician certifications to patients who have qualifying medical conditions. The bill includes all debilitating medical conditions listed in the State Constitution as a qualifying medical condition: cancer, epilepsy, glaucoma, HIV, AIDS, PTSD, ALS, Crohn's disease, Parkinson's disease, multiple sclerosis, or other debilitating medical condition of the same kind or class as or comparable to those enumerated. The bill also includes as a qualifying medical condition:
 - Chronic nonmalignant pain, which is defined as pain that is caused by or that originates from a qualifying medical condition and persists beyond the usual course of the qualifying medical condition.
 - A terminal condition.
- Eliminate the 90-day waiting period before the qualified physician may register a patient as qualified to receive low-THC cannabis or medical marijuana.
- Ensure that qualified patients can receive low-THC cannabis as well as full-THC marijuana.
- Allow marijuana edibles and vaping, but prohibit the smoking of marijuana.
- Establish residency requirements for patients to be issued a Medical Marijuana Use Registry Identification Card (ID card). The bill specifies documentation that must be provided to document residency, including documentation required for a seasonal resident.

- Require background screening of MMTC owners, officers, board members, managers, and employees, and of medical marijuana testing laboratory owners and managers.
- Authorize a change of ownership for an MMTC under specified parameters and prohibit ownership in multiple MMTCs or certain profit-sharing arrangements.
- Preempt the regulation of cultivation and processing of marijuana to the state.
- Authorize local governments to ban MMTC dispensing facilities within their borders. However, if a local government does not ban dispensing facilities, it may not place any restrictions on the number of dispensing facilities allowed within its jurisdiction. Also, it may not adopt any regulations or fees for dispensing facilities that are more restrictive than its ordinances regulating pharmacies.

Additional provisions in the bill:

- Establish administrative, disciplinary, or criminal penalties for prohibited acts by physicians, patients, caregivers, MMTCs, medical marijuana testing laboratories, and other persons. These prohibited acts include, but are not limited to:
 - A qualified patient or caregiver cultivating marijuana or acquiring marijuana from anyone other than an MMTC.
 - A qualified patient or caregiver in possession of marijuana or a marijuana delivery device who fails or refuses to present his or her marijuana use registry identification card upon the request of a law enforcement officer. However the bill includes certain mitigating actions that may enable a patient or caregiver to avoid prosecution.
 - An MMTC providing kickbacks to a qualified physician.
 - Unlicensed activity.
 - Counterfeiting marijuana or a marijuana delivery device purporting it to be from a licensed MMTC.
 - Possessing or making a counterfeit or otherwise unlawfully issued medical marijuana use registry identification card.
- Authorize the DOH to pursue certain enforcement action for violations of this law.
- Specify that this act does not limit an employer's ability regarding a drug-free workplace program or policy, does not require an employer to accommodate the medical use of marijuana in the workplace or an employee working while under the influence of marijuana, does not create a cause of action against an employer for wrongful discharge or discrimination, and that marijuana is not reimbursable under ch. 440, F.S., relating to workers' compensation.
- Require the DOH and the Department of Highway Safety and Motor Vehicles to establish public educational campaigns related to the medical use of marijuana.

4. Improperly disclosing personal and confidential information of the qualified patient.

5. Attempting to procure medical marijuana treatment center approval by bribery, fraudulent misrepresentation, or extortion.

6. Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the business of a medical marijuana treatment center.

7. Making or filing a report or record that the medical marijuana treatment center knows to be false.

8. Willfully failing to maintain a record required by this section or department rule.

9. Willfully impeding or obstructing an employee or agent of the department in the furtherance of his or her official duties.

10. Engaging in fraud or deceit, negligence, incompetence, or misconduct in the business practices of a medical marijuana treatment center.

11. Making misleading, deceptive, or fraudulent representations in or related to the business practices of a medical marijuana treatment center.

12. Having a license or the authority to engage in any regulated profession, occupation, or business that is related to the business practices of a medical marijuana treatment center suspended, revoked, or otherwise acted against by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law.

13. Violating a lawful order of the department or an agency of the state, or failing to comply with a lawfully issued subpoena of the department or an agency of the state.

(g) The department may suspend, revoke, or refuse to renew a medical marijuana treatment center license if the medical marijuana treatment center commits any of the violations in paragraph (f).

(h) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(11) PREEMPTION.—Regulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers is preempted to the state except as provided in this subsection.

(a) A medical marijuana treatment center cultivating or processing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school.

Sec 381.986

(b)1. 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. *

2. A municipality may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, medical marijuana treatment center dispensing facilities located within the boundaries of that municipality. A county may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, all such dispensing facilities located within the unincorporated areas of that county. Except 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. A municipality or county may not charge a medical marijuana treatment center a license or permit fee in an amount greater than the fee charged by such municipality or county to pharmacies. A dispensing facility location approved by a municipality or county pursuant to former s. 381.986(8)(b), Florida Statutes 2016, is not subject to the location requirements of this subsection.

(c) A medical marijuana treatment center dispensing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location through a formal proceeding open to the public at which the county or municipality determines that the location promotes the public health, safety, and general welfare of the community.

(d) This subsection does not prohibit any local jurisdiction from ensuring medical marijuana treatment center facilities comply with the Florida Building Code, the Florida Fire Prevention Code, or any local amendments to the Florida Building Code or the Florida Fire Prevention Code.

(12) PENALTIES.—

(a) A qualified physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the qualified physician issues a physician certification for the medical use of marijuana for a patient without a reasonable belief that the patient is suffering from a qualifying medical condition.

(b) A person who fraudulently represents that he or she has a qualifying medical condition to a qualified physician for the purpose of being issued a physician certification commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.