

ORDINANCE NO. 01-2018

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78 OF THE TOWN CODE OF ORDINANCES PROHIBITING MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2016, the citizens and electors of the state of Florida, by referendum voted to legalize medical marijuana for certain individuals who have qualifying medical conditions; and

WHEREAS, in 2017, the Florida Legislature passed Senate Bill 2017-8-A, which was subsequently adopted as Chapter 2017-232, *Laws of Florida*, concerning regulations for medical marijuana treatment centers and their dispensing facilities (the Legislation); and

WHEREAS, the Legislation 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, the Legislation addresses the cultivation, processing, transportation, and how medical marijuana may be dispensed by certified licensed physicians to individuals who have been determined to have certain qualifying medical conditions; and

WHEREAS, due to the historical, federal prohibition against the sale or use of marijuana, the Town 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 Town; 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, pursuant to Section 381.986(11), Fla. Stat. the regulation, cultivation, processing, and delivery of marijuana by medical marijuana treatment centers is preempted to the state except as provided for therein; and

WHEREAS, Section 381.986(11)(b) 2. Fla. Stat., the Florida Legislature has preempted a municipality from enacting ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for licensed pharmacies; and

WHEREAS, Section 381.986(11)(b) 1., Fla. Stat., provides that a municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that municipality; and

WHEREAS, the Town Commission of the Town has determined that it is in the best interests of its residents and citizens of the Town to ban dispensaries.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA

Section 1. The whereas clauses are incorporated herein as true and correct and as the legislative findings of the Town Commission.

Section 2. The Town Commission hereby amends Chapter 78, Article V, Supplementary Regulations, by adopting a new Section 78-154, entitled Medical marijuana treatment center dispensing facilities, as follows:

Sec. 78-154 Medical marijuana treatment center dispensing facilities.

(a) *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 Section 381.986 (1) (f), Fla. Stat. 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.

(b) *Prohibition.* In accordance with the authority conferred upon it by Section 381.986(11)(b) 1., Fla. Stat., MMTC Dispensing Facilities are hereby banned and prohibited from locating within any zoning district within the boundaries of the Town of Lake Park, Florida.

Section 3. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Codification. The sections of the ordinance may be renumbered or relettered to accomplish codification, and the words "ordinance," "section," "article," or "paragraph" may be changed to provide for continuity and codified into the Town's Code of Ordinances.

Section 5. Severability. If any section, subsection, sentence, clause, phase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 6. Effective Date. This ordinance shall take effect upon execution.

Upon First Reading this 3 day of January, 2018, the foregoing Ordinance was offered by Vice-Mayor Glas-Castro, who moved its approval. The motion was seconded by Commissioner Slaherty and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u> / </u>	<u> </u>
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u> / </u>	<u> </u>
COMMISSIONER ERIN FLAHERTY	<u> / </u>	<u> </u>
COMMISSIONER ANNE LYNCH	<u> / </u>	<u> </u>
COMMISSIONER ROGER MICHAUD	<u> / </u>	<u> </u>

PUBLISHED IN THE PALM BEACH POST THIS 7 DAY OF January, 2018

Upon Second Reading this 17 day of January, 2018, the foregoing Ordinance, was offered by Vice-Mayor Glas-Castro, who moved its adoption. The motion was seconded by Commissioner Michael, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u> / </u>	<u> </u>
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u> / </u>	<u> </u>
COMMISSIONER ERIN FLAHERTY	<u> / </u>	<u> </u>
COMMISSIONER ANNE LYNCH	<u> / </u>	<u> </u>
COMMISSIONER ROGER MICHAUD	<u> / </u>	<u> </u>

The Mayor thereupon declared **Ordinance No.** 01-2018 duly passed and adopted this 17 day of January, 2018.

TOWN OF LAKE PARK, FLORIDA
 BY: [Signature]
 Mayor, Michael O'Rourke

ATTEST:
[Signature]
 Town Clerk, Vivian Mendez
 (Town Seal)

Approved as to form and legal sufficiency:
[Signature]
 Town Attorney, Thomas J. Baird

