



Office of  
**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBaal, Deputy County Attorney  
Kate Pingolt Cotner, Assistant County Attorney

**MEMORANDUM**

**TO:** Board of County Commissioners

**FROM:** Dylan Reingold, County Attorney *DR*

**DATE:** July 5, 2017

**SUBJECT:** Ordinance Concerning Medical Cannabis (Continued from June 13, 2017 and June 20, 2017)

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**BACKGROUND.**

On October 18, 2016, the Indian River County Board of County Commissioners (the “Board”) enacted land development regulations concerning medical marijuana treatments centers in advance of the vote on Amendment 2. As part of the agenda item, the Community Development Department included a memorandum from the County Attorney’s Office, which stated “[a]s section 381.986, Florida Statutes, addresses low-THC and medical cannabis, I recommend that any potential regulations concerning such uses be addressed under a separate discussion item.”

Per previous section 381.986, Florida Statutes, medical cannabis included all parts of any plant of the genus *Cannabis* that is dispensed for medical use by an eligible patient as defined in section 499.0295, Florida Statutes. And under previous section 381.986, Florida Statutes, a county could adopt an ordinance regulating the number, location, and some permitting requirements for low-THC and medical cannabis dispensing facilities. On January 10, 2017, the Board had voted 4-1, with Vice-Chairman O’Bryan dissenting, to direct the County Attorney to: 1) draft an ordinance which would incorporate into the current code, regulations concerning medical cannabis dispensing facilities; and 2) ensure that the details were consistent and compliant with state law. The County Attorney’s Office had drafted the attached proposed ordinance, which incorporated medical cannabis into the definition of marijuana and a dispensary under Section 381.986, Florida Statutes into the definition of a Medical Marijuana Treatment Center under Chapter 315 of the Indian River County Code of Ordinances.

Since the drafting of this ordinance, during the 2017 Special Session, the Florida Legislature adopted medical marijuana legislation. Such legislation preempted local governments from regulating the cultivation, processing and delivery of medical marijuana. The legislation did provide local governments with two options with respect to medical marijuana treatment center dispensaries (“Dispensaries”). Local governments are permitted to either ban Dispensaries or may allow Dispensaries, but have the location and permitting of Dispensaries in the same manner as that of a pharmacy. Governor Scott signed the bill into law on Friday, June 23, 2017. Such legislation nullifies the proposed ordinance and thus the County Attorney’s Office recommends denying the proposed ordinance.

**FUNDING.**

The cost of publication of the required public notice for the public hearing was \$136.67. This cost was funded from the County Attorney's Office budget within the General Fund (account number 00110214-033190).

**RECOMMENDATION.**

The County Attorney's Office recommends that the chair open the public hearing and after taking public comment vote to deny the proposed ordinance.

**ATTACHMENT.**

Proposed Medical Cannabis Ordinance