




Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBaal, Deputy County Attorney
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MEMORANDUM

TO: Board of County Commissioners

FROM: Dylan Reingold, County Attorney 

DATE: July 25, 2017

SUBJECT: Medical Marijuana Ordinance

BACKGROUND.

In 2016, in anticipation of the vote on Amendment 2, the Indian River County Board of County Commissioners (the "Board") adopted regulations concerning medical marijuana treatment centers. These regulations were adopted in both Chapter 315 of the Indian River County Code of Ordinances and the Indian River County land development regulations.

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. Per state law, if a local government allows Dispensaries, there are state mandated distance requirements from schools. Governor Scott signed the bill into law on Friday, June 23, 2017.

On June 13, 2017, the Board indicated that it was interested in pursuing a ban on Dispensaries, but requested that the County Attorney's Office coordinate with the municipalities and the other counties within the Central Region, in which Indian River is located. On June 20, 2017, the County Attorney's Office provided an update to the Board. The City of Sebastian indicated that it intends to allow Dispensaries. The City of Vero Beach intends to prohibit Dispensaries, however, grandfather in one already approved location. Town of Indian River Shores and the City of Fellsmere indicated they intend to prohibit Dispensaries. Based on the availability of Dispensaries in Indian River County, the Board directed the County Attorney's Office to draft language for a proposed ordinance banning Dispensaries in the unincorporated areas of Indian River County and present that language to the Board at the July 11th Board meeting. On July 11th, the Board authorized the County Attorney's Office to schedule a public hearing on the draft ordinance for August 15th.

The draft ordinance prohibits Dispensaries in the unincorporated areas of Indian River County. Additionally, the draft ordinance indicates that any language in the Indian River County Code of Ordinances contrary to such prohibition are repealed. Finally, the draft ordinance would remove references to medical marijuana in Chapter 315 of the Indian River County Code of Ordinances.

Please be aware that there are regulations of medical marijuana still remaining in the County's land development regulations, which would be removed through the land development regulation amendment process.

FUNDING.

The cost of publication of the required public notice for the public hearing was \$160.89. 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 take any public comment and then vote to approve the draft ordinance.

ATTACHMENT(S).

Draft Medical Marijuana Ordinance