

## ORDINANCE NO. 670

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MEXICO BEACH, FLORIDA, BANNING MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES FROM BEING LOCATED WITHIN THE BOUNDARIES OF THE CITY OF MEXICO BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2014 the Florida Legislature enacted the Compassionate Medical Cannabis Act, codified at Section 381.986, Florida Statutes (the "Compassionate Use Act"), which legalized the cultivation, processing, and dispensing of "Low-THC Cannabis," as defined by Section 381.986(1)(e), Florida Statutes, by a licensed dispensing organization for "Qualified Patients," as defined by Section 381.986(1)(h); and

WHEREAS, in 2016 the Florida Legislature amended the Right to Try Act, codified at Section 499.0295, Florida Statutes, which amended the Compassionate Use Act and legalized the cultivation, production, and dispensing of "Medical Cannabis," as defined by Section 381.986(1)(f), Florida Statutes, and derivative products by a licensed dispensing organization to "Eligible Patients," as defined by Section 499.0295, Florida Statutes; and

WHEREAS, the comprehensive State licensing and regulatory framework directs that the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of cannabis businesses may be determined by local ordinance; and

WHEREAS, cannabis businesses licensed pursuant to the law have begun cultivating cannabis for processing and dispensing; and

WHEREAS, the dispensing of cannabis is currently illegal under federal law and the United States Drug Enforcement Agency has recently confirmed that cannabis remains a Schedule I drug under federal law, but the United States Department of Justice has discussed federal enforcement of such laws with respect to state regulated cannabis operations in the 2012 "Cole Memorandum," and;

WHEREAS, potential adverse impacts on the health, safety, and welfare of residents and business from secondary effects associated with the distribution of cannabis exist, potentially including, offensive odors, trespassing, theft, fire hazards,

increased crime in and about the dispensary, robberies, negative impacts on nearby businesses, nuisance problems, and increased DUI incidents; and

WHEREAS, in November of 2016, Florida voters decided to amend the Florida Constitution to legalize the cultivation, production, and dispensing of medical cannabis for a broader population of eligible patients; and

WHEREAS, in June of 2017, in a Special Session, the Florida Legislature adopted Senate Bill No. 8-A, which recently became law as found in Chapter 2017-232, Laws of Florida. The Compassionate Use Act was substantially rewritten and Section 381.986, Florida Statutes, now reads, in part:

(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.

...

(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.

...

(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;

and

WHEREAS, the City hereby finds that this ordinance advances an important government purpose by reducing the likelihood of the unregulated negative secondary effects of medical cannabis activities in the City; and

WHEREAS, the City has determined it is in the best interest of the public to adopt this ordinance pursuant to Section 381.986, Florida Statutes, to protect the health, safety, and welfare of the public;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MEXICO BEACH, FLORIDA, AS FOLLOWS:

**Section 1. Findings of fact.**

The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this ordinance.

**Section 2. Ban.**

Pursuant to the recently amended Section 381.986 (11) (b), Florida Statutes, as stated in Chapter 2017-232, Laws of Florida, the City of Mexico Beach hereby bans medical marijuana treatment center dispensing facilities from being located within the boundaries of the City of Mexico Beach and Section 2.02.07 of the Land Development Regulations of the City of Mexico Beach related to Specific Restrictions, is amended to read as follows (new text **bold and underlined**, deleted text struckthrough):

2.02.07 SPECIFIC RESTRICTIONS

A. Restrictions applicable only to Tourist Mixed Use land use districts:

1. Where practicable, native vegetation will be used for residential lots and common open spaces. Native vegetation to be used can be identified from Waterwise Florida Landscape as produced by Florida's water management districts.
2. Connection to central water and sanitary sewer systems shall be required prior to any certificate of occupancy being issued.
3. The Tourist Mixed Use category may be implemented through the Planned Unit Development process as defined in this Code.
4. A property must be under single ownership or under unified control at the time the Tourist Mixed Use category is assigned.

B. Food Trailers prohibited.

1. Food Trailers are prohibited in the City except as provided in this subsection.

2. "Food Trailer" means any structure or vehicle, fixed or mobile, used for the purpose of selling food or beverages or producing food or beverages for commercial purposes, and which is not:
  - i. a building compliant with the Florida Building Code and these Land Development Regulations;
  - ii. a home occupation compliant with these Land Development Regulations and the Florida Building Code;
  - iii. a vehicle licensed by the State of Florida as a Mobile Food Dispensing Vehicle or a successor program used by the State to license what is generally understood to be a food truck; or
  - iv. a food or beverage vending structure, vehicle, or cart operated for a maximum of seventy-two (72) hours and only as part of festival or special event not prohibited by the City. To qualify for this exception, at the end of the seventy-two hour period, the vending structure, vehicle or cart must either be removed from the City or placed into storage not visible from a public right-of-way and in compliance with these Land Development Regulations.
3. Non Conforming Use Established.

Food Trailers operating within the City prior to the Effective Date of this ordinance and holding a local business tax receipt validly issued by the City Clerk shall be considered a nonconforming use that is permitted to continue as governed by the rules for structures provided by Section 7.12.00, notwithstanding that said Food Trailers are not "dwelling units." In addition to those rules, permissible nonconforming status shall be lost upon a change of ownership of the Food Trailer or a relocation of the Food Trailer to a different parcel of property. Furthermore, Subsections 7.12.00 B.3. and 7.12.00 B.4. shall not apply to these nonconforming Food Trailers. These nonconforming Food Trailers shall otherwise comply with these Land Development Regulations and shall be considered restaurants for purposes of parking, landscaping, and other instances when requirements vary depending on use of property.

**C. Limitations on Cannabis Dispensary Facilities. Medical marijuana treatment center dispensing facilities, as defined by Florida law, are not allowed within the boundaries of the City of Mexico Beach.**

**Section 3. Severability and Repealer.**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. All ordinances, resolution or parts thereof, which are inconsistent or in conflict herewith are hereby repealed and of no further force and effect.

**Section 4. Codification.**


It is the intention of the City Commission of the City of Mexico Beach, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the City of Mexico Beach Land Development Regulations; that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article" or other appropriate designation.

**Section 5. Effective Date.**

This Ordinance shall become effective immediately upon its passage.

**PASSED, APPROVED AND ADOPTED** at the regular meeting of the City Council of the City of Mexico Beach, Bay County, Florida, on the 8<sup>th</sup> day of August, 2017.

CITY OF MEXICO BEACH, FLORIDA

  
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Al Cathey, Mayor

ATTEST:

(SEAL)

  
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Adrian Welle, City Clerk