

RESOLUTION 19-23

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, PROVIDING FOR MEDICAL MARIJUANA DISPENSING FACILITIES REGULATIONS AS PROVIDED IN SECTION 381.986, FLORIDA STATUTES; PROVIDING DISTANCE REQUIREMENTS FROM SCHOOLS; MAKING FINDINGS REGARDING POLICY AND FACTS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, in 2014, the Florida Legislature adopted the Compassionate Medical Cannabis Act of 2014, Section 381.986, Florida Statutes, which authorized the use of low-THC marijuana for certain medical conditions; and

WHEREAS, in 2015, the Legislature adopted the Right to Try Act, Section 499.0295, Florida Statutes, which authorized the use of full-strength medical marijuana for patients with terminal conditions under certain circumstances; and

WHEREAS, in November of 2016, Florida voters approved the Florida Medical Marijuana Legalization Initiative creating Article X, Section 29 of the Florida Constitution (the "Constitutional Amendment"), authorizing the use of medical marijuana more broadly for "debilitating conditions"; and

WHEREAS, in November of 2016, the Florida Medical Marijuana Legalization Initiative passed with 71% of the vote statewide, 64% of the vote in Collier County, and 60% of the vote in the City of Marco Island ("City"); and

WHEREAS, on March 6, 2017, the City Council, in support of our citizens' constitutional rights, rejected establishing a twelve month moratorium upon medical marijuana dispensing facilities and related activities within the City limits; and

WHEREAS, on June 23, 2017, the governor signed into law Senate Bill 8-A amending Section 381.986, Florida Statutes, implementing the Constitutional Amendment and providing new rules and regulations with respect to the cultivation, processing, and delivery of medical marijuana; and

WHEREAS, Section 381.986(11), Florida Statutes provides that the "[r]egulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers is preempted to the state except as provided in this subsection"; and

WHEREAS, Section 381.986(11)(b), Florida Statutes allows municipalities to ban medical marijuana treatment center dispensing facilities ("Dispensaries") by ordinance; and

WHEREAS, if a municipality decides to allow Dispensaries, Section 381.986(11), provides that municipalities may determine by ordinance the criteria for location and other permitting requirements that, however, those criteria may not conflict with state law or be more restrictive than ordinances permitting or determining locations for pharmacies; and

WHEREAS, Section 381.986(11)(c) provides that a medical marijuana treatment center dispensing facility may not be located within 500 feet of a school unless the City approves the location through a formal proceeding open to the public at which the City determines that the location promotes the public health, safety, and general welfare of the community; and

WHEREAS, the City Council finds that a ban on medical marijuana treatment center dispensing facilities within the City limits would be an infringement upon the constitutional rights of our citizens, would be an unreasonable restriction on accessibility for patients within the City limits, and would otherwise be a discriminatory act imposed upon a legal economic and medicinal activity; and

WHEREAS, having fully reviewed the matter, the City Council finds that the public health, safety, and welfare will be served by allowing medical marijuana dispensing facilities within the City subject to the same regulations as pharmacies, and restrictions provided in Section 381.986, Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marco Island, Florida that:

SECTION 1. The above recitals are true and correct and incorporated herein.

SECTION 2. That medical marijuana dispensing facilities are allowed within the City subject to the same regulations as pharmacies and restrictions provided in Section 381.986, Florida Statutes.

SECTION 3. In the event of a conflict or conflicts between this Resolution and any other Resolution or provision of law, this Resolution controls to the extent of the conflict, as allowable under the law.

SECTION 4. This Resolution shall take effect immediately upon adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, THIS 17th day of June 2019.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Laura M. Litzan, City Clerk

By: _____
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney