

ORDINANCE NO. 2017-17

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CLEWISTON, FLORIDA, ESTABLISHING A BAN ON MEDICAL MARIJUANA TREATMENT DISPENSARY FACILITIES, AS FURTHER DEFINED HEREIN; PROVIDING FOR PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2014, the Florida Legislature enacted a law legalizing low-THC medical cannabis in Florida; and

WHEREAS, in 2016, the Florida Legislature expanded the law to legalize medical cannabis in Florida; and

WHEREAS, future constitutional amendments and legislation may further define the legal use of cannabis in Florida; and

WHEREAS, a State licensing and regulatory framework for the cultivation, processing, and dispensing of cannabis has been adopted by the Legislature; and

WHEREAS, Chapter 2017-232, SB8A, signed by the Governor on June 23, 2017, provides some guidelines for municipalities in considering the appropriate zoning for dispensary facilities; 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's position on federal enforcement of such laws with respect to state regulated cannabis operations remains unclear; and

WHEREAS, potential adverse impacts on the health, safety, and welfare of residents and business from secondary effects associated with the distribution of cannabis potentially include: 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, some of the adverse impacts are accentuated by the current difficulties experienced by cannabis businesses in obtaining banking services necessitating such businesses to operate on a cash basis; and

WHEREAS, there exists the potential for misappropriation of medical cannabis to non-medical users; and

WHEREAS, the law relating to the cultivation, production, and dispensing of cannabis products is rapidly changing; and

WHEREAS, the purpose of this ordinance is to ban the opening of medical marijuana treatment centers dispensary facilities; 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 cannabis dispensing facilities; and

WHEREAS, the City hereby finds that this ordinance is the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CLEWISTON, FLORIDA, that:

SECTION 1. Purpose and Intent.

The purpose of this Ordinance is to provide the City of Clewiston, Florida, with the opportunity to review the impact of recent changes in law, Constitutional amendments, as well as the impact of cannabis dispensing in other jurisdictions, and determine if such dispensing should be permitted and regulated in the City of Clewiston.

SECTION 2. Definitions.

(1) The following words or phrases when used in this Ordinance, shall have the means ascribed to them in this Ordinance:

a. **Cannabis (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 plants or its seeds or resin.

b. **Cannabis Dispensing Business** or **Business** shall mean a business location offering cannabis for retail sale pursuant to a license to dispense cannabis issued under applicable law, including medical marijuana treatment center dispensary facilities.

c. **Chapter 2017-232** shall mean the 2017 Senate Bill 8-A, as signed by the Governor on June 23, 2017.

d. **State** shall mean the State of Florida.

e. **City** shall mean the municipal limits of the City of Clewiston, Florida.

(2) In addition to the definitions contained in Subsection (1), other terms used in this Ordinance shall have the meaning ascribed to them in Chapter 2017-232, Florida Law, and are incorporated into this Ordinance by this reference.

SECTION 3. Moratorium.

Beginning on the effective date of this Ordinance, a ban is hereby imposed on Cannabis Dispensing Businesses in the City of Clewiston.

(1) It is unlawful and a violation of this ordinance for any person or entity to open or cause to be opened any medical marijuana treatment center Cannabis Dispensing Business within the City of Clewiston.

(2) The City shall not accept, process or approve any application for business tax receipts, licenses, building permits, land use permits, or any development permits concerning or related to a medical marijuana treatment center Cannabis Dispensing Business.

(3) This ordinance will be revisited each year.

SECTION 4. Penalties. Any person or entity who violates any provision of this ordinance or who fails to comply therewith, or with any of the requirements thereof, shall be fined in an amount not exceeding five hundred dollars (\$500.00) per violation, per day, or be imprisoned for a period of time not to exceed sixty (60) days.

SECTION 5. Conflict and Severability. In this event this Ordinance conflicts with any other ordinance of Hendry County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is 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 provision.

SECTION 6. Inclusion in the Code of Ordinances. The provisions of these ordinance shall become and be made a part of the City Code of Ordinances and the sections of these ordinances may be renumbered and codified to accomplish this end.

SECTION 7. Effective Date. That this ordinance shall become effective immediately upon its passage on second and final reading.

PASSED on first reading by the City Commission on August 21, 2017.

PASSED AND ADOPTED on second and final reading by the City Commission on September 18, 2017.

ATTEST:

CITY OF CLEWISTON, FLORIDA

Mary K. Combass, Interim City Clerk

Mali Gardner, Mayor

(MUNICIPAL SEAL)

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

By: _____
Gary M. Brandenburg, City Attorney