


CITY OF DELRAY BEACH

CITY ATTORNEY'S OFFICE

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MEMORANDUM

DATE: May 2, 2017
TO: Tim Stillings, Planning, Zoning, & Building Director
FROM: Janice Rustin, Assistant City Attorney 
THROUGH: R. Max Lohman, City Attorney
SUBJECT: State Pre-emption of Cannabis Cultivation

This memo is in response to City Commission comments during the first reading of Ordinance 07-17, which amends the Land Development Regulations to include regulations for Urban Agriculture. Specifically, the Commission requested that you add cannabis to the list of prohibited plant species in section 4.3.3(D)(3)(b). The City Attorney's Office does not support this request.

State law prevents the City from enacting rules to regulate the cultivation of cannabis, including Low THC cannabis (medical-grade cannabis). The State recently enacted regulations to allow the compassionate use of medical-grade cannabis. These regulations expressly pre-empt the City from passing any regulations regarding the cultivation and processing of medical cannabis. See 381.986 (8)(a), *Florida Statutes*.

As for non-medical cannabis, the State has already made it unlawful to cultivate this species since it is a controlled substance. See Section 893.13, *Florida Statutes*. The City is prevented from establishing further regulations in this area.