

ORDINANCE NO. 27-16

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, IMPOSING A TEMPORARY MORATORIUM ON THE OPERATION OF MEDICAL MARIJUANA TREATMENT CENTERS AND DISPENSING ORGANIZATIONS WITHIN THE CITY FOR A PERIOD OF ONE (1) YEAR; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on November 8, 2016, Florida voters will consider an amendment to the Florida Constitution entitled “Use of Marijuana for Debilitating Medical Conditions” (“Amendment 2”); and

WHEREAS, if approved by Florida voters, Amendment 2 would legalize the medically certified use of marijuana throughout the State of Florida and authorize the cultivation, processing, distribution, and sale of marijuana, and related activities, by licensed “Medical Marijuana Treatment Centers;” and

WHEREAS, in 2014, the Florida Legislature enacted a separate but significantly more narrow medical marijuana law, the “Compassionate Medical Cannabis Act of 2014,” codified in Section 381.986, *Florida Statutes*, which authorizes a limited number of nurseries to cultivate, process, and dispense low-THC cannabis to qualified patients and operate as “dispensing organizations;” and

WHEREAS, on March 25, 2016, the Florida Legislature amended numerous provisions of Section 381.986, Florida Statutes and provided additional regulation of the Department of Health with regard to medical cannabis.

WHEREAS, Chapter 64-4 “Compassionate Use” of the Florida Administrative Code has been enacted to regulate the Department of Health with regard to the requirements for dispensing organizations, including procedures for application, review, approval, inspection, and authorization of dispensing organizations, and the Department of Health has commenced its application and review process; and

WHEREAS, due to the historical prohibition of marijuana, the City of Delray Beach does not currently have any land development regulations governing the use of real property for the purposes of cultivating, processing, distributing, or selling marijuana, or related activities, and such uses are not permissible within the City; and

WHEREAS, in order to promote effective land use planning if Amendment 2 passes, or if a dispensing organization, as authorized under the Compassionate Medical Cannabis Act of 2014, should seek to operate within the City, the City Commission wishes to preserve the status quo while researching, studying, and analyzing the potential impact of Medical Marijuana Treatment Centers and dispensing organizations upon adjacent uses and the surrounding area, the effect of Medical Marijuana Treatment Centers and dispensing organizations on traffic, congestion, surrounding property values, demand for City services, and other aspects of the general welfare; and

WHEREAS, the City Commission finds that a temporary moratorium on the operation of Medical Marijuana Treatment Centers and dispensing organizations will allow the City a sufficient period of time to determine what uses are best-suited to particular zoning categories and how best to formulate land development regulations that appropriately govern the use of real property for purposes of cultivating, processing, distributing, or selling marijuana, or related activities; and

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

Section 1. The recitals above are true and correct and are incorporated into the findings of this Resolution as if set forth in full herein.

Section 2. A temporary moratorium is hereby imposed on the operation of Medical Marijuana Treatment Centers and dispensing organizations within the corporate limits of the City of Delray Beach, Florida. While the temporary moratorium is in effect, the City shall not accept, process, or approve any application relating to the operation of a Medical Marijuana Treatment Center or dispensing organization. Nothing in the temporary moratorium shall be construed so as to prohibit the medical use of marijuana or low-THC cannabis by a qualifying patient as determined by a licensed Florida physician, pursuant to Amendment 2 (if enacted), Fla. Stat. § 381.986, or other Florida law.

Section 3. For purposes of the temporary moratorium, the term “Medical Marijuana Treatment Center” means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their professional caregivers, and is registered by the Florida Department of Health. The term “dispensing organization” means an organization approved by the Florida Department of Health to cultivate, process, and dispense low-THC cannabis pursuant to Fla. Stat. § 381.986.

Section 4. This ordinance shall take effect immediately upon adoption. The temporary moratorium shall terminate one (1) year from the effective date of this ordinance, unless the City Commission rescinds or extends the moratorium by subsequent ordinance. In the event that Amendment 2 is not approved by Florida voters on November 8, 2016, the temporary moratorium on the operation of Medical Marijuana Treatment Centers shall terminate immediately, but the temporary moratorium on the operation of dispensing organizations shall remain in effect in accordance with this section.

Section 5. If any section, subsection, clause, or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

PASSED AND ADOPTED in regular session on first reading on this the \_\_\_\_ day of \_\_\_\_\_, 2016.

PASSED AND ADOPTED in regular session on second and final reading on this the \_\_\_\_ day of \_\_\_\_\_, 2016.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
City Clerk

First Reading\_\_\_\_\_

Second Reading\_\_\_\_\_