

Ordinance 2016-25

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA IMPOSING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSING ORGANIZATIONS AND MEDICAL MARIJUANA TREATMENT CENTERS WITHIN THE CITY FOR A PERIOD OF ONE HUNDRED AND EIGHTY (180) DAYS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, in 2014 the Florida Legislature enacted a medical marijuana law, the "Compassionate Medical Cannabis Act of 2014" (codified as §381.986, Fla.Stat.) (the "Act") which authorized a limited number of large nurseries to cultivate, process, and dispense non-euphoric, low THC cannabis and operate as "Dispensing Organizations" for individuals with certain specified serious ailments; and

WHEREAS, the Florida Legislature in its 2016 session amended the Compassionate Medical Cannabis Act (§381.986, Fla. Stat.) to include the use of "medical marijuana" for eligible patients with terminal conditions; and

WHEREAS, the 2016 Amendment expanded the type of marijuana available to eligible patients beyond low THC cannabis to include all types of marijuana, and the statutory amendment has been codified and has become effective in the State of Florida; and

WHEREAS, on November 8, 2016, Florida's voters approved an amendment to the Florida Constitution, titled "Use of Marijuana for Debilitating Medical Conditions" ("Amendment 2"); and

WHEREAS, Amendment 2 would fully legalize the medical use of marijuana throughout the State of Florida for those individuals with specified "debilitating" conditions, and would authorize the cultivation, processing, distribution and sale of marijuana and related activities by licensed "Medical Marijuana Treatment Centers"; and

WHEREAS, a comprehensive state licensing and regulatory framework for the cultivation, processing and dispensing of cannabis under Act of 2014 presently exists and provides that criteria for the number and location of dispensaries and other permitting requirements that do not conflict with state law or Department of Health rules may be established by local ordinance; and

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

WHEREAS, to promote the effective regulation of such activities, the City Commission wishes to preserve the status quo while researching, studying, and

analyzing the potential impact of dispensing facilities within the City's boundaries upon adjacent uses and the surrounding areas, including its effect on traffic, congestion, surrounding property values, demand for City services including inspections and increase police monitoring, and other aspects of the operation of dispensing facilities impacting the general welfare of the community; and

WHEREAS, due to the historical prohibition of marijuana, the City of St. Pete Beach, Florida does not currently have any land development Codes governing the use of real property for purposes of cultivating, processing, distributing or selling marijuana or related activities and such uses are neither lawfully existing nor permissible within the City; and

WHEREAS, to promote effective land use planning if a dispensing organization 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 dispensing organizations and Medical Marijuana Treatment Centers upon nearby properties; and

WHEREAS, the City Commission finds that imposing a temporary moratorium until adequate regulations have been developed, considered and adopted is in the best interest of the health, safety and general welfare of the community and the residents of the City.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH FLORIDA, HEREBY ORDAINS:

SECTION 1. Recitals. The above recitals ("Whereas" clauses) are hereby adopted as legislative findings, purpose and intent of the City Commission.

SECTION 2. A temporary moratorium is hereby imposed on the establishment and operation of Medical Marijuana Dispensing Organizations and Medical Marijuana Treatment Centers (as referenced in §381.986 and Constitutional Amendment 2, respectively) within the corporate limits of the City of St. Pete Beach, Florida. While the temporary moratorium is in effect, the City shall not accept, process or approve any application relating to the establishment or operation of a Medical Marijuana Dispensing Organization or Medical Marijuana Treatment Center. Nothing in this temporary moratorium shall be construed to prohibit the medical use of medical marijuana or low-THC cannabis by a qualifying or eligible patient, as determined by a licensed Florida physician, pursuant to Amendment 2, Fla. Stat. § 381.986 or other Florida law, as applicable.

SECTION 3. For purposes of the temporary moratorium, a "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 caregivers and is registered by the Florida Department of Health. "Dispensing organization" means an organization approved by the Florida Department of Health to cultivate, process, transport and dispense low-THC cannabis or medical cannabis pursuant to Fla. Stat. § 381.986.

SECTION 4. This ordinance shall take effect immediately upon adoption. The temporary moratorium shall terminate one hundred and eighty (180) days from the effective date of this ordinance, unless the City Commission rescinds or extends the moratorium by subsequent ordinance.

SECTION 5. The City Commission directs the City Manager to have the Community Development Director and the City Attorney's Office initiate a zoning review of Medical Marijuana dispensing organizations and Medical Marijuana Treatment Centers within the City of St. Pete Beach, to prepare a staff report containing recommendations as to the appropriate zoning regulations in which such facilities should be located and whether such facilities should be permitted within such district(s) as principal permitted uses, by conditional use permit, or by some other process; and to present such report to the City Commission.

SECTION 6. Conflicts. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

SECTION 7. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 8. Construction. This Ordinance is to be liberally construed to accomplish its objectives.

SECTION 9. Publication. This Ordinance shall be published in accordance with the requirements of law.

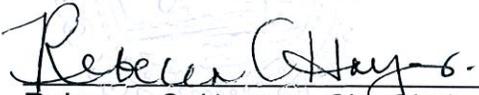
SECTION 10. Effective Date. This ordinance shall take effect immediately upon adoption, but shall terminate one hundred and eighty (180) days from the effective date, unless the City Commission rescinds or extends the moratorium by subsequent ordinance.

FIRST READING: 12/12/2016
PUBLISHED: 12/30/2016
SECOND READING: 01/10/2017
PUBLIC HEARING: 01/10/2017



Deborah Schechner, MAYOR

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this 10th day of January, 2017.



Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:



Andrew Dickman, Esq.
City Attorney