

ORDINANCE NO. C-17-39

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, ESTABLISHING A MORATORIUM ON THE SUBMITTAL, PROCESSING, APPROVAL, AND ISSUANCE OF ANY LICENSES, DEVELOPMENT ORDERS OR PERMITS REGARDING THE LOCATION AND PERMITTING FOR MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES FOR A PERIOD OF ONE HUNDRED EIGHTY (180) DAYS FROM THE DATE OF ADOPTION OF THIS ORDINANCE; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT AND PURPOSE; PROVIDING FOR SEVERABILITY; REPEAL OF CONFLICTING ORDINANCE PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 8, 2016, Florida voters approved an amendment (hereinafter "Amendment 2") to Article X of the Florida Constitution, which went into effect on January 3, 2017, excluding from criminal or civil liability or sanctions under Florida law the use of medical marijuana by a qualifying patient and certain activities of caregivers, physicians or Medical Marijuana Treatment Centers, their agents or employees, in compliance with Amendment 2; and

WHEREAS, pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166, Florida Statutes, the City of Fort Lauderdale is authorized and required to protect the public health, safety and welfare of its residents and has the power and authority to enact regulations for valid governmental purpose that are not inconsistent with general or special law; and

WHEREAS, on January 18, 2017 the City of Fort Lauderdale established a 180-day moratorium (Ordinance No. C-17-01) on the submittal, processing, approval and issuance of any licenses, development orders or permits in the City of Fort Lauderdale for any use that involves the cultivation, processing, dispensing or retail sale of cannabis, to allow City staff time to thoroughly research and analyze impacts to the City, its residents and its visitors and to develop land use regulations for any use that involves the cultivation, processing, dispensing or retail sale of cannabis; and

WHEREAS, on May 16, 2017, the City of Fort Lauderdale adopted Ordinance No. C-17-09 which amended the Unified Land Development Regulations (hereinafter "ULDR") of the City of Fort Lauderdale to add medical cannabis dispensing facilities, amended Section 47-20, Parking and Loading Requirements, and added Section 47-18.46, Medical Cannabis Dispensing Facilities; and

WHEREAS, on June 23, 2017, Governor Rick Scott approved Senate Bill 8-A, an act relating to medical use of marijuana, providing a unified regulatory structure for the implementation of Article X, Section 29 of the Florida Constitution, allowing the use, production, and distribution of medical marijuana, and preempting the majority of the regulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers to the State; and

WHEREAS, portions of the amendments to the ULDR under Ordinance No. C-17-09, which was adopted by the City of Fort Lauderdale on May 16, 2017, may be interpreted as inconsistent with Senate Bill 8-A and consequently may have to be amended; and

WHEREAS, the purpose of this moratorium is to allow City of Fort Lauderdale staff time to thoroughly research and analyze impacts of the new regulations under Senate Bill 8-A and to recommend if necessary, amendments to the ULDR to be consistent with Senate Bill 8-A's preemptions; and

WHEREAS, the City of Fort Lauderdale Commission finds it to be in the best interests of the citizens of Fort Lauderdale to establish a 180-day moratorium on the submittal, processing, approval, and issuance of any licenses, development orders, and permits regarding the location and permitting of medical marijuana treatment center dispensing facilities in the City of Fort Lauderdale;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance. These clauses represent the legislative findings of the City Commission. It is the purpose and intent of this Ordinance to promote the health, safety and welfare of the residents and visitors of the City of Fort Lauderdale, Florida.

SECTION 2. For purposes of this ordinance, "cannabis" 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 plant or its seeds or resin.

SECTION 3. The City Commission hereby imposes a temporary moratorium on the submittal, processing, approval, and issuance of any licenses, development orders and permits regarding

the location and permitting of medical marijuana treatment center dispensing facilities in the City of Fort Lauderdale. Said temporary moratorium shall be for a period of one hundred eighty (180) days in order to allow City staff time to thoroughly research and analyze impacts of the new regulations under Senate Bill 8-A and to recommend amendments to the ULDR to be consistent with Senate Bill 8-A's preemptions. The provisions of this ordinance shall not apply to any pending applications or permit approvals which were submitted to the City of Fort Lauderdale on or before October 3, 2017.

SECTION 4. That all ordinances or parts of ordinances, or resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION 5. If any clause, section or other part or application of this ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or application remaining in full force and effect.

SECTION 6. This ordinance shall become effective immediately upon its passage.

PASSED FIRST READING this the 17th day of October, 2017.

PASSED SECOND READING this the _____ day of _____, 2017.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JEFFREY A. MODARELLI

APPROVED AS TO FORM:
Cynthia A. Everett, City Attorney

By: _____
Assistant City Attorney