

ORDINANCE NO. C-17-01

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 FOR ANY USE THAT INVOLVES THE CULTIVATION, PROCESSING, DISPENSING OR RETAIL SALE OF CANNABIS 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, 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, enacting legislation for the public health, safety and welfare is a legitimate public purpose recognized by Florida courts; and

WHEREAS, on November 8, 2016, Florida voters approved an amendment (hereinafter "Amendment 2") to Article X of the Florida Constitution 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, the Florida Constitution provides that unless otherwise specified, approved amendments become effective on the first Tuesday after the first Monday in January following the election. As Amendment 2 did not provide specific effective dates, it will go into effect on January 3, 2017; and

WHEREAS, the Florida Department of Health must set regulations for the issuance of identification cards, qualifications and standards of caregivers and registration of medical marijuana treatment centers within six (6) months of the effective date; and

WHEREAS, the Florida Legislature has also enacted the “Compassionate Medical Cannabis Act of 2014,” that authorizes a small number of nurseries to act as a “dispensing organization” that is allowed to cultivate and dispense a low-THC cannabis product; and

WHEREAS, Section 47-1.14 of the City of Fort Lauderdale, Florida, Unified Land Development Regulations (hereinafter “ULDR”) provides that where a zoning district within the City contains a list of permitted and conditional uses and that any use which is not specifically listed and not substantially similar to those uses listed as permitted or accessory within a district shall be deemed prohibited as interpreted by the Zoning Administrator; and

WHEREAS, no zoning districts within the ULDR specifically contain any use that involves the cultivation, processing, dispensing or retail sale of cannabis; and

WHEREAS, the Fourth District Court of Appeal in *WCI Communities, Inc. v. City of Coral Springs* noted that a moratorium is “an important land-use planning tool as a means of preserving the status quo” while the City conducts analysis and studies to determine the effects of a new use; and

WHEREAS, the City Commission of the City of Fort Lauderdale, Florida, at its conference meeting of November 15, 2016, directed City staff to develop regulations regarding cannabis related uses and thereby imposed the zoning in progress rule; and

WHEREAS, the City Commission of the City of Fort Lauderdale desires to maintain the status quo while City staff conducts analysis and studies to determine the effects of any use that involves the cultivation, processing, dispensing or retail sale of cannabis as they relate to crime, demand on city services, surrounding property values, traffic congestion, and on other aspects of health, safety and welfare; and

WHEREAS, the imposition of a one hundred eighty (180) day moratorium will maintain the status quo while the City conducts analysis and studies; and

WHEREAS, the purpose of the moratorium is 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, based on the above, the City Commission deems it necessary and in the best interests of the health, safety and welfare of the residents and its visitors to impose a temporary moratorium on the submittal, processing, approval and issuance of any licenses, local business tax receipts, development orders or permits for a period of one hundred eighty (180) days from the date of the adoption of this ordinance on any applications for any use that involves the cultivation, processing, dispensing or retail sale of cannabis;

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 or permits in the City of Fort Lauderdale for any use that involves the cultivation, processing, dispensing or retail sale of cannabis. Said temporary moratorium shall be for a period of one hundred eighty (180) days in order to allow City staff time to thoroughly review, consider, modify, process and research for adoption and implementation business and land use regulations pertaining to any use that involves the cultivation, processing, dispensing or retail sale of cannabis.

SECTION 4. That all ordinances or parts of ordinances, 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 4th day of January, 2017.

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

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JEFFREY A. MODARELLI