

ORDINANCE NO. 2016-22

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, ESTABLISHING A TEMPORARY ONE-YEAR MORATORIUM ON CANNABIS CULTIVATION, PRODUCTION, AND DISPENSING BUSINESSES AS FURTHER DEFINED HEREIN; PROVIDING FOR THE APPLICABILITY TO ALL PROPERTIES WITHIN THE CORPORATE LIMITS OF THE CITY OF VENICE; PROVIDING FOR PENALTIES, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, in 2014 the Florida Legislature enacted a law legalizing low-THC medical cannabis in Florida; and

WHEREAS, in 2016 the Florida Legislature expanded the law to legalize medical cannabis in Florida; and

WHEREAS, future constitutional amendments and legislation may further expand the legal use of cannabis in Florida; and

WHEREAS, a comprehensive state licensing and regulatory framework for the cultivation, processing, and dispensing of cannabis now exists; and

WHEREAS, the comprehensive state licensing and regulatory framework directs that the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of cannabis businesses may be determined by local ordinance; and

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

WHEREAS, the dispensing of cannabis is currently illegal under federal law and the United States Drug Enforcement Agency has recently confirmed that cannabis remains a Schedule I drug under federal law, but the United States Department of Justice has discussed federal enforcement of such laws with respect to state regulated cannabis operations in the 2012 "Cole Memorandum," and;

WHEREAS, potential adverse impacts on the health, safety, and welfare of residents and businesses from secondary effects associated with the distribution of cannabis exist, potentially including offensive odors, trespassing, theft, fire hazards, increased crime in and about the dispensary, robberies, negative impacts on nearby businesses, nuisance problems, and increased DUI incidents; and

WHEREAS, certain of the above potential adverse impacts are accentuated by the current difficulties experienced by cannabis businesses in obtaining banking services necessitating such businesses to operate on a cash basis; and

WHEREAS, there exists the potential for misappropriation of medical cannabis to non-medical uses; and

WHEREAS, an overabundance of dispensing facilities can affect the viability of such facilities, result in compliance issues, lead to the improper diversion of products, and accentuate threats to the public health, safety, and welfare; and

WHEREAS, Florida laws relating to the cultivation, production, and dispensing of cannabis products are rapidly changing - raising substantial questions about whether cannabis-related land uses, as a category of commercial use, may have deleterious and negative secondary effects on surrounding land uses and communities; and

WHEREAS, the purpose of this ordinance is to place a temporary one-year moratorium on the opening of certain new cannabis cultivation, production, and dispensing facilities, and on the expansion or relocation of certain existing cannabis dispensing facilities; and

WHEREAS, the City of Venice hereby finds that the temporary moratorium imposed by this ordinance is intended to give the City of Venice the time reasonably necessary to investigate the impacts of cannabis dispensing facilities, and if necessary, to promulgate reasonable regulations relating to such establishments; and

WHEREAS, the City of Venice hereby finds that this ordinance advances an important government purpose by reducing the likelihood of the unregulated negative secondary effects of cannabis cultivation, production, and dispensing facilities; and

WHEREAS, the City of Venice hereby finds that this ordinance is in the best interest of the public health, safety, and welfare; and

WHEREAS, the City of Venice has determined it is in the public interest to adopt this Ordinance pursuant to the City of Venice police powers and Florida Statute 381.986 to protect the health, safety, and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA as follows:

SECTION 1. The above whereas clauses are ratified and confirmed as true and correct.

SECTION 2. Purpose and intent.

The purpose of this Ordinance is to provide the City of Venice with the opportunity to review the impact of recent changes in law and the potential passage of a constitutional amendment, as well as the impact of cannabis cultivation, production, and dispensing in other jurisdictions, to determine how such uses should be permitted or regulated in the City of Venice.

SECTION 3. Definitions.

- (1) The following words and phrases, when used in this ordinance, shall have the meanings ascribed to them in this Ordinance:
 - a. 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.
 - b. Cannabis dispensing business or business shall mean a business location offering cannabis for retail sale pursuant to a license to dispense cannabis issued under applicable law.
 - c. Compassionate Use Act shall mean section 381.986, Florida Statutes, and chapter 2016-123, Laws of Florida, as amended from time to time, and any rules or regulations promulgated thereunder.

d. State shall mean the State of Florida.

(2) In addition to the definitions contained in Subsection (1), other terms used in this ordinance shall have the meaning ascribed to them in the Compassionate Use Act, and such definitions are incorporated into this ordinance by this reference.

SECTION 4. Temporary Moratorium.

Beginning on the effective date of this Ordinance, a moratorium is hereby imposed on the opening of new cannabis cultivation, production, and dispensing businesses and on the expansion or relocation of existing cannabis dispensing businesses in the City of Venice.

- a. During the moratorium, it is unlawful and a violation of this ordinance for any person or entity to open or cause to be opened any cannabis dispensing business within the City of Venice.
- b. During the moratorium, it is unlawful and a violation of this ordinance for any person or entity to relocate or cause to be relocated any cannabis dispensing business within the City of Venice.
- c. During the moratorium, it is unlawful and a violation of this ordinance for any person or entity to expand or cause to be expanded any cannabis dispensing business within the City of Venice.
- d. During the moratorium, the City of Venice shall not accept, process or approve any application for business tax receipts, licenses, building permits, land use permits, or any development permits concerning or related to a cannabis dispensing business.
- e. During the moratorium, the City of Venice shall not accept, process or approve any business tax receipts, building permits, land use permits, or any development permits concerning or related to a cannabis dispensing business.
- f. During the moratorium, the City of Venice shall not accept, process or approve any licenses, permits, or approvals for any property, entity, or individual for the sale or dispensation of cannabis so long as this ordinance is in effect.

Nothing in this temporary moratorium shall be construed to prohibit the use of cannabis pursuant to the Compassionate Use Act or other applicable Florida Law, or the delivery of cannabis in compliance with the Compassionate Use Act or other applicable Florida Law.

SECTION 5. Study and Recommendations.

The City Manager is hereby directed to study land development regulations for cannabis cultivation, production, and dispensaries and the impact of such regulations in other jurisdictions.

SECTION 6. Penalties.

Any person or entity who violates any provision of this ordinance or who fails to comply therewith, or with any of the requirements thereof, shall be fined in an amount not exceeding \$500.00 per violation, per day, or be imprisoned for a period of time not to exceed 60 days.

SECTION 7. All Ordinances or parts of Ordinances in conflict herewith shall be and the same are hereby

repealed.

SECTION 8. If any part, section, subsection, or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this ordinance, and all applications thereof not having been declared void, unconstitutional, or invalid, shall remain in full force and effect. The city council specifically declares that no invalid or prescribed provision or application was an inducement to the enactment of this ordinance, and that it would have enacted this ordinance regardless of the invalid or prescribed provision or application.

SECTION 9. This Ordinance shall take effect immediately upon approval and adoption as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 8TH DAY OF NOVEMBER, 2016.

First Reading: October 25, 2016

Final Reading: November 8, 2016

Adoption: November 8, 2016

John W. Holic, Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

I, Lori Stelzer, CMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council, a meeting thereof duly convened and held on the 8th day of November, 2016, a quorum being present.

WITNESS my hand and the official seal of said City this 8th day of November, 2016.

Lori Stelzer, MMC, City Clerk

Approved as to form:

City Attorney