

ORDINANCE NO. 17-02

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LAKE CLARKE SHORES, FLORIDA, IMPOSING A TEMPORARY MORATORIUM ON THE OPERATION OF MEDICAL MARIJUANA TREATMENT CENTERS AND DISPENSING ORGANIZATIONS WITHIN THE TOWN FOR A PERIOD OF SIX (6) MONTHS; PROVIDING FOR EXEMPTION; PROVIDING FOR PENALTIES; PROVIDING AUTHORITY TO CODIFY; PROVIDING A SEVERABILITY CLAUSE, CONFLICTS CLAUSE AND AN EFFECTIVE DATE; AND OTHER PURPOSES.

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

WHEREAS, Amendment 2 legalizes the medical use of marijuana throughout the State of Florida for individuals with debilitating medical conditions and authorizes the registration and regulation of Medical Marijuana Treatment Centers (“MMTC”) that cultivate, process, distribute, and sell marijuana products for medical purposes; and

WHEREAS, Amendment 2 provides that the Florida Department of Health shall promulgate regulations regarding qualifying patient and caregiver identification cards, MMTC registration, and the marijuana amounts used by patients no later than six (6) months after its effective date; and

WHEREAS, on March 25, 2016, the Florida Legislature amended numerous provisions of Section 381.986, Florida Statutes, to make various revisions including a revision to the definition of “Dispensing Organization” to allow dispensing organizations to transport cannabis, to include medical cannabis for eligible patients with terminal conditions, and to provide additional regulation of the Department of Health with regard to medical cannabis; and

WHEREAS, Section 381.986(8)(b), Fla. Stat., authorizes a municipality to determine by ordinance 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 dispensing organizations located within its municipal boundaries; and

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 Town of Lake Clarke Shores 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, to promote effective land use planning (if a dispensing organization should seek to operate within the Town), the Town Council wishes to preserve the status quo while researching, studying, and analyzing the potential impact of MMTC and Dispensing Organizations upon adjacent

uses and surrounding area, and the effect of MMTC and Dispensing Organizations on traffic, congestion, surrounding property values, demand for Town services, and other aspects of the general welfare; and

WHEREAS, the Town Council finds that a temporary moratorium on the operation of MMTC and Dispensing Organizations will allow the Town 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

WHEREAS, it is not the purpose or intent of this ordinance to restrict or deny access to marijuana products as permitted by Florida law, but instead to enact reasonable restrictions intended to protect the public health, safety, and welfare of the residents of the Town of Lake Clarke Shores. It is also unknown at this time what subsequent legislation and/or regulations will provide and when they will become effective.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE CLARKE SHORES, FLORIDA, AS FOLLOWS:

SECTION 1. DEFINITIONS. For purposes of the temporary moratorium, a “MMTC” 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 Section 381.986, Fla. Stat.

SECTION 2. MORATORIUM. A temporary moratorium is imposed on the operation of MMTC and Dispensing Organizations within the boundaries of the Town of Lake Clarke Shores. While the temporary moratorium is in effect, the Town shall not accept, process or approve any application relating to the operation of a MMTC or Dispensing Organization. Nothing in this temporary moratorium shall be construed 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, Section 381.986, Fla. Stat., or other Florida law.

SECTION 3. VIOLATION. During the moratorium, it is unlawful and a violation of this ordinance for any person or entity to open or cause to be opened a MMTC or Dispensing Organization within the Town. It is also unlawful and a violation of this ordinance for any person or entity to relocate or cause to be relocated a MMTC or Dispensing Organization within the Town.

SECTION 4. PENALTIES. Any individual, entity, or agent, who shall violate any provision of this ordinance or who fails to comply with any of the requirements thereof, shall be fined in an amount not exceeding five hundred dollars (\$500.00) or be imprisoned for a period of time not to exceed sixty (60) days.

SECTION 5. DURATION. This ordinance shall take effect upon its adoption by the Town Council. The temporary moratorium shall terminate six (6) months from the effective date of this ordinance unless the Town Council rescinds or extends the moratorium by a subsequent ordinance.

SECTION 6. RECOMMENDATIONS FOR LAND DEVELOPMENT REGULATIONS.

The Town's staff and consultants are hereby directed to study, develop, and recommend land development regulations for MMTC and Dispensing Organizations in the Town of Lake Clarke Shores, with such recommendations being delivered to the Town Council by no later than six (6) months from the effective date of this ordinance.

SECTION 7. CODIFICATION. The provisions of this ordinance shall be made a part of the Code of Ordinances of the Town of Lake Clarke Shores, Florida. The sections of this ordinance may be renumbered or lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION 8. SEVERABILITY. If any section, paragraph, sentence, clause, phrase or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of the ordinance.

SECTION 9. CONFLICT. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 10. EFFECTIVE DATE. This ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED the 10th day of January, 2017, on first reading.

PUBLISHED the 26th day of January, 2017, in the Lake Worth Herald / Coastal Observer.

PASSED AND ADOPTED this 14th day of February, 2017, on second and final reading.

	FOR	AGAINST
By: <u>[Signature]</u> Robert M. W. Shalhoub, Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>absent</u> Thomas C. Mayes, Jr., Vice Mayor	<input type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Valentin Rodriguez, Jr., President Pro Tem	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Malcolm K. Lewis</u> Malcolm K. Lewis, Council Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u> Gregory Freebold, Council Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ATTESTED:
Mary Pinkerman
Mary Pinkerman, Town Clerk