



Legislation Text

File #: 12R-2180, Version: 1

ORDINANCE NO. 170-02-115: AN ORDINANCE OF THE CITY OF LAUDERHILL, FLORIDA ESTABLISHING AND IMPOSING A 180 DAY MORATORIUM ON THE DISPENSING OF MEDICAL CANNABIS TO INCLUDE, BUT NOT BE LIMITED TO, MEDICAL MARIJUANA TREATMENT CENTERS WITHIN THE CITY OF LAUDERHILL; PROHIBITING ANY AND ALL DISPENSING OF MEDICAL CANNABIS DURING THE MORATORIUM PERIOD FOR ANY PROPERTY LOCATED WITHIN THE CITY OF LAUDERHILL; PROVIDING FOR THE MORATORIUM TO EXTEND TO ALL APPLICATIONS FOR DEVELOPMENT ORDERS AND DEVELOPMENT PERMITS RELATING TO REAL PROPERTY LOCATED IN THE CITY LIMITS OF THE CITY OF LAUDERHILL IN ORDER TO ALLOW AN OPPORTUNITY FOR THE CITY TO DEVELOP GOALS, OBJECTIVES AND POLICIES OF THE CITY'S COMPREHENSIVE PLAN AND AMENDMENTS TO THE CITY'S LAND DEVELOPMENT REGULATIONS, AS APPROPRIATE, RELATING TO THE DEVELOPMENT OF DESIGN STANDARDS AND RELATED MATTERS PERTAINING TO DISPENSING OF MEDICAL CANNABIS AS WELL AS POLICE POWER REGULATIONS; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; PROVIDING FOR GEOGRAPHIC AREA ENCOMPASSED BY THE MORATORIUM; PROVIDING FOR DEVELOPMENT WHICH IS SUBJECT TO MORATORIUM; PROVIDING FOR POSSIBLE EXTENSION OF MORATORIUM; PROVIDING FOR AN ADMINISTRATIVE REMEDY TO ASSERT VESTED RIGHTS CLAIMS; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR NON-CODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, CHARLES FARANDA).

Request Action:

Impose a temporary moratorium regarding medical cannabis to give the staff time to develop goals, objectives and policies.

Need:

To allow staff to have time to develop the necessary goals, objectives, and policies regarding medical cannabis.

Summary Explanation/ Background:

At the February 13, 2017 City Commission meeting by a unanimous vote, City staff and the City Attorney were directed to draft an ordinance for a moratorium regarding medical marijuana uses while the State and City prepare associated regulations. Senate Bill 1030 was approved by the Florida Legislature and on June 18, 2014, Governor Rick Scott signed Senate Bill 1030 also known as the "Compassionate Medical Cannabis Act of 2014 ("2014 Act")." The legislation legalized tetrahydrocannabinol (THC) cannabis, such as the strain Charlotte's Web, for medical patients suffering from cancer or "a physical medical condition that chronically produces symptoms of seizures," such as epilepsy, "or severe and persistent muscle spasms." The law authorized a very limited number of large nurseries to cultivate, process and dispense low-THC cannabis and operate as "dispensing organization." The measure became effective on January 1, 2015. The "2014 Act" is unrelated to the constitutional amendment that was on the November 2014 ballot. The Florida Medical Marijuana Legislation Initiative, also known as Amendment 2, was on the November 8, 2016 ballot as an

initiated constitutional amendment. It was approved. The measure broadens access to marijuana for limited therapeutic uses which were approved by the legislature in 2014. Currently, the law allows non-smoked, low-THC marijuana for patients with cancer or ailments that cause chronic seizures or severe spasms. Amendment 2 formally legalizes medical marijuana, and broadens access for diseases with symptoms other than seizures or spasms. The next steps for Amendment 2 include the OCU and, perhaps, the Florida Legislature drafting rules for how the new provision of the *Constitution of the State of Florida* will be implemented and regulated, a process that will begin in March of 2017. The Department of Health will regulate how medical marijuana can be distributed along with mandating identification cards for caregivers and patients. Many rules and regulations - from how the marijuana is grown to regulations on how it can be transported for in-home delivery - already have been passed by the legislature under laws for limited use of marijuana. Those regulations will most likely apply to the recently passed constitutional amendment. Many local government jurisdictions are implementing moratoria relative to the permitting of marijuana land uses. The State is in the process of promulgating implementing rules to address the requirements of Amendment 2 and that the Florida Legislature will soon commence its Regular Legislative Session. Moreover, there is some discussion that the newly elected President Trump may determine to enforce Federal law which is contrary to the provisions of Amendment 2. That is, in the case of *Gonzales v. Raich* (previously *Ashcroft v. Raich*), 545 U.S. 1 (2005), the United States Supreme Court ruled that under the *Commerce Clause* of the *United States Constitution*, the United States Congress may criminalize the production and use of home-grown cannabis even where states approve its use for medicinal purposes. The Federal government regulates drugs through the Controlled Substances Act (CSA) (Title 21, *United States Code*, Section 811), which does not recognize the difference between medical and recreational use of marijuana and, under Federal law, marijuana is treated like every other controlled substance, such as cocaine and heroin. The Federal government places every controlled substance in a schedule, in principle according to its relative potential for abuse and medicinal value. Under the CSA, marijuana is classified as a Schedule I drug, which means that the Federal government views marijuana as highly addictive and having no medical value and physicians may not lawfully "prescribe" marijuana for medical use. Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City to exercise any power for municipal purposes except as otherwise provided by law with Federal law being the controlling and supreme law of the land. Accordingly, there is some thought that President Trump and the new Attorney General may reverse the decision of the Obama Administration and commence the enforcement of Federal law. The City's *Land Development Regulations* do not currently have regulations governing the use of property for the purposes of cultivating, processing, distributing or selling medical marijuana or related activities (such as treatment centers and dispensing operations). A moratorium will provide time for the City to analyze the potential impacts of medical marijuana treatment centers and dispensing organizations upon adjacent uses and surrounding area as well as review the potential actions of the State and Federal governments. A 180 day moratorium for medical marijuana treatment centers and dispensing organization should be established with a provision that the moratorium could be extended another 180 days should the City Commission deem it necessary so the city can further research the potential impacts of medical marijuana treatment centers and dispensing organizations upon adjacent uses and surrounding areas.

Attachments:

None.

Cost Summary/ Fiscal Impact:

Increased costs from the amendment to state and local governments cannot be determined. There will be additional regulatory costs and enforcement activities associated with the production, sale, use and possession of medical marijuana. Fees may offset some of the regulatory costs. Sales tax will likely apply to most purchases, resulting in a substantial increase in state and local government revenues that cannot be determined precisely. The impact on property tax revenues cannot be determined.

Estimated Time for Presentation:

Master Plan:

Goal 1: Clean, Green Sustainable Environment

- ☐ Increase mass transit ridership
- ☐ Reduce City energy consumption
- ☐ Reduce water consumption

Goal 2: Safe and Secure City of Lauderdale

- ☐ Crime in lower 50% in Broward
- ☐ Residents feel safe in neighborhood
- ☐ Reduce emergency fatalities

Goal 3: Open Spaces and Active Lifestyle for all ages

- ☐ Increase participation in youth sports
- ☐ Add new park land and amenities
- ☐ Increase attendance at cultural programs and classes

Goal 4: Growing Local Economy, Employment and Quality of Commercial Areas

- ☐ Increase commercial tax base
- ☐ Increase employment in Lauderdale businesses
- ☐ Decrease noxious and blighted uses in commercial areas

Goal 5: Quality Housing at all Price Ranges and Attractive Communities

- ☐ Neighborhood signs and active HOAs
- ☐ Housing & streets improved, litter reduced
- ☐ Increase proportion of single family homes and owner occupied housing

Goal 6: Efficient and Effective City Government, Customer Focused & Values Diversity

- ☐ Improves City efficiency
- ☐ Increase use of Information Technology
- ☒ Increases residents perception of Lauderdale as an excellent place to live