

ORDINANCE NO. 17- 05

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, DECLARING ZONING IN PROGRESS AND IMPOSING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSING FACILITIES AND TREATMENT CENTERS FOR A PERIOD OF 180 DAYS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA EMBRACED; PROVIDING FOR CONFLICT WITH STATE LAW; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article 8 of the Florida Constitution and Section 125.66, Florida Statutes, Pinellas County possesses the police powers to enact ordinances in order to protect the health, safety, and welfare of the County's citizens; and

WHEREAS, pursuant to Section 2.04 of the Pinellas County Charter the County shall have all special and necessary regulatory power to protect consumers in the County; and

WHEREAS, medical marijuana dispensing facilities and treatment centers are new and unique uses which are not currently addressed by the Pinellas County Code; and

WHEREAS, the Pinellas County Board of County Commissioners determines that it is in the best interest of its residents, businesses and visitors to enact sufficient zoning regulations to ensure their health, safety and welfare relating to the cultivation, possession, processing, transfer, transport, selling, distribution, and dispensing of medical marijuana; and

WHEREAS, regarding medical marijuana dispensing facilities, section 381.986(8)(b), Fla. Stat., permits counties to "determine by ordinance the criteria for the number, location, and other permitting requirements that do not conflict with state law or department rule for all dispensing facilities of dispensing organizations located within the unincorporated areas of that county"; and

WHEREAS, regarding medical marijuana treatment centers, the 2017 State Legislature will be drafting legislation to comply with the requirements set forth in Amendment 2 which established Article X, Section 29 of the Florida Constitution, and the state Department of health will be drafting administrative rules for treatment centers; and

WHEREAS, a temporary moratorium on the acceptance of applications for, the processing of, and the issuance of development permits, development orders or any other official action of Pinellas County permitting or having the effect of permitting new medical marijuana dispensing or treatment center facilities will allow time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the Pinellas County Code to address this new and unique use; and

WHEREAS, a temporary moratorium will also provide an opportunity to consider appropriate regulatory standards for the operation of medical marijuana dispensing facilities and treatment centers; and

WHEREAS, adoption of this ordinance will further the health, safety and welfare of the citizens of Pinellas County.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA:

SECTION 1: Purpose. The purpose of this ordinance is to preserve the status quo and enable sufficient time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the Pinellas County Code, relating to the appropriate locations for medical marijuana dispensing facilities and treatment centers. During this 180 day time period, the County will not take any action on any application for development permit or issue any development order or take other official action which would have the effect of allowing or permitting the development of medical marijuana dispensing facilities or treatment centers, except as provided in this Ordinance. It is not the purpose of this Ordinance to permanently deny development orders and permits for other uses that are permitted by right or special use permit and that otherwise comply with all applicable codes, ordinances, regulations and policies.

SECTION 2: Definition. The following definitions apply to the terms used in this ordinance:

- (a) “Dispensing organization” means an organization approved by the State Department of Health to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to Section 381.986, Florida Statutes.
- (b) "Medical Marijuana Dispensing Facility" means any establishment where low-THC or medical cannabis is permitted to be dispensed by an approved dispensing organization pursuant to Section 381.986, Florida Statutes, and Florida Department of Health Rules.
- (c) “Medical Marijuana Treatment Center” 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 State Department of Health, pursuant to Article X, Section 29 of the Florida Constitution.

SECTION 3: Zoning in Progress. Pinellas County hereby recognizes that County staff intend to study and prepare regulations that would result in the regulation of medical marijuana dispensing facilities and treatment centers. These regulations, if adopted, will amend the Pinellas County Code. All affected property and business owners are placed on notice with respect to these pending regulations and the action being taken by the appropriate departments within the County.

SECTION 4: Imposition of Temporary Moratorium. Pinellas County hereby imposes a temporary moratorium on the acceptance of applications for, the processing of, and the issuance

of development permits, development orders or any other official action of Pinellas County permitting or having the effect of permitting medical marijuana dispensing facilities or treatment centers, except as provided in this Ordinance, for a period of 180 days following the effective date of this Ordinance. The review of any applications for medical marijuana dispensing facilities pending upon the effective date of this Ordinance shall be abated.

SECTION 5: Existing Authorized Medical Marijuana Dispensing Facilities. This temporary moratorium shall not affect a medical marijuana dispensing facility of a dispensing organization which has received dispensing authorization from the Florida Department of Health in accordance with Section 381.986, Florida Statutes and Chapter 64-4.001, F.A.C., for which the County has issued a zoning clearance letter which confirms the permissibility of the zoning status of the proposed location for use as a medical marijuana dispensing facility, and for which development permits have been obtained in reliance on the zoning clearance letter prior to the effective date of this Ordinance. During the moratorium period, a medical marijuana dispensing facility for which a zoning clearance letter and development permits have been issued shall not be permitted to expand its square footage.

SECTION 6: Submittal of Applications. Beginning upon the effective date of this Ordinance, an applicant for any development permit, development order or any other official County action which would facilitate the establishment of a medical marijuana dispensing facility or treatment center shall be required to disclose its intention to establish such facility or center in connection with its application for a permit. In the event that it is determined by the County that an applicant for a permit has failed to disclose its intent to establish a medical marijuana dispensing facility or treatment center, the County shall be authorized to enforce this Ordinance by the methods set forth in Section 7.

SECTION 7: Penalties. This moratorium may be enforced by the following methods of enforcement:

- (A) Revocation or temporary suspension of necessary development permits, development orders and/or certificates of occupancy and/or licenses; or
- (B) By an action for injunctive relief, civil penalties or both, through a court of competent jurisdiction; or
- (C) By any other process permitted by law or equity.

SECTION 8: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 9: AREA EMBRACED. This Ordinance shall be applicable in the unincorporated areas of Pinellas County.

SECTION 10: CONFLICT WITH STATE LAW. Nothing in this Ordinance is intended to conflict with the provisions of the Florida Constitution or any Florida Statute. In the event of a direct and

express conflict between this Ordinance and either the Florida Constitution or the Florida Statutes, then the provisions of the Florida Constitution or Florida Statutes, as applicable, control.

SECTION 11: FILING OF ORDINANCE AND EFFECTIVE DATE. In accordance with the provisions of Section 125.66, Florida Statutes, governing ordinances, a certified copy of this Ordinance shall be filed with the Florida Department of State by the Clerk of the Board of County Commissioners. This Ordinance shall take effect upon filing with the Florida Department of State.

APPROVED AS TO FORM

By:



Office of the County Attorney