

ORDINANCE 2016-10

AN ORDINANCE OF POLK CITY, FLORIDA IMPOSING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSING ORGANIZATIONS AND MEDICAL MARIJUANA TREATMENT CENTERS WITHIN THE CITY FOR A PERIOD OF ONE (1) YEAR; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2014 the Florida Legislature enacted a medical marijuana law, the "Compassionate Medical Cannabis Act of 2014" (codified as §381.986, Florida Statutes) which authorizes a very limited number of large nurseries to cultivate, process, and dispense non-euphoric, low THC cannabis and operate as "Dispensing Organizations" for individuals with certain specified serious ailments; and

WHEREAS, the Florida Legislature in its 2016 session amended the Compassionate Medical Cannabis Act (§381.986) to include the use of "medical marijuana" for eligible patients with terminal conditions; and

WHEREAS, the 2016 Amendment to §381.986 expanded the type of marijuana available to eligible patients beyond low THC cannabis to include all types of marijuana, and the statutory amendment has already been codified and has become effective in the State of Florida; and

WHEREAS, on November 8, 2016, Florida's voters approved an amendment to the Florida Constitution, titled "Use of Marijuana for Debilitating Medical Conditions" ("Amendment 2"); and

WHEREAS, Amendment 2 would fully legalize the medical use of marijuana throughout the State of Florida for those individuals with specified "debilitating" conditions, and would authorize the cultivation, processing, distribution and sale of marijuana and related activities by licensed "Medical Marijuana Treatment Centers", and

WHEREAS, due to the historical prohibition of marijuana, Polk City does not currently have any land development regulations governing the use of real property for purposes of cultivating, processing, distributing or selling marijuana or related activities and such uses are neither lawfully existing nor permissible within the City; and

WHEREAS, in order to promote effective land use planning if a dispensing organization should seek to operate within the City, the City Commission wishes to preserve the status quo while researching, studying and analyzing the potential impact of Medical Marijuana dispensing organizations and Medical Marijuana Treatment Centers upon nearby properties; and

WHEREAS, the City Commission finds that a temporary moratorium on the operation of Medical Marijuana dispensing organizations and Medical Marijuana Treatment Centers allow City staff sufficient 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.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF POLK CITY, FLORIDA:

SECTION 1. TEMPORARY MORATORIUM. A temporary moratorium is hereby imposed on the establishment and operation of Medical Marijuana Dispensing Organizations and Medical Marijuana Treatment Centers (as referenced in §381.986 and Constitutional Amendment 2, respectively) within the corporate limits of Polk City. While the temporary moratorium is in effect, the City shall not accept, process or approve any application relating to the establishment or operation of a Medical Marijuana Dispensing Organization or Medical Marijuana Treatment Center. Nothing in this temporary moratorium shall be construed to prohibit the medical use of medical marijuana or low-THC cannabis by a qualifying or eligible patient, as determined by a licensed Florida physician, pursuant to Amendment 2, Fla. Stat. § 381.986 or other Florida law, as applicable.

SECTION 2. DEFINITIONS. For purposes of the temporary moratorium, a "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 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 Fla. Stat. § 381.986.

SECTION 3. DEVELOPMENT OF PERMANENT LAND DEVELOPMENT REGULATIONS. The City Commission directs the City Manager to have city staff and the City Attorney's Office initiate a zoning review of Medical Marijuana Medical Marijuana dispensing organizations and Medical Marijuana Treatment Centers facilities within Polk City, to prepare a staff report containing recommendations as to the appropriate zone district(s) in which such facilities should be located and whether such facilities should be permitted within such district(s) as principal permitted uses or by conditional use permit; and to present such report to the Planning Board for its consideration and recommendation(s) to the City Commission.

SECTION 4. LIBERAL CONSTRUCTION. This Ordinance is to be liberally construed to accomplish its objectives.

SECTION 5. TERM OF ORDINANCE. This Ordinance shall remain in effect for three hundred sixty-five (365) days from effective date hereof, unless earlier rescinded, repealed or extended by an Ordinance or Resolution of the City Commission of Polk City. Within ninety (90) days from the effective date hereof, City staff shall provide an interim report to the City Commission as to the progress being made in the preparation of an Ordinance implementing revised regulations hereunder.

SECTION 6. SEVERABILITY. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 7. CONFLICTING ORDINANCES REPEALED. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 8. EFFECTIVE DATE. That upon final passage, this Ordinance shall take effect retroactively to December 19, 2016.

PASSED ON FIRST READING this 19th day of December, 2016.


PASSED ON SECOND READING this 16th day of January, 2016. *f7*

POLK CITY, FLORIDA



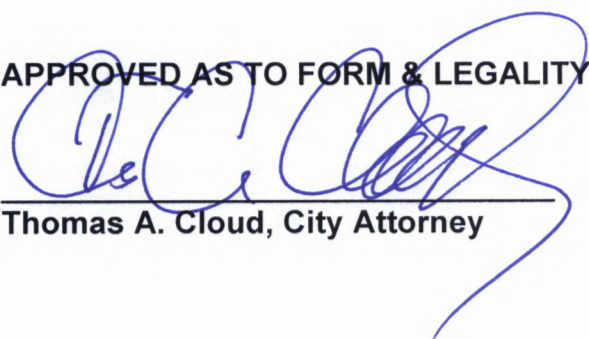
Joe LaCascia, Mayor

ATTEST:



Sheandolen P. Dunn, Deputy City Clerk

APPROVED AS TO FORM & LEGALITY



Thomas A. Cloud, City Attorney

