

ORDINANCE NO. 1707 - 2017

AN ORDINANCE OF THE CITY OF ROCKLEDGE, BREVARD COUNTY, FLORIDA, RELATING TO CANNABIS DISPENSING FACILITIES; ADOPTING FINDINGS OF FACT; PROVIDING DEFINITIONS; IMPOSING A TEMPORARY MORATORIUM ON THE OPENING OF ANY NEW CANNABIS DISPENSING FACILITY; DIRECTING THE PLANNING OFFICIAL TO RECOMMEND LAND DEVELOPMENT REGULATIONS FOR CANNABIS DISPENSING FACILITIES BY A DATE CERTAIN; DECLARING THAT INVALIDITY OF ANY PORTION HEREOF SHALL NOT AFFECT THE REMAINING PORTIONS OF THIS ORDINANCE; PROVIDING FOR THE EFFECTIVE DATE HEREOF AND FOR OTHER PURPOSES.

WHEREAS, as provided in Section 2(b), Article VIII, of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Rockledge, Florida (the "City"), a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in Section 166.21(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, on June 16, 2014, Governor Rick Scott approved CS/CS/SB 1030 creating the Compassionate Medical Cannabis Act of 2014 (Chapter 2014-157, Laws of Florida; codified at Section

381.986, Florida Statutes, hereinafter referred to as the "Compassionate Use Act"); and

WHEREAS, the Compassionate Use Act legalized the cultivation, production, and dispensing of a low-THC derivative product of marijuana for "qualified patients"; and

WHEREAS, under the Compassionate Use Act, "qualified patients" are patients suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms (e.g., epilepsy or amyotrophic lateral sclerosis ("ALS")); and

WHEREAS, the low-THC derivative product of marijuana legalized by the Compassionate Use Act is administered to patients as oil or in capsule form, and is not smoked like traditional marijuana; and

WHEREAS, the low-THC strain of cannabis and the oil product are commonly referred to as "Charlotte's Web" (but is hereinafter referred to as "low-THC product"); and

WHEREAS, the Compassionate Use Act is implemented by rule of the Florida Department of Health (the "department") under Chapter 64-4, Florida Administrative Code (the "Compassionate Use Rules"); and

WHEREAS, the Compassionate Use Rules went into effect on June 17, 2015, and, among other things, regulate the selection, licensing, and oversight of "dispensing organizations". A dispensing organization is "a nursery that meets the requirements

of Section 381.986(5)(b)1., Florida Statutes, including its contractual agents, which has been authorized by the department to cultivate, process and dispense "low-THC cannabis" (Rule 64-4.001(0), Florida Administrative Code); and

WHEREAS, applications for dispensing organization approval were evaluated in part by the "accessibility of [their proposed] dispensing facilities, e.g., centrally located to several populated areas, located on a main roadway..." (Rule 64-4.002(2)(c)11.a., Florida Administrative Code). The state regulation also requires that applicants demonstrate "the ability to obtain zoning approval" (Rule 64-4.002(2)(c)3., Florida Administrative Code); and

WHEREAS, to date, there have been no applications for dispensing facilities in the City; and

WHEREAS, the Compassionate Use Act has been amended to legalize the cultivation, production, and dispensing of medical cannabis to eligible patients as defined by Section 499.0295, Florida Statutes; and

WHEREAS, in November 2016, Florida voters decided to amend the Florida Constitution to legalize the cultivation, production, and dispensing of medical cannabis for a broader population of eligible patients; 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 moratorium on the opening of certain new cannabis dispensing facilities; and

WHEREAS, the Rockledge City Council hereby finds that the temporary moratorium imposed by this ordinance is being imposed for a reasonable duration intended to give the City 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 Rockledge City Council hereby finds that this ordinance advances an important government purpose by reducing the likelihood of the unregulated negative secondary effects of cannabis dispensing facilities; and

WHEREAS, the Rockledge City Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKLEDGE, FLORIDA, AS FOLLOWS:

SECTION 1. FINDINGS OF FACT. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this ordinance.

SECTION 2. DEFINITIONS. For the purposes of this ordinance, the following words, terms, and phrases, including their respective derivatives, have the following meanings:

- 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 dispensary* means an establishment where a derivative product of the cannabis plant, except for low-THC cannabis, is dispensed at retail.
- c. *Derivative product* means any form of cannabis suitable for routes of administration.
- d. *Low-THC cannabis* means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seed or resin that is dispensed only from a dispensing organization approved by the Florida Department of health pursuant to Section 381.986, Florida Statutes.
- e. *Low-THC cannabis dispensary* means an establishment where low-THC cannabis is dispensed at retail.

SECTION 3. TEMPORARY MORATORIUM. Beginning on the effective date of this ordinance and continuing for twelve (12) months thereafter, or sooner if provided pursuant to Section 4 of this ordinance, a moratorium is hereby imposed on the opening of new cannabis dispensaries and low-THC cannabis dispensaries and on the expansion or relocation of existing cannabis dispensaries and low-THC cannabis dispensaries.

- a. During the moratorium, it is unlawful and a violation of this ordinance for any person, firm, or corporation

to open or cause to be opened any cannabis dispensary or low-THC cannabis dispensary within the City of Rockledge.

- b. During the moratorium, it is unlawful and a violation of this ordinance for any person, firm or corporation to relocate or cause to be relocated any cannabis dispensary or low-THC cannabis dispensary within the City of Rockledge.

SECTION 4. EXPIRATION OF THE TEMPORARY MORATORIUM. The temporary moratorium imposed by Section 3 of this ordinance expires as of the earliest of the following occurrences:

- a. March 1, 2018; or
- b. A date before March 1, 2018, if provided by ordinance of the Rockledge City Council.

SECTION 5. RECOMMENDATIONS FOR LAND DEVELOPMENT REGULATIONS. The planning official is hereby directed to study, develop, and recommend land development regulations for cannabis dispensaries and low-THC cannabis dispensaries in the City of Rockledge, with such recommendations being delivered to the City Council by no later than August 1, 2017.

SECTION 6. The provisions of this Ordinance are severable, and if any section, sentence, clause, or phrase hereof is for any reason held to be unconstitutional, invalid, or ineffective, such holding shall not affect the validity of the remaining portions of this Ordinance, it being expressly declared to be the City Council's intent that it would have passed the valid portions of this Ordinance without the inclusion therein of any invalid portion or portions.

SECTION 7. This Ordinance shall become effective ten (10) days following its adoption and signed by the Chairman of the City Council.

ADOPTED at a regular meeting of the City Council of the City of Rockledge, Florida, this _____ day of _____, 2017.

Chairman, City Council of the City of Rockledge, Florida

ATTEST:

City Clerk

1st Reading: 02/01/2017

2nd Reading: _____