

ORDINANCE NO. 736-17

AN ORDINANCE OF THE MIAMI SHORES VILLAGE COUNCIL, MIAMI SHORES, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON CANNABIS DISPENSING BUSINESSES AS FURTHER DEFINED HEREIN; PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Florida Legislature, in 2014, enacted a law approving the use of low-THC medical cannabis in Florida; and

WHEREAS, On November 8, 2016, Florida voters approved a Constitutional amendment to allow the use of medical marijuana (cannabis) in Florida under specified conditions; and

WHEREAS, a comprehensive State licensing and regulatory framework for the cultivation, processing, and dispensing of cannabis exists and may be further modified by the Florida Legislature in recognition of the Constitutional amendment; and

WHEREAS, the comprehensive State licensing and regulatory framework directs that 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 cannabis businesses may be determined by local ordinance; and

WHEREAS, cannabis businesses licensed pursuant to the law have begun cultivating cannabis for processing and dispensing; and

WHEREAS, the dispensing of cannabis is currently illegal under federal law and the United States Drug Enforcement Agency has recently confirmed that cannabis remains a Schedule 1 drug under federal law, but the United States Department of justice has discussed federal enforcement of such laws with respect to state regulated cannabis operations in the 2012 "Cole Memorandum"; and

WHEREAS, potential adverse impacts on the health, safety, and welfare of residents and businesses from secondary effects associated with the distribution of cannabis exist, potentially including, offensive odors, trespassing, theft, fire hazards, increased crime in and about the dispensary, robberies, negative impacts on nearby businesses, nuisance problems, and increased DUI incidents; 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 new cannabis dispensing facilities; and

WHEREAS, the Village hereby finds that the temporary moratorium imposed by this ordinance is intended to give the Village the necessary time to investigate the impacts of cannabis dispensing facilities, and if necessary, to promulgate reasonable regulations relating to such establishments; and

WHEREAS, it is in the best interest of the Village to adopt this ordinance to protect the health, safety and welfare of the public;

NOW, THEREFORE, BE IT ORDAINED BY THE MIAMI SHORES VILLAGE COUNCIL, that:

Section 1. The purpose of this ordinance is to provide the Village with the opportunity to review the impact of recent changes in law, recent state guidelines and regulations, and the recent passage of the constitutional amendment, as well as the impact of cannabis dispensing in other jurisdictions, to determine how such dispensing should be permitted or regulated in the Village.

Section 2. The following words and phrases, when used in this ordinance, shall have the meanings ascribed to them in this ordinance:

- 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 dispensing business** or **business** shall mean a business location offering cannabis for retail sale pursuant to a license to dispense cannabis issued under applicable law.
- c) **Compassionate Use Act** shall mean section 381.986, Florida Statutes, and chapter 2016-123, Laws of Florida, as amended from time to time, and any rules or regulations promulgated thereunder.
- d) **State** shall mean the State of Florida.

In addition to the definitions contained above, other terms used in this ordinance shall have the meaning ascribed to them in the Compassionate Use Act, and such definitions are incorporated into this ordinance by this reference.

Section 3. Beginning on the effective date of this ordinance, for a period of twelve (12) months from the effective date, a moratorium is hereby imposed on the opening of cannabis dispensing businesses in the Village.

- a) During the moratorium, it is unlawful and a violation of this ordinance for any person or entity to open or cause to be opened any cannabis dispensing business within the Village.
- b) During the moratorium, it is unlawful and a violation of this ordinance for any person or entity to relocate or cause to be relocated any cannabis dispensing business within the Village.
- c) During the moratorium, it is unlawful and a violation of this ordinance for any person or entity to expand or cause to be expanded any cannabis dispensing business within the Village.
- d) During the moratorium, the Village shall not accept, process or approve any applications, or issue any business tax receipts, licenses, building permits, land use permits, or any development permits concerning or related to a cannabis dispensing business.

Nothing in this temporary moratorium shall be construed to prohibit the use of cannabis pursuant to the Compassionate Use Act or other applicable Florida Law, or the delivery of cannabis in compliance with the Compassionate use Act or other applicable Florida Law.

Section 4. The Village Manager, or his designee, is hereby directed to study land development regulations for cannabis dispensaries and the impact of such regulations in other jurisdictions.

Section 5. All ordinances or parts of ordinances in conflict herewith or inconsistent herewith, are hereby repealed, but only insofar as such ordinances may be inconsistent or in conflict with this Ordinance.

Section 6. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance, which shall be deemed to be severable therefrom.

Section 7. This ordinance shall become effective immediately upon adoption on second reading, and shall remain in effect for a period of twelve (12) months from that date.

Passed on first reading this 7<sup>th</sup> day of February, 2017.

Passed and adopted on second reading this 21<sup>st</sup> day of February, 2017.

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Alice Burch, Mayor

ATTEST:

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Barbara A. Estep, MMC  
Village Clerk

APPROVED AS TO FORM:

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Richard Sarafan  
Village Attorney