

ORDINANCE NO. 1089 – 2017

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, EXTENDING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, REVIEW, APPROVAL OR ISSUANCE OF ANY LAND DEVELOPMENT PERMITS AS THE TERM IS DEFINED IN FLORIDA STATUTES SECTION 163.3164(16), BUSINESS TAX RECEIPTS, OR ANY OTHER LICENSE OR PERMIT FOR THE ESTABLISHMENT OR OPERATION OF DISPENSING FACILITIES WITHIN THE CITY OF MIAMI SPRINGS ENGAGED IN THE ON-SITE DISTRIBUTION, SALE, DELIVERY OR RETAIL OF LOW-THC CANNABIS, MEDICAL CANNABIS OR CANNABIS DELIVERY DEVICES PURSUANT TO SECTIONS 381.986 AND 499.0295 OF THE FLORIDA STATUTES, FOR AN ADDITIONAL PERIOD OF ONE HUNDRED AND EIGHTY (180) DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE, IN ORDER TO PROVIDE THE CITY WITH AN OPPORTUNITY TO REVIEW AND ENACT REGULATIONS GOVERNING THE ESTABLISHMENT AND OPERATION OF DISPENSING FACILITIES; PROVIDING FOR PENALTIES FOR VIOLATIONS HEREOF; PROVIDING FOR IMPLEMENTATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to the Compassionate Medical Cannabis Act of 2014, the Florida Legislature authorized a very limited number of large nurseries to cultivate, process, and dispense non-euphoric, low THC cannabis and operate dispensing organizations, as of January 1, 2015; and,

WHEREAS, in 2016, the Florida Legislature amended Section 381.986 of the Florida Statutes to include medical cannabis, revise the requirements for physicians ordering low-THC cannabis, medical cannabis, or cannabis delivery devices, amend the requirements for the cultivation, processing, transportation, and dispensing of low-THC cannabis or medical cannabis, revise the Florida Department of Health's authority and responsibility and provide for penalties; and,

WHEREAS, pursuant to Section 381.986(8) of the Florida Statutes, a municipality may determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with state law for dispensing facilities of dispensing organizations located within its municipal boundaries; and,

WHEREAS, due to the historical prohibition of cannabis, the City does not currently have any land development regulations governing the use of real property for the purpose of on- site distribution, sale, delivery or retail of low-THC cannabis, medical cannabis or cannabis delivery devices as provided by Florida Statutes Sections 381.986 and 499.0295; and,

WHEREAS, in order to promote the effective regulation of such activities, the City Council wishes to preserve the status quo while researching, studying, and analyzing the potential impact of dispensing facilities within the City's boundaries upon adjacent uses and the surrounding areas, including its effect on traffic, congestion, surrounding property values, demand for City services including inspections and increase police monitoring, and other aspects of the operation of dispensing facilities impacting the general welfare of the community; and,

WHEREAS, the City Council believed that a one hundred and eighty (180) days temporary moratorium on the issuance of business tax receipts and the acceptance, processing and approval of any building or zoning permits for the establishment and operation of dispensing facilities within the corporate limits of the City of Miami Springs was a reasonable period of time; and,

WHEREAS, the City Council believed that a one hundred and eighty (180) days temporary moratorium would have allow the City sufficient time to determine what zoning districts are best-suited for this particular use, and how best to formulate land development and licensing regulations that will appropriately govern the use of real property for the purpose of on-site distribution, sale, delivery or retail of low-THC cannabis, medical cannabis or cannabis delivery devices; and,

WHEREAS, the City Council further believed that the State of Florida would have duly passed and adopted enabling legislation and regulations for the sale of cannabis and/or cannabis delivery devices; and

WHEREAS, on October 10, 2016, the City Council passed and adopted a one hundred and eighty (180) moratorium on the issuance of building permits and zoning permits for cannabis dispensing facilities within the corporate limits of the City (the "Moratorium"); and

WHEREAS, State of Florida has not passed and adopted enabling legislation and regulations, which would most likely have a bearing on the City's Code of Ordinances and/or the Council's considerations on the development of new regulations; and

WHEREAS, the City Council finds it is in the best interests of the citizens of the City to minimize and control the adverse effects of dispensing facilities by adopting appropriate land development and licensing regulations that is in-line with State of Florida laws; and,

WHEREAS, the City Council finds that extending the temporary Moratorium until adequate regulations have been developed, considered and adopted is in the best interests of the health, safety and general welfare of the community and the residents of the City of Miami Springs; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Moratorium Extended. The City of Miami Springs, Florida hereby extends the temporary building and zoning Moratorium on the establishment and operation of dispensing facilities within the corporate limits of the City of Miami Springs, which was originally imposed by the City on October 10, 2016. During the continuation of such Moratorium, the City shall not accept, process or approve any application for business tax receipts, building permits, land use changes, zoning variances or permits, or any other development permits for any property, entity, or individual concerning or related to dispensing facilities engaged in permitted uses under Florida law, specifically Florida Statutes Sections 381.986 and 499.0295, whether as a principal or accessory use, so long as this Ordinance is in effect. Additionally, No person, corporation, partnership or other entity shall establish or operate a dispensing facility engaged in permitted uses under Florida law, specifically Florida Statutes Sections 381.986 and 499.0295.

Section 3. Duration of Moratorium. The Moratorium is hereby extended by one hundred eighty (180) days from, and shall take effect immediately upon, adoption of this ordinance. The Moratorium shall terminate one hundred and eighty (180) days from the adoption of this ordinance, unless earlier rescinded by the City Council by appropriate ordinance and/or the passage and adoption of appropriate zoning codes for the regulation of cannabis dispensaries. The City Council reserves the right to further extend the Moratorium by subsequent ordinance.

Section 4. Penalties. Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5. Implementation. The City Manager, City Clerk, and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Ordinance.

Section 6. Repeal of Ordinances in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 7. Severability. If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 8. Effective Date. This ordinance shall become effective immediately upon passage by the City Council of the City of Miami Springs.

PASSED ON FIRST READING this 8th day of May, 2017, on a motion made by Councilman Petralanda and seconded by Vice Mayor Best.

PASSED AND ADOPTED ON SECOND READING this 22nd day of May, 2017, on a motion made by Vice Mayor Best and seconded by Councilman Petralanda.

Vice Mayor Bob Best	<u>YES</u>
Councilwoman Maria Mitchell	<u>ABSENT</u>
Councilwoman Mara Zapata	<u>YES</u>
Councilman Jaime Petralanda	<u>YES</u>
Mayor Billy Bain	<u>YES</u>



Bain, Mayor

ATTEST:



Erika Gonzalez-Santamaria, MMC, City Clerk

APPROVED AS TO LEGALITY AND FORM:



Weiss Serota Helfman Cole & Bierman, PL
City Attorney

