

ORDINANCE NO. 17-200

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE PROCESSING, ISSUANCE, OR APPROVAL OF ANY DEVELOPMENT ORDER, INCLUDING BY NOT LIMITED TO, BUILDING PERMITS, CERTIFICATES OF USE, SITE PLANS, VARIANCES, CONDITIONAL USES, OR LAND USE MODIFICATIONS FOR CANNABIS DISPENSARIES OR MARIJUANA TREATMENT CENTERS FOR A PERIOD OF ONE HUNDRED EIGHTY (180) DAYS FROM THE DATE OF ADOPTION OF THIS ORDINANCE; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR THE GEOGRAPHIC AREA COVERED; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature in 2014 enacted a Low-THC and Medical Cannabis Law, titled the “Compassionate Medical Cannabis Act of 2014” (codified as Section 381.986, Florida Statutes) (“Act”) which, among other provisions, authorized a limited number of large nurseries to cultivate, process, transport 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 2016 amended the Compassionate Medical Cannabis Act (Section 381.986, Florida Statutes) to include the use of full strength “medical marijuana” for eligible patients with terminal conditions; and

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

WHEREAS, on November 8, 2016, Florida’s voters voted in favor of an amendment to the Florida Constitution, titled “Use of Marijuana for Debilitating Medical Conditions” (“Amendment 2”); and

WHEREAS, Amendment 2 fully legalizes the medical use of marijuana throughout the State of Florida for those individuals with specified debilitating conditions, and authorized the cultivation processing, distribution and sale of marijuana and related activities by licensed “Medical Marijuana Treatment Centers”; and

WHEREAS, Section 381.986(8)(b), Florida Statutes, provides that the criteria for the number and location of, and other permitting requirements that do not conflict with state law or rules of the Florida Department of Health, may be established by local ordinance; and

WHEREAS, Section 166.021(3), Florida Statutes, states that the governing body of each municipality within 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, Florida laws relating to the cultivation, production, and dispensing of low THC-cannabis and medical marijuana products are likely to be modified as of the result of Amendment 2 – 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 without reasonable regulations; and

WHEREAS, the purpose of this ordinance is to place a temporary moratorium on the issuance of any development orders, including but not limited to: building permits, certificates of uses, site plans, variances, conditional uses, or land use modifications permitting the establishment, siting and operations of any new cannabis dispensing facilities and medical marijuana treatment centers, and to afford the Town the time reasonably necessary to evaluate any potential impact that may arise from such uses and to prepare appropriate development standards, as permitted by State Statutes, within its Land Development Code; and

WHEREAS, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency for the Town pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, on February 21, 2017 the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and has reviewed and recommends approval of this temporary moratorium; and

WHEREAS, the Town of Miami Lakes Council finds that the temporary moratorium imposed by this ordinance is for a reasonable duration appropriate to provide the town the time necessary to investigate the impacts of such facilities, and if necessary, to promulgate reasonable regulations relating thereto ; and

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

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, ADOPTS THE FOLLOWING ORDINANCE.

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 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. Also known as marijuana.
- b. *Cannabis Dispensary* means an establishment where the cultivation of the cannabis plant, sale of the cannabis plant, sale of any part of the cannabis plant, including its flowers and any derivative product of the cannabis plant, including 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.
- f. *Medical 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, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in s. 499.0295.
- g. *Medical Marijuana Treatment Center* means business entities that cultivate, process, and dispense cannabis for medicinal purposes to qualified patients.

Section 3. – Temporary Moratorium. Beginning on the effective date of this ordinance and continuing through One Hundred Eighty (180) days from the effective date, or sooner if provided pursuant to section 4 of this ordinance, a moratorium is hereby imposed on the issuance of any development orders, including but not limited to building permits, certificates of uses, site plans, variances, conditional uses, or land use modifications permitting the establishment, siting and operations of any new Cannabis Dispensing Facilities and Medical Marijuana Treatment Centers. During the moratorium, it shall be unlawful and a violation of this ordinance for any person, firm, or corporation to open or cause to be opened any Cannabis Dispensary, Low-THC Cannabis Dispensary or Medical Marijuana Treatment Facilities within the Town of Miami Lakes.

Section 4. - Expiration of the Temporary Moratorium. This Ordinance shall remain in effect for one hundred eighty (180) days from effective date hereof, unless earlier rescinded, repealed, or extended by Resolution of the Town Council.

Section 5. – Recommendation for Land Development Regulations. The planning official is hereby directed to study, develop, and recommend land development regulations for Cannabis Dispensaries, Low-THC Cannabis Dispensaries and Medical Marijuana treatment facilities in the Town of Miami Lakes, with such recommendation being delivered to the Town of Miami Lakes Council prior to the expiration of this ordinance.

Section 6. - Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without invalid provision or application and to this end the provisions of this ordinance are severable.

Section 7. - Effective date. This Ordinance shall become effective immediately upon its adoption on second reading.

FIRST READING

The foregoing ordinance was offered by Councilmember Ceasar Mestre who moved its adoption on first reading. The motion was seconded by Councilmember Tim Daubert and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	yes
Vice Mayor Tony Lama	yes
Councilmember Luis Collazo	yes
Councilmember Tim Daubert	yes
Councilmember Ceasar Mestre	yes
Councilmember Frank Mingo	yes
Councilmember Nelson Rodriguez	yes

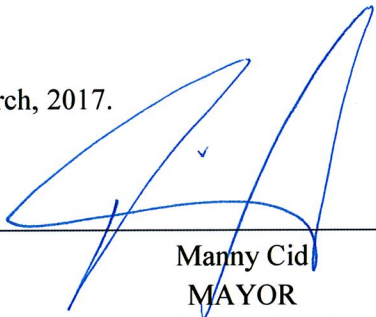
Passed and adopted on first reading this 7th of February, 2017.

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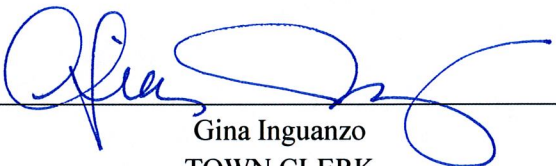
The foregoing ordinance was offered by Councilmember Mestre who moved its adoption on second reading. The motion was seconded by Councilmember Collazo and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	<u>yes</u>
Vice Mayor Tony Lama	<u>yes</u>
Councilmember Luis Collazo	<u>yes</u>
Councilmember Tim Daubert	<u>yes</u>
Councilmember Ceasar Mestre	<u>yes</u>
Councilmember Frank Mingo	<u>ABSENT</u>
Councilmember Nelson Rodriguez	<u>yes</u>


Passed and adopted on first reading this 7th day of March, 2017.


Manny Cid
MAYOR

Attest:


Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:


Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY