

Regular Workshop – October 17, 2016
Agenda Item 14

Agenda Item: Proposed Ordinance 2016-30, Moratorium on Cannabis Dispensaries and Treatment Centers

Presenter: Town Manager

Summary: On November 8, 2016, Florida voters will consider Amendment 2, which would fully legalize the medical use of marijuana throughout the State for individuals with specified “debilitating” conditions and would authorize cultivation, processing, distribution, and sale of marijuana and related activities by licensed “Medical Marijuana Treatment Centers”.

Proposed Ordinance 2016-30 would impose a 12-month moratorium on the establishment of marijuana dispensing organizations and medical marijuana treatment centers with the Town.

Attachments: 10-11-17 Memo, Manager to Commission;
Proposed Ordinance 2016-30.

Recommended

Action: Pending discussion, provide direction to Manager.

M E M O R A N D U M

DATE: October 11, 2016

TO: Town Commission

FROM: Dave Bullock, Manager

SUBJECT: Proposed Ordinance 2016-30, Moratorium on Cannabis
Dispensaries and Treatment Centers

On November 8, 2016, Florida voters will consider Amendment 2, which would fully legalize the medical use of marijuana throughout the State for individuals with specified “debilitating” conditions and would authorize cultivation, processing, distribution, and sale of marijuana and related activities by licensed “Medical Marijuana Treatment Centers”.

The Town’s Land Development Regulations do not currently contain provisions for the regulation of marijuana dispensing organizations and marijuana treatment centers. Many jurisdictions across Florida have adopted, or are in the process of adopting, moratoria on these uses. A moratorium would allow time for appropriate legislation to be drafted, considered, and adopted to address these new uses.

Proposed Ordinance 2016-30 would impose a 12-month moratorium on the establishment of marijuana dispensing organizations and medical marijuana treatment centers with the Town.

This item is placed on the October 17, 2017 Regular Meeting for Commission consideration. Pending Commission discussion, forward Ordinance 2016-30 to the November 7, 2016 Regular Meeting for first reading.

ORDINANCE NO. 2016-30

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA IMPOSING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSING ORGANIZATIONS AND MEDICAL MARIJUANA TREATMENT CENTERS WITHIN THE TOWN FOR A PERIOD OF TWELVE (12) MONTHS; PROVIDING FOR SEVERABILITY OF THE PARTS HEREOF; PROVIDING FOR READING BY TITLE ONLY; AND 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 authorized a 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 been codified and has become effective in the State of Florida; and

WHEREAS, on November 8, 2016, Florida’s voters will vote on 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, a comprehensive state licensing and regulatory framework for the cultivation, processing and dispensing of cannabis under the Compassionate Medical Cannabis Act of 2014 (the "Act") presently exists; and

WHEREAS, the comprehensive state licensing and regulatory framework provides that criteria for the number and location of, and other permitting requirements that do not conflict with state law or Department of Health rules may be established by local ordinance; and

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

WHEREAS, dispensing of cannabis remains illegal under federal law and the U.S. Department of Justice has discussed federal enforcement of such laws with respect to state regulated cannabis operations in the 2013 "Cole memorandum;" and

WHEREAS, the potential for adverse secondary effects associated with the distribution of cannabis exists; and

WHEREAS, due to the historical prohibition of marijuana, the Town of Longboat Key ("Town") 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 Town; and

WHEREAS, in order to promote effective land use planning if a dispensing organization should seek to operate within the Town, the Town 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 Town Commission finds that a temporary moratorium on the operation of Medical Marijuana dispensing organizations and Medical Marijuana Treatment Centers allow Town staff sufficient time to investigate the impacts of cannabis distribution facilities; 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 TOWN OF LONGBOAT KEY, FLORIDA:

SECTION 1. 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 the Town of Longboat Key. While the temporary moratorium is in effect, the Town may accept, but shall not 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. 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. This ordinance shall take effect immediately upon adoption. The temporary moratorium shall terminate twelve (12) months from the effective date of this ordinance, unless the Town Commission rescinds or extends the moratorium by subsequent ordinance.

SECTION 4. The Town Commission directs the Town Manager to have the Planning Director and the Town Attorney's Office initiate a zoning review of Medical Marijuana Medical Marijuana dispensing organizations and Medical Marijuana Treatment Centers facilities within the Town of Longboat Key, to prepare a staff report containing recommendations as to the appropriate zoning regulations 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 and Zoning Board for its consideration and recommendation(s) to the Town Commission.

SECTION 5. If any section, subsection, clause or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. This Ordinance shall take effect upon second reading and public hearing in accordance with Law and the Charter of the Town of Longboat Key.

Passed on the first reading the ____ day of _____, 2016.

Adopted on the second reading and public hearing the ____ day of _____, 2016.

Jack G. Duncan, Mayor

ATTEST:

Trish Granger, Town Clerk



End of Agenda Item