

ORDINANCE #ORD2016-12

AN ORDINANCE OF THE CITY OF DUNNELLON, FLORIDA, DECLARING ZONING IN PROGRESS AND IMPOSING A MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF NEW APPLICATIONS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSING FACILITIES FOR A PERIOD OF 180 DAYS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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 Dunnellon, 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 166.021(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, the Dunnellon City Council determines that it is in the best interest of its residents, businesses and visitors to enact sufficient zoning regulations to ensure their health, safety and welfare; and

WHEREAS, on November 8, 2016, the voters of the State of Florida amended the Florida Constitution to legalize the cultivation, production, and dispensing of medical marijuana to a broader population of eligible patients than was previously legal under Florida's Compassionate Use Act; and

WHEREAS, medical marijuana dispensing facilities are a new and unique use which is not currently addressed by the City's Land Development Code or Code of Ordinances; and

WHEREAS, a temporary moratorium, imposed for a reasonable duration on the acceptance of applications for, the processing of, and the issuance of development permits, development orders or any other official action of the City permitting or having

the effect of permitting new medical marijuana dispensing facilities will allow time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the Land Development Code and Code of Ordinances to address this new and unique use; and

WHEREAS, the Dunnellon City Council hereby finds that this ordinance advances an important government purpose by reducing the likelihood of the unregulated negative secondary effects of marijuana dispensing facilities; and

WHEREAS, adoption of this ordinance will further the health, safety and welfare of the citizens of Dunnellon, Florida.

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

SECTION 1: The Whereas clauses cited herein are the legislative findings of the City Council.

SECTION 2: Purpose. The purpose of this ordinance is to preserve the status quo for a time period of 180 days, and enable sufficient time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the Land Development Code and/or Code of Ordinances, relating to the appropriate locations for medical marijuana dispensing facilities, if any. During this 180 day time period, the City will not take any action on any application for development permit or issue any development order or take other official action which would have the effect of allowing or permitting the development of medical marijuana dispensing facilities, except as provided in this ordinance. It is not the purpose of this ordinance to permanently deny development orders and permits for other uses that are permitted by right or special use permit and that otherwise comply with all applicable codes, ordinances, regulations and policies.

SECTION 3: Zoning in Progress. The City of Dunnellon hereby recognizes that City staff intend to study and prepare regulations that would result in the regulation of medical marijuana dispensing facilities. These regulations, if adopted, will amend the City Land Development Code and/or Code of Ordinances. All affected property and business owners are placed on notice with respect to these pending regulations and the action being taken by the appropriate departments within the City.

SECTION 4: Definition. The following definition applies to the term used in this ordinance:

"Medical Marijuana Dispensing Facility" means any establishment where low-THC or medical cannabis is permitted to be dispensed by an approved dispensing organization pursuant to Section 381.986, Florida Statutes, and Florida Department of Health Rules.

SECTION 5: Imposition of Temporary Moratorium. The City of Dunnellon hereby imposes a temporary moratorium on the acceptance of applications for, the processing of, and the issuance of development permits, development orders or any other official action of the City permitting or having the effect of permitting Medical Marijuana Dispensing Facilities, except as provided in this ordinance, for a period of 180 days following the effective date of this ordinance. Further, the review of any applications for Medical Marijuana Dispensing Facilities pending upon the effective date of this ordinance shall be abated.

SECTION 6: Existing Authorized Medical Marijuana Dispensing Facilities. This temporary moratorium shall not affect a Medical Marijuana Dispensing Facility of a Dispensing Organization which has received dispensing authorization from the Florida Department of Health in accordance with Section 381.986, Florida Statutes and Chapter 64-4.001, F.A.C. for which the City zoning official has issued a zoning verification letter which confirms the permissibility of the zoning status of the proposed location for use as a Medical Marijuana Dispensing Facility, and for which development permits have been obtained in reliance on the zoning verification letter prior to the effective date of this Ordinance. During the moratorium period, a Medical Marijuana Dispensing Facility for which a zoning verification letter and development permits have been issued shall not be permitted to expand its square footage.

SECTION 7: Submittal of Applications. Beginning upon the effective date of this ordinance, an applicant for any development permit, development order or any other official City action which would facilitate the establishment of a Medical Marijuana Dispensing Facility shall be required to disclose its intention to establish a Medical Marijuana Dispensing Facility in connection with its application for a permit. In the event that it is determined by the City that an applicant for a permit has failed to disclose its intent to establish a Medical Marijuana Dispensing Facility, the City shall be authorized to enforce this ordinance by the methods set forth in Section 9.

SECTION 8: APPLICABILITY. This ordinance shall be applicable within the City limits of the City of Dunnellon.

SECTION 9: PENALTIES. This moratorium may be enforced by the following methods of enforcement:

- (A) Revocation or temporary suspension of necessary development permits, development orders and/or certificates of occupancy and/or licenses; or
- (B) By an action for injunctive relief, civil penalties or both, through a court of competent jurisdiction; or
- (C) By any other process permitted by law or equity.

SECTION 10: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

SECTION 11: CONFLICT WITH STATE LAW. Nothing in this ordinance is intended to conflict with the provisions of the Florida Constitution or any Florida Statute. In the event of a direct and express conflict between this ordinance and either the Florida Constitution or the Florida Statutes, then the provisions of the Florida Constitution or Florida Statutes, as applicable, control.

SECTION 12: FILING OF ORDINANCE AND EFFECTIVE DATE. This ordinance takes effect immediately upon adoption.

Upon motion duly made and carried, the foregoing Ordinance was approved upon the first reading and public hearing on the 12th day of December, 2016.

Upon motion duly made and carried, the foregoing Ordinance was approved and passed upon the second and final reading and public hearing on the 9th day of January, 2017.

Ordinance Posted on the City's website on November 11, 2016. Public hearing advertised on the City's website on November 18, 2016 and advertised in the Riverland News on December 1, 2016.

Second public hearing advertised on the City's website on December 16, 2016 and advertised in the Riverland News on December 29, 2016.

ATTEST:

CITY OF DUNNELLON

Dawn M. Bowne, M.M.C.
City Clerk

Walter Green, Mayor

Approved as to Form and Legal Sufficiency:

Andrew Hand, City Attorney

I HEREBY CERTIFY that copies of the foregoing Ordinance were posted at City Hall, the Chamber of Commerce, and the Dunnellon Library, in the City of Dunnellon, Florida, and on the City's Official Website this 18th day of November 2016.

Dawn M. Bowne M.M.C.
City Clerk