



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 19, 2016

Ms. Paula S. O'Neil
Clerk and Comptroller
The East Pasco Governmental Center
Pasco County
14236 6th Street, Suite 201
Dade City, Florida 33523

Attention: Marie Miller

Dear Ms. O'Neil:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your corrected electronic copy of Pasco County Ordinance No. 16-43, which was filed in this office on December 19, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

AN ORDINANCE BY THE PASCO COUNTY BOARD OF COUNTY COMMISSIONERS RELATING TO PUBLIC HEALTH AND SAFETY, ESTABLISHING A TEMPORARY MORATORIUM (365 DAYS) ON THE CULTIVATION, PROCESSING, OR DISPENSING OF CANNABIS; PROVIDING FOR ENFORCEMENT, VIOLATIONS AND PENALTY; APPLICABILITY; REPEALER; PROVIDING FOR SEVERABILITY, INCLUSION IN THE PASCO COUNTY LAND DEVELOPMENT CODE, AND AN EFFECTIVE DATE.

WHEREAS, in 2014, the Florida Legislature enacted Section 381.986, F.S., known as the "Compassionate Medical Cannabis Act of 2014;" and

WHEREAS, in 2016 the Florida Legislature enacted the "Right to Try Act," codified at Section 499.0295, Florida Statutes. This act amended the Compassionate Use Act and legalized the cultivation, production, and dispensing of "Medical Cannabis" and derivative products by a licensed dispensing organization to certain patients; and

WHEREAS, to date, the Department of Health has authorized six "Dispensing Organizations," as defined by state law, throughout the state of Florida; and

WHEREAS, on November 8, 2016, Florida voters approved the Amendment 2 ballot initiative, amending the Florida Constitution to legalize the cultivation, production, and dispensing of Medical Cannabis for a broader population of eligible patients; and

WHEREAS, the Amendment requires the Department of Health to issue regulations necessary to implement the Amendment and enforce restrictions in the Amendment "to ensure the availability and safe use of medical marijuana by qualifying patients." The Amendment requires the Department to promulgate regulations no later than six (6) months after the effective date of the Amendment; and

WHEREAS, it is anticipated that the regulations required of the Department will be initiated and authorized by the Florida Legislature in its upcoming 2017 session; and

WHEREAS, the cultivation, processing, and dispensing of cannabis as contemplated by Amendment 2 represent new land uses not currently authorized or provided for in the County's current regulations, and as new uses are not adequately addressed. The current county regulations do not provide for such uses as contemplated by Amendment 2 in any zoning district, and providing for such uses will

require amendment of the County's Land Development Code. Collateral regulations, such as a permitting/licensing system, may be appropriate in conjunction with amendment of the Land Development Code to provide for such uses contemplated by Amendment 2; and

WHEREAS, during the period of the moratorium, the Board finds that county staff should formulate and propose potential zoning districts and collateral regulations to provide for some or all of the uses contemplated by Amendment 2 within Pasco County;

WHEREAS, the Board hereby directs County staff to determine the zoning districts in which cultivation, processing, and/or dispensing of cannabis as contemplated by Amendment 2 are appropriate within Pasco County, and to study whether collateral regulations including a permitting/licensing system will protect and advance the public safety, health, and welfare; and

WHEREAS, the Board of County Commissioners finds and declares a need to impose a temporary moratorium on the cultivation, processing, or dispensing cannabis as contemplated by Amendment 2 within Pasco County, to allow the Department of Health to promulgate rules to implement Amendment 2, and to allow Pasco County time to create appropriate local regulations to provide for such uses, which are currently not authorized in any zoning district.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PASCO COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. AUTHORITY.

This Ordinance is enacted pursuant to Chapter 125, Fla. Stat. (2016), and under the home rule powers of the County in the interest of the health, peace, safety and general welfare of the people of Pasco County.

SECTION 2. LEGISLATIVE FINDINGS OF FACT.

The foregoing Whereas clauses, incorporated herein, are true and correct. The Board finds and declares that in the best interest of the general public there exists a need to enact an ordinance regulating the establishment of land uses related to the cultivation,

processing, or dispensing of cannabis in Pasco County as contemplated by Amendment 2. The Board further finds that in order for County staff to examine and make recommendations to the Board as to the criteria to be considered, if any, by the Board for the establishment such land uses, it is necessary to place a moratorium on the establishment such land uses beginning on the effective date of this Ordinance. All pending applications, if any, are subject to this Ordinance.

SECTION 3. INTENT AND PURPOSE.

It is the purpose and intent of this Ordinance to promote the health and general welfare of the residents of Pasco County through the analysis of upcoming Department of Health regulations implementing Amendment 2, and thorough consideration of criteria for approving the location of the following land uses within Pasco County: cultivation, processing, or dispensing of cannabis.

SECTION 4. TEMPORARY MORATORIUM IMPOSED.

The County hereby imposes a temporary moratorium on the use of any property for the cultivation, processing, or dispensing of cannabis as contemplated by Amendment 2, or the issuance of any permits authorizing the construction, or siting of a facility for the same. This moratorium is imposed pursuant to the County's police powers to protect the public health, safety and welfare of the community at large.

SECTION 5. DURATION OF MORATORIUM.

This moratorium shall remain in effect for 365 days from the effective date of this Ordinance or until such time as repealed by the County, whichever occurs first, and may be extended by resolution of the Board to the extent permitted by law.

SECTION 6. ENFORCEMENT, VIOLATIONS, AND PENALTY.

This moratorium may be enforced by any law or code enforcement officer. Any products or equipment found in connection with violation of this Ordinance may be

seized and held by the enforcing entity as evidence to be used in any further proceeding.

(a) Methods of enforcement. The requirements of this moratorium may be enforced as follows:

- (1) By citation for civil penalties pursuant to the authority granted by Section 125.69, Fla. Stat., Chapter 162, Part II, Fla. Stat. and/or Section 1-11 of the Pasco County Code of Ordinances. Each day of the violation shall constitute a separate offense, punishable by a fine not to exceed \$500.00 per count, or by imprisonment in the county jail not to exceed 60 days, by both such fine and imprisonment to the limits as set forth in Section 125.69, Fla. Stat., or if enforcement is pursued under Chapter 162, Fla. Stat., the fines shall be as set by the Board of County Commissioners. The County may also seek entry of a court order requiring compliance with this ordinance.
- (2) By an action for injunctive relief, civil penalties, or both, through a court of competent jurisdiction;
- (3) By revocation or temporary suspension of necessary permits and/or certificates or occupancy and/or licenses; and
- (4) By any other process permitted at law or equity.

Use of one enforcement process or theory does not preclude the County from seeking the same, different, or additional relief through other enforcement methods.

(b) Persons responsible for violation. Persons responsible for violations include:

- (1) any person who owns, operates, or manages an enterprise by which cannabis is cultivated, processed, or dispensed;
- (2) the owner of the premises (or lessee, if the premises are leased) where such activities occur;
- (3) any person in physical control of the activities which may occur on the premises;

- (4) if a responsible person is a corporate entity, the officers, directors, members, or other principals of the entity are jointly and severally responsible for violations by the entity; and
- (5) any other person causing or contributing to a violation.

SECTION 7. APPLICABILITY.

This Ordinance shall be applicable in both the unincorporated and the incorporated areas of Pasco County, except to the extent that a municipality adopts its own ordinance in conflict with this Ordinance, or by resolution chooses to "opt out" of the moratorium. To the extent that this Ordinance is applicable within a municipality, the County and the municipality shall have concurrent authority and jurisdiction to apply and enforce this Ordinance within the entirety of their jurisdictional boundaries. In addition to law enforcement officers who have the authority to enforce these provisions within their jurisdictions, municipal code compliance officers are specifically authorized and designated to enforce these provisions within the city limits of their jurisdiction to the extent such authorization/designation is required by law. County code compliance officers may enforce these provisions within the municipalities pursuant to a valid interlocal agreement.

SECTION 8. REPEALER.

Any Ordinance provisions in conflict herewith are hereby repealed only to the extent of such conflict.

SECTION 9. SEVERABILITY.

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding. In addition, this Ordinance will automatically sunset upon the effective date of any state or federal law that expressly preempts local government regulation of the subject matter and restrictions contained in this Ordinance.

SECTION 10. INCLUSION IN LAND DEVELOPMENT CODE.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pasco County Land Development Code, and that the sections of this Ordinance may be renumbered or re-lettered and the word "Ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 11. EFFECTIVE DATE.

This Ordinance shall be transmitted to the Department of State by the Clerk to the Board by electronic mail within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon confirmation by the Department of State of its receipt.

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ADOPTED with a quorum present and voting this 13^m day of December, 2016.



BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

APPROVED
IN SESSION

DEC 13 2016

PASCO COUNTY
BCC

By: Paula S. O'Neil
PAULA S O'NEIL, Ph.D., CLERK &
COMPTROLLER

By: Mike Moore, CHAIRMAN