

ADDENDUM
DANIA BEACH CITY COMMISSION
REGULAR MEETING
TUESDAY, JUNE 27, 2017 - 7:00 PM

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE WITH REGARD TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDING, AND FOR SUCH PURPOSE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

LOBBYIST REGISTRATION IS REQUIRED. PRIOR TO ENGAGING IN ANY LOBBYING ACTIVITIES, WHETHER OR NOT COMPENSATION IS PAID OR RECEIVED IN CONNECTION WITH THOSE ACTIVITIES, EACH LOBBYIST SHALL FILE WITH THE CITY CLERK AN ANNUAL REGISTRATION STATEMENT AND PAY AN ANNUAL ONE HUNDRED DOLLARS (\$100.00) REGISTRATION FEE FOR EACH PRINCIPAL OR EMPLOYER. REGISTRATION FORMS ARE AVAILABLE IN THE CITY CLERK'S OFFICE, OR ON THE CITY WEBSITE: WWW.DANIABEACHFL.GOV. (ORDINANCE #2012-019)

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY CLERK'S OFFICE, 100 W. DANIA BEACH BOULEVARD, DANIA BEACH, FL 33004, (954) 924-6800 EXTENSION 3624, AT LEAST 48 HOURS PRIOR TO THE MEETING.

IN CONSIDERATION OF OTHERS, WE ASK THAT YOU:

- A. PLEASE TURN CELL PHONES OFF, OR PLACE ON VIBRATE. IF YOU MUST MAKE A CALL, PLEASE STEP OUT INTO THE ATRIUM, IN ORDER NOT TO INTERRUPT THE MEETING.
 - B. IF YOU MUST SPEAK TO SOMEONE IN THE AUDIENCE, PLEASE SPEAK SOFTLY OR GO OUT INTO THE ATRIUM, IN ORDER NOT TO INTERRUPT THE MEETING.
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1. 10. DISCUSSION AND POSSIBLE ACTION

1. 10.3 RESOLUTION NO. 2017-069

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, DECLARING ZONING IN PROGRESS FOR PREPARATION OF AMENDMENTS TO THE CITY OF DANIA BEACH CODE OF ORDINANCES AND LAND DEVELOPMENT REGULATIONS TO PROHIBIT OR REGULATE MEDICAL MARIJUANA DISPENSARIES; PROVIDING FOR CONFLICT; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

CITY OF DANIA BEACH

Agenda Request Item

Type of Request: Discussion

Continued from:

Requested Action (Identify appropriate Action or Motion)

ADOPT RESOLUTION DECLARING ZONING IN PROGRESS FOR PREPARATION OF AMENDMENTS TO THE CITY OF DANIA BEACH CODE OF ORDINANCES AND LAND DEVELOPMENT REGULATIONS TO PROHIBIT OR REGULATE MEDICAL MARIJUANA DISPENSARIES.

Purchasing Requests ONLY

Dept:

Acct #:

Amt:

Fund:

Fiscal Impact/Cost Summary

Exhibits Attached

Resolution

RESOLUTION NO. 2017-069

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, DECLARING ZONING IN PROGRESS FOR PREPARATION OF AMENDMENTS TO THE CITY OF DANIA BEACH CODE OF ORDINANCES AND LAND DEVELOPMENT REGULATIONS TO PROHIBIT OR REGULATE MEDICAL MARIJUANA DISPENSARIES; PROVIDING FOR CONFLICT; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Marijuana (Cannabis) is a Schedule I drug under the federal Controlled Substances Act, 21 U.S.C. §811; and

WHEREAS, according to the Controlled Substances Act, Marijuana has a high potential for abuse and has no currently accepted medical use for treatment in the United States; and

WHEREAS, notwithstanding federal law, the 2014 Florida Legislature approved Senate Bill 1030 providing for the growing, processing, and distributing of specific forms of low-THC (non-euphoric) Cannabis to qualified patients and their caregivers for the treatment of listed medical conditions, which became effective on June 16, 2014 as Chapter 2014-157, Laws of Florida, and is codified at Section 381.986, Florida Statutes (“Senate Bill 1030”); and

WHEREAS, on October 28, 2014, the City adopted Ordinance No. 2014-015 and Ordinance No. 2014-016 creating zoning and business regulations for Medical Marijuana Retail Centers within the City; and

WHEREAS, in November 2016 the Florida voters approved a ballot initiative amending the Florida Constitution to allow for broader sale and use of marijuana for medical purposes within the State of Florida; and

WHEREAS, to implement the Constitutional provisions for medical marijuana the state legislature adopted Senate Bill 8A during its 2017 Special Session which provides a framework for local government regulation of medical marijuana dispensaries, allowing a local government to either ban medical marijuana dispensaries or to regulate them similar to pharmacies; and

WHEREAS, Senate Bill 8A was signed by the Governor on June 23, 2017; and

WHEREAS, the City Commission desires to evaluate the options permitted by statute, to either prohibit medical marijuana dispensaries or to regulate them similar to pharmacies and to undertake revisions to its City Code consistent with Florida Law; and

WHEREAS, the City is concerned that the acceptance, processing and approval of applications for conditional uses or Medical Marijuana Permits for the location of Medical Marijuana Retail Centers or Medical Marijuana Dispensaries would be premature and result in development inconsistent with the City's development goals, regulatory framework and state law; and

WHEREAS, pending the adoption of the amended regulations, the City desires to invoke the zoning in progress or pending ordinance doctrine as referenced in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2nd DCA 1980), with respect to the City's Code of Ordinances, thereby deferring the acceptance, processing and approval of all applications identified above for a period of 180 days, or until the City Commission adopts on second reading, the amendments under review and such amendments become effective, whichever occurs earlier, except as provided in this Resolution; and

WHEREAS, the City Commission finds that this Resolution is in the best interest and welfare of the residents of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA:

Section 1. That the foregoing "Whereas" clauses are ratified and incorporated as the legislative intent of this Resolution.

Section 2. The City Commission adopts this Resolution and invokes the zoning in progress or pending ordinance doctrine with respect to the City's Code of Ordinances, thereby deferring the acceptance, processing and approval of all applications not filed as of the effective date of this Resolution for conditional uses or Medical Marijuana Permits for the location of Medical Marijuana Retail Centers or Medical Marijuana Dispensaries.

Section 3. This deferral shall last for 180 days, or until the City Commission adopts on second reading the amendments under review and such amendments become effective, whichever occurs earlier, except as provided below.

Section 4. Applicants claiming infringement with vested or constitutional rights, or other justification, may request relief from this Resolution through written request to and decision by the City Manager, where the City Manager may grant relief only upon findings based on competent substantial evidence that such infringement will in fact occur, or has in fact occurred, or other justification suggesting relief therefrom, and the public health, safety and

welfare are not adversely impacted by allowing such applications to be accepted and processed. Such request shall be an administrative remedy and condition precedent to all judicial relief sought arising from this Resolution. Appeals from decisions of the City Manager shall be processed pursuant to Article 626, Zoning Relief Procedures, of the City Code. The City shall retain complete administrative, quasi-judicial or legislative discretion in whether to approve or deny any application so filed.

Section 5. The appropriate City officials are authorized to take any necessary action to effectuate the intent of this Resolution.

Section 6. That all resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

Section 7. That this Resolution shall be in full force and take effect immediately upon its passage and adoption.

PASSED AND ADOPTED on June 27, 2017.

ATTEST:

LOUISE STILSON, CMC
CITY CLERK

TAMARA JAMES
MAYOR

APPROVED AS TO FORM AND CORRECTNESS:

THOMAS J. ANSBRO
CITY ATTORNEY