

ORDINANCE NO. 2017-09-373

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, EXTENDING THE EXISTING MORATORIUM ON THE SUBMISSION, PROCESSING AND ISSUANCE OF DEVELOPMENT PERMITS, CERTIFICATES OF USE, BUSINESS TAX RECEIPTS AND ALL OTHER APPLICATIONS AND PERMITS FOR THE OPERATION OF MEDICAL MARIJUANA DISPENSING FACILITIES AND MEDICAL MARIJUANA DISPENSING ORGANIZATIONS FOR AN ADDITIONAL 180-DAY PERIOD; PROVIDING FOR EXCEPTIONS; PROVIDING FOR A STUDY AND DIRECTIONS TO THE CITY MANAGER; PROVIDING FOR PENALTIES; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 11, 2017, the City Council of the City of Miami Gardens adopted Ordinance No. 2017-1-365, in response to Amendment 2 of the Florida Constitution, which legalized medical marijuana, as approved by Florida voters on November 8, 2016, and

WHEREAS, as Medical Marijuana Dispensing Facilities and Medical Marijuana Dispensing Organizations are new and unique uses which are not currently addressed by the City's Land Development Regulations or Code of Ordinances, the Ordinance called for a temporary moratorium on acceptance of applications permitting new Medical Marijuana Dispensing Facilities or Medical Marijuana Dispensing Organizations for a period of one hundred and eighty (180) days, and

WHEREAS, the purpose of the moratorium was to allow the City time to review and study this unique use, and determine the scope of measures for implementing any regulations, and

WHEREAS, on June 9, 2017, the Florida Senate passed Senate Bill 8A and Senate Bill 6A, which allows local governments to regulate the location of dispensing facilities and provides that a local government may ban dispensaries within its borders, and

WHEREAS, the proposed legislation also provides that if a local government permits dispensing facilities, it may not impose limits on the number of dispensing facilities, and

WHEREAS, on June 23, 2017, the proposed legislation was approved by the Governor, and

WHEREAS, pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Miami Gardens is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law, and

WHEREAS, the City needs time to research and study the nature and scope of possible measures for regulating Medical Marijuana Dispensing Facilities and Medical Marijuana Dispensing Organizations,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. EXTENSION OF MORATORIUM: The moratorium approved in accordance with Ordinance No. 2017-1-365 on the submission, processing and issuance of development permits, certificates of use, business tax receipts and all other applications and permits for the operations of medical marijuana dispensing facilities and medical marijuana dispensing organizations for a one hundred and eighty (180) period shall be extended for one hundred and eighty (180) additional days. During this one hundred and eighty (180) day period, the City will not take any action on any application for certificate of use, business tax receipts, development permits, 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 or Medical Marijuana Dispensing Organizations, except as provided in this Ordinance. In the event the State preempts local regulations, then State law will take precedence.

Section 3: ZONING IN PROGRESS: The City Council hereby declares zoning in progress as it relates to the processing of any applications and permits relating to Medical Marijuana Dispensing Facilities and Medical Marijuana Dispensing Organizations. All affected property and business owners are placed on notice with respect to these pending regulations and the actions being taken by the City.

Section 4. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 5. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct

and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 12TH DAY OF JULY, 2017.

PASSED ON SECOND READING ON THE 26TH DAY OF JULY, 2017.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 26TH DAY OF JULY, 2017.

OLIVER GILBERT, III, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: DAVID WILLIAMS, JR., COUNCILMAN

Moved by: HARRIS
Second by: DAVIS & ODOM

VOTE: 7-0

Mayor Oliver Gilbert, III	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Vice Mayor Erhabor Ighodaro, Ph.D.	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilwoman Lisa C. Davis	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilman Rodney Harris	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)

Councilwoman Lillie Q. Odom
Councilwoman Felicia Robinson
Councilman David Williams Jr

(Yes)
 (Yes)
 (Yes)

(No)
 (No)
 (No)

ORDINANCE NO. 2017-1-365

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, DECLARING ZONING IN PROGRESS AND IMPOSING A MORATORIUM ON THE SUBMISSION, PROCESSING AND ISSUANCE OF DEVELOPMENT PERMITS, CERTIFICATES OF USE, BUSINESS TAX RECEIPTS AND ALL OTHER APPLICATIONS AND PERMITS FOR THE OPERATION OF MEDICAL MARIJUANA DISPENSING FACILITIES AND MEDICAL MARIJUANA DISPENSING ORGANIZATIONS FOR A 180-DAY PERIOD; PROVIDING FOR EXCEPTIONS; PROVIDING FOR A STUDY AND DIRECTIONS TO THE CITY MANAGER; PROVIDING FOR PENALTIES; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Miami Gardens is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law, and

WHEREAS, on November 8, 2016, Amendment 2 to the Florida Constitution, legalizing medical marijuana, was approved by Florida voters, and

WHEREAS, Medical Marijuana Dispensing Facilities and Medical Marijuana Dispensing Organizations are new and unique uses which are not currently addressed by the City's Land Development Regulations or Code of Ordinances, and

WHEREAS, Section 381.986(8)(b), Fla. Stat, permits a municipality to determine by ordinance, the criteria for the number, location, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities or dispensing organizations located within the municipality, and

WHEREAS, 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 of Miami Gardens permitting or having the effect of permitting new Medical Marijuana Dispensing Facilities and Medical Marijuana Dispensing Organizations will allow time to review, study and hold public hearings, and prepare and adopt amendment(s) to the Land Development Regulations and/or Code of Ordinances to address this new and unique use,

WHEREAS, the City needs time to research and study the nature and scope of possible measures for regulating Medical Marijuana Dispensing Facilities and Medical Marijuana Dispensing Organizations,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. PURPOSE: The purpose of this Ordinance is to preserve the status quo and enable sufficient time for the City to review, study, hold public hearings, and prepare and adopt amendment(s) to the Land Development Regulations and/ or Code of Ordinances, relating to the appropriate locations for medical marijuana dispensing facilities and Medical Marijuana Dispensing Organizations. During this 180-day period, the City will not take any action on any application for certificate of use, business tax receipts, development permits, 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 or Medical Marijuana Dispensing Organizations, except as provided in this Ordinance. It is not the purpose of this Ordinance to deny permanently any development orders and permits for other uses that are permitted by right or special use permits and that otherwise comply with all applicable codes, ordinances, regulations and policies.

Section 3: ZONING IN PROGRESS: The City Council hereby declares zoning in progress as it relates to the processing of any applications and permits relating to Medical Marijuana Dispensing Facilities and Medical Marijuana Dispensing Organizations. All affected property and business owners are placed on notice with respect to these pending regulations and the actions being taken by the City.

Section 4: DEFINITIONS: The following definition applies to the term used in this ordinance:

- (a) "Medical Marijuana Dispensing Facility" – means a facility that cultivates, processes, transports and dispenses low-THC cannabis or medical cannabis.
- (b) "Medical Marijuana Dispensing Organization" – is as defined by Section 381.986, Fla. Stat. to mean an organization approved by the department to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to this section.

Section 5: ESTABLISHMENT OF TEMPORARY MORATORIUM: A moratorium on the submission, processing and issuance of certificates of use, business tax receipts, development orders and permits, and all other applications and permits for the operation of Medical Marijuana Dispensing Facilities and Medical Marijuana Dispensing

Organizations, as defined herein, is hereby established for a period of 180 days from the effective date of this Ordinance. The moratorium is subject to the provisions of Section 6 herein. Except as otherwise provided herein, no department of the City shall issue any certificates of use, business tax receipts, permits, development orders, or undertake the review and approval of any site plans, building permits, or development plans with respect to such uses within the City during the term of the moratorium established hereby.

Section 6. EXEMPTION: This moratorium shall not affect any business currently lawfully operating as a Medical Marijuana Dispensing Facility or a Medical Marijuana 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., and for which a certificate of use, business tax receipt and development permits have been obtained.

Section 7: SUBMITTAL OF APPLICATIONS. Beginning upon the effective date of this Ordinance, an applicant for any certificate of use, business tax receipt, development permit, development order or any other official City action, which would facilitate the establishment of a Medical Marijuana Dispensing Facility or Medical Marijuana Dispensing Organization shall be required to disclose its intention to establish a Medical Marijuana Dispensing Facility or Medical Marijuana Dispensing Organization 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 or Medical Marijuana Dispensing Organization, the City shall be authorized to enforce this Ordinance by the methods set forth in Section 9.

Section 8: STUDY: The City Manager as well as such other departments of the City, as the City Manager shall deem appropriate shall continue to study medical marijuana dispensaries and shall present proposed amendments to the Land Development Regulations and Code of Ordinances to the City Council.

Section 9. PENALTIES: This moratorium may be enforced by the following methods of enforcement: (a) revocation or temporary suspension of any development permits, development orders, certificates of occupancy and/or licenses, including certificates of use and business tax receipts; 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 including, but not limited to code enforcement action.

Section 10. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 11. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 12. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the section of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

Section 13. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 14TH DAY OF DECEMBER, 2016.

PASSED ON SECOND READING ON THE 14TH DAY OF DECEMBER, 2016.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 11TH DAY OF JANUARY, 2017.



OLIVER GILBERT, III, MAYOR

ATTEST:



RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: DAVID WILLIAMS, JR., COUNCILMAN

Moved by: Williams

Second by: Davis

VOTE: 7-0

Mayor Oliver Gilbert, III	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Vice Mayor Erhabor Ighodaro, Ph.D.	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilwoman Lisa C. Davis	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilman Rodney Harris	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilwoman Lillie Q. Odom	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilwoman Felicia Robinson	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)
Councilman David Williams Jr	<input checked="" type="checkbox"/>	(Yes)	<input type="checkbox"/>	(No)



City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	July 26, 2017		Item Type: <i>(Enter X in box)</i>	Resolution	Ordinance	Other	
					X		
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading	
	X					x	
			Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes	No
						x	
Funding Source:	General Fund		Advertising Requirement: <i>(Enter X in box)</i>	Yes		No	
				x			
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:	N/A			
		X					
Sponsor Name:	Councilman David Williams Jr.		Department:				

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, EXTENDING THE EXISTING MORATORIUM ON THE SUBMISSION, PROCESSING AND ISSUANCE OF DEVELOPMENT PERMITS, CERTIFICATES OF USE, BUSINESS TAX RECEIPTS AND ALL OTHER APPLICATIONS AND PERMITS FOR THE OPERATION OF MEDICAL MARIJUANA DISPENSING FACILITIES AND MEDICAL MARIJUANA DISPENSING ORGANIZATIONS FOR AN ADDITIONAL 180-DAY PERIOD; PROVIDING FOR EXCEPTIONS; PROVIDING FOR A STUDY AND DIRECTIONS TO THE CITY MANAGER; PROVIDING FOR PENALTIES; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

Background

On January 11, 2017 the City Council of the City of Miami Gardens adopted Ordinance No. 2017-1-365, in response to Amendment 2 of the Florida Constitution, legalizing medical marijuana. As Medical Marijuana Dispensing Facilities and Medical Marijuana Dispensing Organizations are new and unique uses which are not currently addressed by the City's Land

Development Regulations or Code of Ordinances, the Ordinance called for a temporary moratorium on acceptance of applications permitting new Medical Marijuana Dispensing Facilities or Medical Marijuana Dispensing Organizations for a period of 180-days. This would have allowed the City time to review and study this unique use, and determine the scope of measures for implementing any regulations.

Current Situation

On June 9, 2017, the Florida Senate passed Senate Bill 8A and Senate Bill 6A, which allows local governments to regulate the location of dispensing facilities and provides that a local government may ban dispensaries within its borders. The proposed legislation also provides that if a local government permits dispensing facilities, it may not impose limits on the number of dispensing facilities. On June 23, 2017, the proposed legislation was approved by the Governor.

Councilman David Williams, Jr., is recommending a 180-day extension of the 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 of Miami Gardens permitting or having the effect of permitting new Medical Marijuana Dispensing Facilities and Medical Marijuana Dispensing Organizations. This will allow the City the additional time needed to review, study, hold public hearings, and prepare and adopt amendment(s) to the Land Development Regulations and/or Code of Ordinances which do not conflict with State law or Department rule at such time as those rules or laws are enacted by the State legislature per Section 381.986(8)(b), Florida Statutes.

During this 180-day extension period, the City will not take any action on any application for certificate of use, business tax receipts, development permits, 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 or Medical Marijuana Dispensing Organizations, except as provided in this Ordinance.

Proposed Action:

That the City Council approves the proposed Ordinance.

Attachment:

Exhibit "A"- Previous Ordinance No. 2017-1-365