

ORDINANCE NO. 1378-17

AN ORDINANCE OF THE CITY OF LAKE ALFRED, FLORIDA, IMPOSING A MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF NEW APPLICATIONS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSING FACILITIES AND MEDICAL MARIJUANA TREATMENT CENTERS FOR A PERIOD OF 180 DAYS; MAKING FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR PENALTIES, SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS, THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERROR; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Lake Alfred possesses the police powers to enact ordinances in order to protect the health, safety, and welfare of the City's citizens and residents; and

WHEREAS, the City Commission of the City of Lake Alfred, Florida determines that it is in the best interest of its residents, businesses and visitors to enact sufficient land use regulations to ensure their health, safety and welfare; and

WHEREAS, in 2014, the Florida Legislature passed the Compassionate Medical Cannabis Act, codified at Section 381.986, Florida Statutes (the "Compassionate Use Act"), which legalized the cultivation, processing, and dispensing of "Low-THC Cannabis," as defined by Section 381.986(1)(e), Florida Statutes, by a licensed dispensing organization for "Qualified Patients," as defined by Section 381.986(1)(h); and

WHEREAS, in 2016, the Florida Legislature amended the Right to Try Act, codified in Section 499.0295, Florida Statutes, which amended the Compassionate Use Act and legalized the cultivation, production, and dispensing of "Medical Cannabis" as defined by Section 381.986(1)(f), Florida Statutes, and derivative products by a licensed dispensing organization to "Eligible Patients," as defined by Section 499.0295, Florida Statutes; and

WHEREAS, to date, the Department of Health has authorized six "Dispensing Organizations," as defined by Section 381.986(1)(b), Florida Statutes, throughout the state of Florida; and

WHEREAS, on November 8, 2016, voters approved an amendment to the Florida Constitution titled "Use of Marijuana for Debilitating Medical Conditions" (Amendment 2); and

WHEREAS, Amendment 2 fully legalizes the medical use of marijuana throughout the State of Florida for those individuals with specified "debilitating medical conditions," and authorizes the cultivation, processing, distribution, and sale of marijuana and related activities by licensed "Medical Marijuana Treatment Centers"; and

WHEREAS, Florida laws relating to medical use of Low-THC Cannabis, Medical Cannabis, and their respective derivative products are rapidly changing, raising substantial

questions about whether cannabis-related land uses may have deleterious and negative secondary effects on surrounding land uses and communities; and

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

WHEREAS, Section 381.986(8)(b), Florida Statutes, permits municipalities to "determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of dispensing organizations located within its municipal boundaries"; 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 Lake Alfred, Florida permitting or having the effect of permitting new Medical Marijuana Dispensing Facilities or Medical Marijuana Treatment Centers will allow time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the City of Lake Alfred's Land Development Code and Code of Ordinances to address these new and unique use; and

WHEREAS, the City Commission for the City of Lake Alfred, Florida finds and declares that this ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City of Lake Alfred, Florida and that it advances a significant and important governmental interest, **NOW, THEREFORE**,

NOW, THEREFORE BE IT ENACTED by the City Commission of the City of Lake Alfred, Florida that this Ordinance is hereby passed as follows;

SECTION 1: FINDINGS OF FACT The aforementioned findings are incorporated herein by reference and made a part of this ordinance.

SECTION 2: PURPOSE The purpose of this ordinance is to preserve the status quo and enable sufficient time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the City of Lake Alfred Land Development Code or Code of Ordinances, relating to the appropriate locations for Medical Marijuana Dispensing Facilities and/or Medical Marijuana Treatment Centers, if any. During this 180 day time period, the City will not take any action on any application(s) for development permit(s) 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 or Medical Marijuana Treatment Centers within the municipal boundaries of the City of Lake Alfred. It is not the purpose of this ordinance to permanently deny development orders and permits for other uses that are permitted by right or by special use approval and/or conditional use approval and that otherwise comply with all applicable codes, ordinances, regulations and policies.

The City Commission of the City of Lake Alfred, Florida hereby recognizes that City staff intends to study and prepare regulations for further presentation to the City Commission for the City of Lake Alfred, Florida that would result in the regulation of Medical Marijuana Dispensing Facilities or Medical Marijuana Treatment Centers. These regulations, if adopted, will amend the

City of Lake Alfred's 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 of Lake Alfred.

SECTION 3: DEFINITIONS The following definitions apply to the terms used in this ordinance:

- (a) *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.
- (b) *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 (as that term is defined in Amendment 2), products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Florida Department of Health.

SECTION 4: IMPOSITION OF TEMPORARY MORATORIUM The City of Lake Alfred, Florida 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 of Lake Alfred, Florida permitting or having the effect of permitting Medical Marijuana Dispensing Facilities or Medical Marijuana Treatment Centers for a period of 180 days following the effective date of this ordinance. Further, the review of any applications for Medical Marijuana Dispensing Facilities or Medical Marijuana Treatment Centers pending upon the effective date of this ordinance shall be abated.

SECTION 5. EXPIRATION OF TEMPORARY MORATORIUM The temporary moratorium imposed by Section 4 of this ordinance expires as of the earliest of the following occurrences:

- (a) 180 days from the effective date of this ordinance; or
- (b) The effective date of an ordinance repealing this ordinance and adopting new or amended land development regulations concerning Medical Marijuana Dispensing Facilities or Medical Marijuana Treatment Centers.

SECTION 6: SUBMITTAL OF APPLICATIONS Beginning upon the effective date of this ordinance, an applicant for any development permit, development order or any other official City of Lake Alfred, Florida action which would facilitate the establishment of a Medical Marijuana Dispensing Facility or Medical Marijuana Treatment Center shall be required to disclose its intention to establish a Medical Marijuana Dispensing Facility or Medical Marijuana Treatment Center in connection with its application for a permit. In the event that it is determined by the City of Lake Alfred, Florida that an applicant for a permit has failed to disclose its intent to establish a Medical Marijuana Dispensing Facility or Medical Marijuana Treatment Center, the City of Lake Alfred, Florida shall be authorized to enforce this ordinance by the methods set forth in Section 7 of this Ordinance.

SECTION 7: 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 8: SEVERABILITY It is declared to be the intent of the City Commission of the City of Lake Alfred, Florida that, if any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a 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 thereof.

SECTION 9. ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS It is the intention of the City Commission that the provisions of this ordinance shall not be made a part of the City of Lake Alfred Code of Ordinances; and that sections of this ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the City Manager or his/her designee without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

SECTION 10: REPEAL OF LAWS IN CONFLICT All local laws and ordinances in conflict with any provision of this ordinance are hereby repealed to the extent of any conflict.

SECTION 11: EFFECTIVE DATE This ordinance shall take effect immediately upon passage after second reading/public hearing.

INTRODUCED AND PASSED on first reading at the regular meeting of the City of Lake Alfred City Commission held this 9th day of January, 2017.

PASSED AND ADOPTED on second reading at the Regular meeting of the City of Lake Alfred City Commission held this 23rd day of January, 2017.

CITY OF LAKE ALFRED, FLORIDA

By: Charles O. Lake
Charles O. Lake, Mayor

ATTEST:

Ameé Bailey-Speck
Ameé Bailey-Speck, City Clerk

Approved as to form:

Frederick J. Murphy, Jr.
Frederick J. Murphy, Jr., City Attorney