

RESOLUTION 2017-02

A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA EXTENDING THE TEMPORARY MORATORIUM ON THE DISPENSING OF MEDICAL CANNABIS ENACTED BY ORDINANCE NUMBER 2017-02; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on January 24, 2017 the City Council of the City of Daytona Beach Shores enacted Ordinance Number 2017-02 establishing a temporary moratorium temporarily suspending all activity relating to acceptance, review, and action upon development applications of any nature relating to dispensing medical cannabis facilities, and medical marijuana treatment centers for 180 days; and

WHEREAS, the moratorium is set to expire on July 23, 2017; and

WHEREAS, during the recently ended Special Legislative Session, the Florida Legislature enacted Senate Bill 8-A (which will become law) which the Legislature expressly intended to implement Section 29, Article X of the *Constitution of the State of Florida* by creating a unified regulatory structure relating to cannabis or marijuana; and

WHEREAS, the legislation preempts the regulation of cultivation and processing of marijuana to the State thereby leaving local governments little authority as to such matters; and

WHEREAS, in essence, the legislation allows local governments to ban medical marijuana treatment center (MMTC) dispensing facilities, but, if a local government does not ban MMTC dispensing facilities it may not place any restrictions on the number of MMTC dispensing facilities allowed within its jurisdictional limits and may not adopt any regulations for MMTC dispensing facilities that are more restrictive than its ordinances regulating pharmacies; and

WHEREAS, the fundamental issue for local governments will be to either ban or not ban MMTC dispensing facilities; and

WHEREAS, at this time the City of Daytona Beach Shores is not certain as to what action it will take or what land development controls or police power controls that the City may find it able and appropriate to enact; and

WHEREAS, at this time the City of Daytona Beach Shores finds it prudent to extend the moratorium enacted by 2017-02 until October 31, 2017; and

WHEREAS, this Resolution is enacted pursuant to the home rule powers of the City of Daytona Beach Shores as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*, and other applicable controlling law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF DAYTONA BEACH SHORES, FLORIDA, AS FOLLOWS:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS.

- (a). The City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing this Resolution.
- (b). The foregoing recitals (whereas clauses) are hereby ratified, affirmed and confirmed as being true and correct and are hereby made a part of this Resolution.
- (c). The recitals of Ordinance Number 2017-02 are hereby ratified and affirmed.

SECTION 2. EXTENSION OF TEMPORARY MORATORIUM.

The temporary moratorium imposed by Ordinance Number 2017-02 is hereby extended until October 31, 2017.

SECTION 3. IMPLEMENTING ADMINISTRATIVE ACTIONS.

- (a). The City Manager is hereby authorized and directed to implement the provisions of this Resolution as may be deemed necessary or appropriate by the City Manager.
- (b). The City Manager and City Attorney are also hereby authorized and directed to generally implement the provisions of this Resolution and to take any and all necessary administrative actions to bring into effect the provisions of this Resolution in accordance with controlling law as such officers may deem appropriate in their respective roles and functions under the *City of Daytona Beach Shores City Charter*.

SECTION 4. SAVINGS.

The prior actions of the City of Daytona Beach Shores in terms of the matters relating to the regulation of illegal drugs, to include, but not be limited to, marijuana, as well as any and all related matters, are hereby ratified and affirmed.

SECTION 5. CONFLICTS.

All ordinances or part of resolutions in conflict with this Resolution are hereby repealed.

SECTION 6. SEVERABILITY.

If any section, sentence, phrase, word, or portion of this Resolution is determined to be invalid,

unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Resolution not otherwise to be invalid, unlawful, or unconstitutional.

SECTION 7. EFFECTIVE DATE.

This Resolution shall take effect immediately upon passage and adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

MAYOR, HARRY H. JENNINGS

Attest:

CITY MANAGER, MICHAEL T. BOOKER

CITY CLERK, CHERI SCHWAB

Approved as to form and legality:

CITY ATTORNEY, LONNIE GROOT

Adopted this 11th day of July, 2017.

Posted this __ day of July, 2017.