

ORDINANCE NO. 2016- 15

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, DECLARING ZONING IN PROGRESS AND IMPOSING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSING FACILITIES AND ACCEPTANCE AND PROCESSING OF APPLICATIONS IN THE UNINCORPORATED AREAS OF NASSAU COUNTY FOR A PERIOD OF 180 DAYS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article 8 of the Florida Constitution and Section 125.66, Florida Statutes, Nassau County possesses the police powers to enact ordinances in order to protect the health, safety, and welfare of the County's citizens; and

WHEREAS, the Board of County Commissioners of Nassau County, Florida determines that it is in the best interest of its residents, businesses and visitors to enact sufficient zoning regulations to ensure their health, safety and welfare; and

WHEREAS, medical marijuana dispensing facilities are a new and unique use which is not currently addressed by the County Land Development Code or Code of Ordinances; and

WHEREAS, Section 381.986(8)(b), Fla. Stat., permits counties 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 all dispensing facilities of dispensing organizations located within unincorporated areas of that county"; and

WHEREAS, Amendment 2 has been approved by the voters of the State of Florida. The Legislature, during the 2017 session, based on implementing legislation, may have an impact on local zoning regulations; and

WHEREAS, the Planning and Zoning Board has commenced the process to develop criteria and has requested that the Board of County Commissioners enact a moratorium; and

WHEREAS, a temporary moratorium on the establishment and acceptance of applications for, the processing of, and the issuance of development permits, development orders or any other official action of Nassau County permitting or having the effect of permitting new medical marijuana dispensing facilities will allow time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the Land Development Code and Code of Ordinances to address this new and unique use; and

WHEREAS, on November 21, 2016, the Board of County Commissioners considered the Planning and Zoning Board's request for a moratorium, heard from staff and approved advertising meetings to consider a temporary moratorium on the establishment and permitting for medical marijuana dispensing facilities, thereby putting the public on notice that the County has implemented a course of action which may result in the inclusion and regulation of medical marijuana dispensing facilities in the Land Development Code; and

WHEREAS, in accordance with Section 125.66, Florida Statutes, the Board of County Commissioners has conducted two (2) duly noticed public hearings on December 6, 2016 and December 21, 2016 regarding the adoption of this ordinance; and

WHEREAS, the 180 day period takes into consideration the Planning and Zoning Board meetings and advertising requirements for Planning and Zoning and the Board of County Commission; and

WHEREAS, adoption of this ordinance will further the health, safety and welfare of the citizens of Nassau County.

NOW, THEREFORE, BE IT ORDAINED:

SECTION 1: The aforementioned recitations contained herein are true and correct, but are not required to be incorporated into the Nassau County Code of Ordinances.

SECTION 2: Purpose. The purpose of this ordinance is to preserve the status quo for a time period of 180 days and enable sufficient time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the Land Development Code and/or Code of Ordinances, relating to the appropriate zoning districts and other regulations for medical marijuana dispensing facilities, if any. During this 180 day time period, the County will not take any action on any application for development permit 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, except as provided in this ordinance. It is not the purpose of this ordinance to permanently deny development orders and permits for other uses that are permitted by right or special use permit and that otherwise comply with all applicable codes, ordinances, regulations and policies.

SECTION 3: Zoning in Progress. Nassau County hereby recognizes that County staff and the Planning and Zoning Board intend to study and prepare recommendations that could result in the regulation of medical marijuana dispensing facilities. These regulations, if adopted, will amend the County 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 County.

SECTION 4: Definition. The following definition applies to the term 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.

SECTION 5: Imposition of Temporary Moratorium. Nassau County hereby imposes a temporary moratorium on the acceptance of applications for, the processing of, and the establishment of and issuance of development permits, development orders or any other official action of Nassau County permitting or having the effect of permitting Medical Marijuana Dispensing Facilities, except as provided for in this ordinance, for a period of 180 days following the effective date of this ordinance. The moratorium is temporary and unless dissolved earlier by the Board of County Commissioners, will ultimately dissolve 180 days from the date of adoption unless otherwise extended in accordance with applicable law.

SECTION 6: Existing Authorized Medical Marijuana Dispensing Facilities. This temporary moratorium shall not affect a Medical Marijuana Dispensing Facility of a 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., for which the County zoning official has issued a

zoning verification letter which confirms the permissibility of the zoning status of the proposed location for use as a Medical Marijuana Dispensing Facility, and for which development permits have been obtained in reliance on the zoning verification letter prior to the effective date of this Ordinance. During the moratorium period, a Medical Marijuana Dispensing Facility for which a zoning verification letter and development permits have been issued shall not be permitted to expand its square footage.

SECTION 7: Submittal of Applications. Beginning upon the effective date of this ordinance, an applicant for any development permit, development order or any other official County action which would facilitate the establishment of a Medical Marijuana Dispensing Facility shall be abated during the term of this moratorium.

SECTION 8: APPLICABILITY. This ordinance shall be applicable in the unincorporated areas of Nassau County.

SECTION 9: 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, applications as to zoning, etc.; or
- (b) By an action for injunctive relief as to the medical marijuana dispensing facility, civil penalties or both, through a court of competent jurisdiction; or
- (c) By any other process permitted by law or equity.

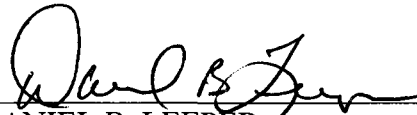
SECTION 10: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

SECTION 11: CONFLICT WITH STATE LAW. Nothing in this ordinance is intended to conflict with the provisions of the Florida Constitution or any Florida Statute. In the event of a direct and express conflict between this ordinance and either the Florida Constitution or the Florida Statutes, then the provisions of the Florida Constitution or Florida Statutes, as applicable control.

SECTION 12: FILING OF ORDINANCE AND EFFECTIVE DATE. In accordance with the provisions of §125.66, Florida Statutes, governing ordinances, a certified copy of this ordinance shall be filed with the Florida Department of State by the Clerk of the Board of County Commissioners. This ordinance shall take effect upon filing with the Florida Department of State

PASSED AND ENACTED by the Board of County Commissioners of Nassau County, Florida this 21st day of Decmeber, 2016.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

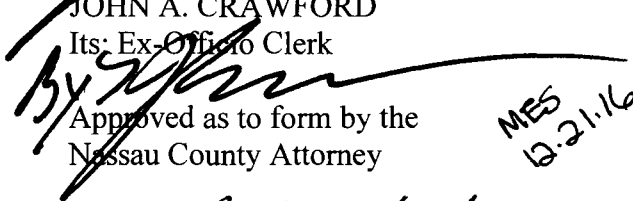


DANIEL B. LEEPER
Its: Chairman

Attest as to Chairman's signature:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

By 
Approved as to form by the
Nassau County Attorney

MES
12-21-16


MICHAEL S. MULLIN