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3 **RESOLUTION NO. 16-19**

4 **A RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA, PERTAINING TO ESTABLISHING A**
5 **TEMPORARY MORATORIUM FOR A PERIOD OF 180 DAYS FROM THE EFFECTIVE DATE OF THIS**
6 **ORDINANCE ON THE ACCEPTANCE, REVIEW, APPROVAL OR ISSUANCE OF ANY LAND**
7 **DEVELOPMENT PERMITS AS THE TERM IS DEFINED IN FLORIDA STATUTES SECTION**
8 **163.3164(16), BUSINESS TAX RECEIPTS OR ANY OTHER LICENSE OR PERMIT FOR THE**
9 **ESTABLISHMENT OR OPERATION OF DISPENSING FACILITIES WITHIN THE CITY ENGAGED**
10 **IN THE ON-SITE DISTRIBUTION, SALE, DELIVERY OR RETAIL OF LOW-THC CANNABIS,**
11 **MEDICAL CANNABIS OR CANNABIS DELIVERY DEVICES PURSUANT TO SECTIONS 381.986**
12 **AND 499.0295 OF THE FLORIDA STATUTES, IN ORDER TO PROVIDE THE CITY WITH AN**
13 **OPPORTUNITY TO REVIEW AND ENACT REGULATIONS GOVERNING THE ESTABLISHMENT AND**
14 **OPERATION OF DISPENSING FACILITIES; PROVIDING FOR CONFLICT; PROVIDING FOR**
15 **SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.**

16 WHEREAS, pursuant to the Compassionate Medical Cannabis Act of 2014, the
17 Florida Legislature authorized a very limited number of large nurseries to
18 cultivate, process, and dispense non-euphoric, low THC cannabis and operate
19 dispensing organizations, as of January 1, 2015; and

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21 WHEREAS, in 2016, the Florida Legislature amended Section 381.986 of the
22 Florida Statutes to include medical cannabis, revise the requirements for
23 physicians ordering low-THC cannabis, medical cannabis, or cannabis delivery
24 devices, amend the requirements for the cultivation, processing,
25 transportation, and dispensing of low-THC cannabis or medical cannabis,

1 revise the Florida Department of Health's authority and responsibility and
2 provide for penalties; and

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4 WHEREAS, pursuant to Section 381.986(8) of the Florida Statutes, a
5 municipality may determine by ordinance the criteria for the number and
6 location of, and other permitting requirements that do not conflict with
7 state law for dispensing facilities of dispensing organizations located
8 within its municipal boundaries; and

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10 WHEREAS, due to the historical prohibition of cannabis, the City of Belle
11 Isle does not currently have any land development regulations governing the
12 use of real property for the purpose of on- site distribution, sale, delivery
13 or retail of low-THC cannabis, medical cannabis or cannabis delivery devices
14 as provided by Florida Statutes Sections 381.986 and 499.0295; and

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16 WHEREAS, in order to promote the effective regulation of such activities, the
17 City Council wishes to preserve the status quo while researching, studying,
18 and analyzing the potential impact of dispensing facilities within the City's
19 boundaries upon adjacent uses and the surrounding areas, including its effect
20 on traffic, congestion, surrounding property values, demand for City services
21 including inspections and increase police monitoring, and other aspects of
22 the operation of dispensing facilities impacting the general welfare of the
23 community; and

1 WHEREAS, the City Council finds that a one hundred and eighty (180) days
2 temporary moratorium on the issuance of business tax receipts and the
3 acceptance, processing and approval of any building or zoning permits for the
4 establishment and operation of dispensing facilities within the corporate
5 limits of the City of Belle Isle is a reasonable period of time; and

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7 WHEREAS, the City Council finds that a one hundred and eighty (180) days
8 temporary moratorium will allow the City sufficient time to determine what
9 zoning districts are best-suited for this particular use, and how best to
10 formulate land development and licensing regulations that will appropriately
11 govern the use of real property for the purpose of on-site distribution,
12 sale, delivery or retail of low-THC cannabis, medical cannabis or cannabis
13 delivery devices; and

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15 WHEREAS, the City Council finds it is in the best interest of the citizens of
16 the City to minimize and control the adverse effects of dispensing facilities
17 by adopting appropriate land development and licensing regulations; and

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19 WHEREAS, a court should not set aside the determination of public officers in
20 land use matters unless it is clear that their action has no foundation in
21 reason, and is a mere arbitrary or irrational exercise of power having no
22 substantial relation to the public health, the public morals, the public
23 safety of the public welfare in its proper sense. *Id.*; and *Smithfield*
24 *Concerned Citizens for Fair Zoning v. Town of Smithfield*, 907 F.2d 239, 243
25 (1st Cir. 1990); and

1 WHEREAS, the first step in ensuring a proper moratorium, is to ensure that
2 the City's legislative has a rational basis and legitimate governmental
3 purpose for the imposition of a moratorium; and
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5 WHEREAS, the second step is for the Mayor and City Council to establish a
6 record that the moratorium would further the governmental purpose of
7 creating, finalizing, and adopting regulations relating to medical cannabis;
8 and
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10 WHEREAS, it is well-settled that permissible bases for land use restrictions
11 include concern about the effect of the proposed use on traffic, on
12 congestion, on surrounding property values, on demand for City services, and
13 on other aspects of the general welfare. WCI Communities, Inc., 885 So.2d at
14 915 and Corn v. City of Lauderdale Lakes, 997 F.2d 1369, 1375 (11th Cir.
15 1993); and
16

17 WHEREAS, the City is not interfering with a vested right obtained as a result
18 of a final order from the City Planning and Zoning Board, or permit already
19 obtained under the Florida Building Code; and
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21 WHEREAS, the City Council finds that imposing a temporary moratorium until
22 adequate regulations have been developed, considered and adopted is in the
23 best interest of the health, safety and general welfare of the community and
24 the residents of the City; and
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1 WHEREAS, the Mayor and City Council desire to adopt a 180-day moratorium.

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3 NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE,
4 FLORIDA:

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6 SECTION 1. Recitals. The foregoing recitals are incorporated by this
7 reference as if fully set forth in the text of this Resolution. The recitals
8 evidence the concern, motivations and reasons for imposition of this
9 Resolution.

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11 SECTION 2. Moratorium Imposed. The City of Belle Isle, Florida hereby
12 declares a temporary building and zoning moratorium on the establishment and
13 operation of dispensing facilities within the corporate limits of the City of
14 Belle Isle. The City shall not accept, process or approve any application for
15 business tax receipts, building permits, land use changes, zoning variances
16 or permits, or any other development permits for any property, entity, or
17 individual concerning or related to dispensing facilities engaged in
18 permitted uses under Florida law, specifically Florida Statutes Sections
19 381.986 and 499.0295, whether as a principal or accessory use, so long as
20 this resolution is in effect. No person, corporation, partnership or other
21 entity shall establish or operate a dispensing facility engaged in permitted
22 uses under Florida law, specifically Florida Statutes Sections 381.986 and
23 499.0295.

1 SECTION 3: Duration of Moratorium. The temporary moratorium shall take effect
2 immediately upon adoption of this resolution and shall terminate one hundred
3 and eighty (180) days from the adoption of this resolution, unless the City
4 Council rescinds or extends the moratorium by a subsequent ordinance.

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6 SECTION 4. Severability. That if any clause, section or other part of this
7 Resolution shall be held invalid or unconstitutional by any court of
8 competent jurisdiction, the remainder of this Resolution shall not be
9 affected thereby, but shall remain in full force and effect.

10
11 SECTION 5. Effective Date. This Resolution shall take effect upon execution.

12
13 PASSED and ADOPTED this _____ day of _____ 2016.

14
15 CITY OF BELLE ISLE:

16 ATTEST:

17 _____
18 Lydia Pisano, Mayor

19 _____
20 Yolanda Quiceno, City Clerk

21 (CITY SEAL)

22 Approved as to correctness and form:

23 _____
24 Frank Kruppenbacher, City Attorney
25

1 STATE OF FLORIDA

2 COUNTY OF ORANGE

3 I, YOLANDA QUICENO, CITY CLERK OF THE CITY OF BELLE ISLE, FLORIDA, do
4 hereby certify that the above and foregoing Resolution No. 16-19 was duly and
5 legally passed and adopted by the Belle Isle City Council in session
6 assembled, at which session a quorum of its members were present on the
7 _____ day of _____, 2016.

8

9 _____

10 Yolanda Quiceno, CMC-City Clerk

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