

LEGISLATIVE #

160685A

ORDINANCE NO. 160685

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An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) relating to Medical Marijuana Dispensing Facilities by amending Section 30-2.1 to delete and amend definitions; amending Section 30-4.12 to add Medical Marijuana Dispensing Facilities as a use by right in the Urban 6 (U6) and Urban 7 (U7) transect zoning districts; amending Section 30-4.19 to add Medical Marijuana Dispensing Facilities as a use by right in the Automotive-Oriented Business (BA), Tourist-Oriented Business (BT), Business Industrial (BI), and Warehousing and Wholesaling (W) zoning districts and as a use allowable by Special Use Permit in the Corporate Park (CP), Limited Industrial (I-1), and General Industrial (I-2) zoning districts; amending Section 30-4.23 to add Medical Marijuana Dispensing Facilities as a use by right in the Airport Facility (AF) zoning district; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, secures for municipalities the broad exercise of home rule powers granted by Article VIII, Section 2 of the Florida Constitution, including the exercise of any power for municipal purposes not expressly prohibited by law; and

WHEREAS, Sections 163.3167 and 163.3177(1), Florida Statutes, requires the City of Gainesville to maintain a Comprehensive Plan to guide the future development and growth of the city by providing the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental and fiscal development of the city; and

WHEREAS, the City of Gainesville is required by Section 163.3202, Florida Statutes, to adopt or amend and enforce land development regulations that are consistent with and implement the Comprehensive Plan, and that are combined and compiled into a single land development code

1 for the city (the City of Gainesville’s Land Development Code is Chapter 30 of the Code of
2 Ordinances); and

3 **WHEREAS**, in 2014, the Florida Legislature enacted the Compassionate Medical Cannabis Act of
4 2014, codified in Section 381.986, Florida Statutes, which provided for the distribution of low-
5 THC medical cannabis for certain qualified patients and specified the authority of local
6 governments to provide zoning regulations for the associated medical cannabis dispensaries;
7 and

8 **WHEREAS**, on November 19, 2015, the City Commission adopted Ordinance No. 150395, which
9 amended the Land Development Code to define and allow “Medical Marijuana Dispensaries” in
10 certain zoning districts; and

11 **WHEREAS**, in June 2017, the Florida Legislature enacted SB 8A, which implemented Article X,
12 Section 29 of the Florida Constitution approved by Florida voters in November 2016, and which
13 amended Section 381.986, Florida Statutes, and specified the zoning authority of local
14 governments related to medical marijuana dispensing facilities (Section 381.986(11), Florida
15 Statutes); and

16 **WHEREAS**, this ordinance, which was noticed as required by law, will amend the text of the
17 Land Development Code as described herein; and

18 **WHEREAS**, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of
19 the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant
20 to Section 163.3174, Florida Statutes, held a public hearing on September 28, 2017, and voted

1 to recommend that the City Commission approve this text amendment of the Land
2 Development Code; and

3 **WHEREAS**, an advertisement no less than two columns wide by ten inches long was placed in a
4 newspaper of general circulation and provided the public with at least seven days’ advance
5 notice of this ordinance’s first public hearing to be held by the City Commission in the City Hall
6 Auditorium, located on the first floor of City Hall in the City of Gainesville; and

7 **WHEREAS**, a second advertisement no less than two columns wide by ten inches long was
8 placed in the aforesaid newspaper and provided the public with at least five days’ advance
9 notice of this ordinance’s second public hearing to be held by the City Commission in the City
10 Hall Auditorium; and

11 **WHEREAS**, public hearings were held pursuant to the notice described above at which hearings
12 the parties in interest and all others had an opportunity to be and were, in fact, heard; and

13 **WHEREAS**, the City Commission finds that the Land Development Code text change described
14 herein is consistent with the City of Gainesville Comprehensive Plan.

15 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**
16 **FLORIDA:**

17 **SECTION 1. Section 30-2.1. Definitions** of the Land Development Code (Chapter 30 of the City
18 of Gainesville Code of Ordinances) is amended as follows. Except as amended herein, the
19 remainder of Section 30-2.1 remains in full force and effect.

20 **Section 30-2.1. Definitions.**

21 ~~Low-THC cannabis means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent~~
22 ~~or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds~~

1 thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative,
 2 mixture, or preparation of such plant or its seeds or resin that is dispensed only from a medical
 3 marijuana dispensary (as defined in this code).

4
 5 ~~Medical marijuana dispensing facility dispensary~~ means a facility that dispenses cannabis to qualified
 6 patients for a medical use, and not a recreational use, pursuant to all applicable regulations of the State
 7 of Florida, as may be amended from time to time. ~~dispensary organization approved by the Florida~~
 8 Department of Health pursuant to and in accordance with to the regulations of the “Compassionate
 9 Medical Cannabis Act of 2014” (codified in Section 381.986, Florida Statutes) to cultivate, process, and
 10 dispense low-THC cannabis for medical use to Florida residents who have been added to the state
 11 compassionate use registry by a physician licensed under Chapter 458 or Chapter 459, Florida Statutes,
 12 because the patient is suffering from cancer or a physical medical condition that chronically produces
 13 symptoms of seizures or severe and persistent muscle spasms with no other satisfactory alternative
 14 treatment options.

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 16 **SECTION 2. Section 30-4.12. Permitted Uses** of the Land Development Code is amended as
 17 follows. Except as amended herein, the remainder of Section 30-4.12 remains in full force and
 18 effect.

19 **Section 30-4.12. Permitted Uses.**

20 The following table contains the list of uses allowed, and specifies whether the uses are allowed by right
 21 (P), accessory to a principal use (A), or by special use permit approval (S). Blank cells indicate that the
 22 use is not allowed. No variances from the requirements of this section shall be allowed.

23 **Table V - 1: Permitted Uses within Transects.**

	Use Standards	U1	U2	U3	U4	U5	U6	U7	U8	U9	DT
NONRESIDENTIAL											
Medical marijuana dispensaries-dispensing facility		-	-	-	-	-	<u>P</u>	<u>P</u>	P	P	P

24 **LEGEND:**

25 P = Permitted by right; S = Special Use Permit; A = Accessory; Blank = Use not allowed.

26 1 = When located along a Principal Street.

27 2 = Prohibited where adjacent to single-family zoned property.

28 3 = Office uses as a home occupation.

29 4 = Office uses up to 20% of the building square footage and shall be secondary to a principal residential
 30 use. No outdoor storage allowed.

1 **SECTION 3. Section 30-4.19. Permitted Uses** of the Land Development Code is amended as
 2 follows. Except as amended herein, the remainder of Section 30-4.19 remains in full force and
 3 effect.

4 **Section 30-4.19. Permitted Uses.**

5 The following table contains the list of uses allowed, and specifies whether the uses are allowed by right
 6 (P), accessory to a principal use (A), or by special use permit approval (S). Blank cells indicate that the
 7 use is not allowed. No variances from the requirements of this section shall be allowed.

8 **Table V - 7: Permitted Uses in Mixed-Use and Nonresidential Districts.**

	Use Standards	MU-1	MU-2	OR	OF	CP	BUS	BA	BT	BI	W	I-1	I-2
NONRESIDENTIAL													
Medical marijuana dispensaries <u>dispensing facility</u>		P	P	A ¹	A ¹	<u>S</u> A ²	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	S	S

9 **LEGEND:**

10 P = Permitted by right; S = Special Use Permit; A = Accessory; Blank = Use not allowed.

11 1 = Only when accessory to and in the same building as health services or offices of physicians, dentists,
 12 and other health practitioners.

13 2 = Accessory to and in the same building as health services and comprising less than 25% of the gross
 14 floor area of the building.

15 3 = Prohibited where adjacent to single-family zoned property.

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 17 **SECTION 4. Section 30-4.23. Permitted Uses** of the Land Development Code is amended as
 18 follows. Except as amended herein, the remainder of Section 30-4.23 remains in full force and
 19 effect.

20 **Section 30-4.23. Permitted Uses.**

21 The following table contains the list of uses allowed, and specifies whether the uses are allowed by right
 22 (P), accessory to a principal use (A), or by special use permit approval (S). Blank cells indicate that the
 23 use is not allowed. No variances from the requirements of this section shall be allowed.

1 **Table V - 9: Permitted Uses in Special Districts.**

Use	Use Standards	AGR	AF	CON	ED	MD	PS*
Medical marijuana dispensaries <u>dispensing facility</u>		-	<u>P</u>	-	-	A	-

2 **LEGEND:**

3 P = Permitted by right; S = Special Use Permit; A = Accessory; Blank = Use not allowed.

4 * = Other uses may be allowed as designated by the ordinance rezoning a property to PS.

5

6 **SECTION 5.** It is the intent of the City Commission that the provisions of Sections 1 through 4 of
 7 this ordinance shall become and be made a part of the Code of Ordinances of the City of
 8 Gainesville, Florida, and that the sections and paragraphs of the Code of Ordinances may be
 9 renumbered or relettered in order to accomplish such intent.

10 **SECTION 6.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or
 11 the application hereof to any person or circumstance is held invalid or unconstitutional, such
 12 finding shall not affect the other provisions or applications of this ordinance that can be given
 13 effect without the invalid or unconstitutional provision or application, and to this end the
 14 provisions of this ordinance are declared severable.

15 **SECTION 7.** All ordinances or parts of ordinances in conflict herewith are to the extent of such
 16 conflict hereby repealed.

17 **SECTION 8.** This ordinance shall become effective immediately upon adoption.

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19 **PASSED AND ADOPTED** this _____ day of _____, 2018.

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LAUREN POE
MAYOR

Attest:

Approved as to form and legality:

OMICHELE GAINEY
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this _____ day of _____, 2018.

This ordinance passed on second reading this _____ day of _____, 2018.