



Department of Doing
Planning Division
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TO: City Plan Board **Item Number: 4**
FROM: Department of Doing **DATE: September 28, 2017**

SUBJECT: Petition PB-16-185 TCH. City Plan Board. Amend the Land Development Code regarding Medical Marijuana Dispensing Facilities by deleting and amending definitions, and by adding Medical Marijuana Dispensing Facilities as a use by right in the Urban 6 (U6) and Urban 7 (U7) transect zoning districts, Automotive-Oriented Business (BA), Tourist-Oriented Business (BT), Business Industrial (BI), Warehousing and Wholesaling (W), and Airport Facility (AF) 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.

Recommendation

Staff recommends that the Plan Board either recommend approval, or, alternatively, denial, (which would result in a prohibition of additional *Medical marijuana dispensing facilities* until such time as pertinent State of Florida law or regulations may change).

Discussion

Background

In 2014, the Florida Legislature enacted the Compassionate Medical Cannabis Act of 2014, codified in Section 381.986, Florida Statutes, which provided for the distribution of low-THC medical cannabis for certain qualified patients and specified the authority of local governments to provide zoning regulations for the associated medical cannabis dispensaries. The Compassionate Medical Cannabis Act of 2014, among other restrictions, provided that a physician could only order low-THC cannabis (marijuana) for a patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms, and only if no other satisfactory alternative treatment options exist for that patient. On November 19, 2015, the City Commission adopted Ordinance No. 150395, which amended the Land Development Code to define and allow *Medical marijuana dispensaries* to dispense low-THC medical marijuana in certain zoning districts.

In 2016, the Legislature adopted HB 307 and substantially amended the 2014 Act to (among various other things) expand the forms of cannabis available for medical purposes and expand the kinds of patients that may receive medical marijuana. Among the many changes, the expanded state law provided additional definitions and numerous requirements for dispensing organizations. See timeline on next page.

Timeline



The City Plan Board on January 26, 2017, at the conclusion of a public hearing that included testimony by staff and from four members of the public (two of whom represented one of the dispensing organizations approved by the Florida Department of Health per Section 381.986, Florida Statutes, to cultivate, process, transport, and dispense medical marijuana), voted 4-2 to recommend that the City update the current definitions in the City's Land Development Code (LDC) for *Medical marijuana dispensaries* in accordance with then current state law, but recommended against reducing the number of zoning districts where *Medical marijuana dispensaries* are an allowable use, and recommended against the special regulations proposed by

staff, with the exception of minimum separation requirements from schools and other *Medical marijuana dispensaries*. However, the City Commission on March 2, 2017, held a public hearing and, in rejection of the City Plan Board recommendation, approved the petition and the drafting of an ordinance in accordance with then current state law. ([Click here to view video](#) of meeting, then go to Legistar No. 160685.)

In June 2017, the Florida Legislature enacted SB 8-A, which implemented Article X, Section 29 of the Florida Constitution approved by Florida voters (Amendment 2) in November 2016. This new state law (reflected in updated F.S. 381.986) essentially: 1) increased the type and kind of medical marijuana available for qualifying patients; 2) increased the class of patients that qualify for medical marijuana in the state; and 3) limited the zoning authority of local governments related to medical marijuana dispensing facilities by mandating that jurisdictions choose between banning such facilities, or, allowing and regulating them the same as pharmacies.

The proposed LDC amendment will allow *Medical marijuana dispensing facilities* in the City of Gainesville and will regulate them as if they were pharmacies. This amendment will update the definition of *Medical marijuana dispensing facility* in accordance with current state law and will add it as an allowable use, either by right or by Special Use Permit, to a number of zoning districts, which were chosen because these additional zoning districts are those that already allow general retail uses such as pharmacies (pharmacies are regulated in the LDC as a general retail use). Not included in the proposed amendment because it is preempted to the state per F.S. 381.986 (11) (c), is the required 500-ft. minimum distance between such facilities and public or private elementary, middle, or secondary schools.

Comparison of City Commission Recommendation and Current Petition

Comparison	Zoning districts	Distance between dispensaries	Distance from Schools	Distance from Residential districts	Distance from Places of Religious Assembly	Operational requirements (Hours, no alcohol, security systems, etc.)	Types of products authorized for dispensing
City Commission Recommendation (March 2, 2017)	BUS, MU-2, UMU-1, UMU-2	1,320 ft.	750 ft.	500 ft.	300 ft.	Per staff recommendation	Per then current state law
Current Petition (reflects current state law – use allowed where pharmacies are allowed)	U6, U7, U8, U9, DT, MU-1, MU-2, OR, OF, CP, BUS, BA, BT, BI, W, I-1, I-2, AF, MD	---	(State law requires 500 ft.)	---	---	(Per state law)	(Per state law)

Definition Changes

This petition proposes amendment of the City's Land Development Code (LDC) to make it consistent with the updated state law (Section 381.986, F.S.). Our LDC currently limits the allowable type of cannabis to *Low-THC cannabis*, the definition of which is in F.S. 381.986 and therefore is no longer needed in Sec. 30-2.1 of the LDC. The proposed amendment will also clarify that *Medical marijuana dispensing facilities* (by amending the definition in Sec. 30-2.1 of the LDC) may dispense cannabis to medical patients for medical purposes pursuant to all applicable regulations of the State of Florida, as may be amended from time to time. The proposed amendment will strictly limit the LDC's allowance of such uses to the dispensing of marijuana for medical use. Section 318.986(1) (f), F.S.: "Marijuana" means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient.

Any future state law change that would allow the dispensing of recreational marijuana would subsequently need to be considered by the City Commission before such use could be allowed in the City of Gainesville, unless the City's authority in this area had been preempted by the Florida Legislature.

Zoning Changes

Medical marijuana dispensing facilities are already allowed in the following zoning districts:

- U8 (Urban 8);
- U9 (Urban 9);
- DT (Downtown);
- MU-1 (Mixed-Use Low-Intensity);
- MU-2 (Mixed-Use Medium-Intensity);
- OR (Office Residential);
- OF (General Office);
- CP (Corporate Park);
- BUS (General Business) and
- MD (Medical Services).

Medical marijuana dispensing facilities will be added as a use by right in the following zoning districts:

- U6 (Urban 6);
- U7 (Urban 7);
- BA (Automotive-Oriented Business);
- BT (Tourist-Oriented Business);
- BI (Business Industrial);
- W (Warehousing and Wholesaling); and

- AF (Airport Facility).

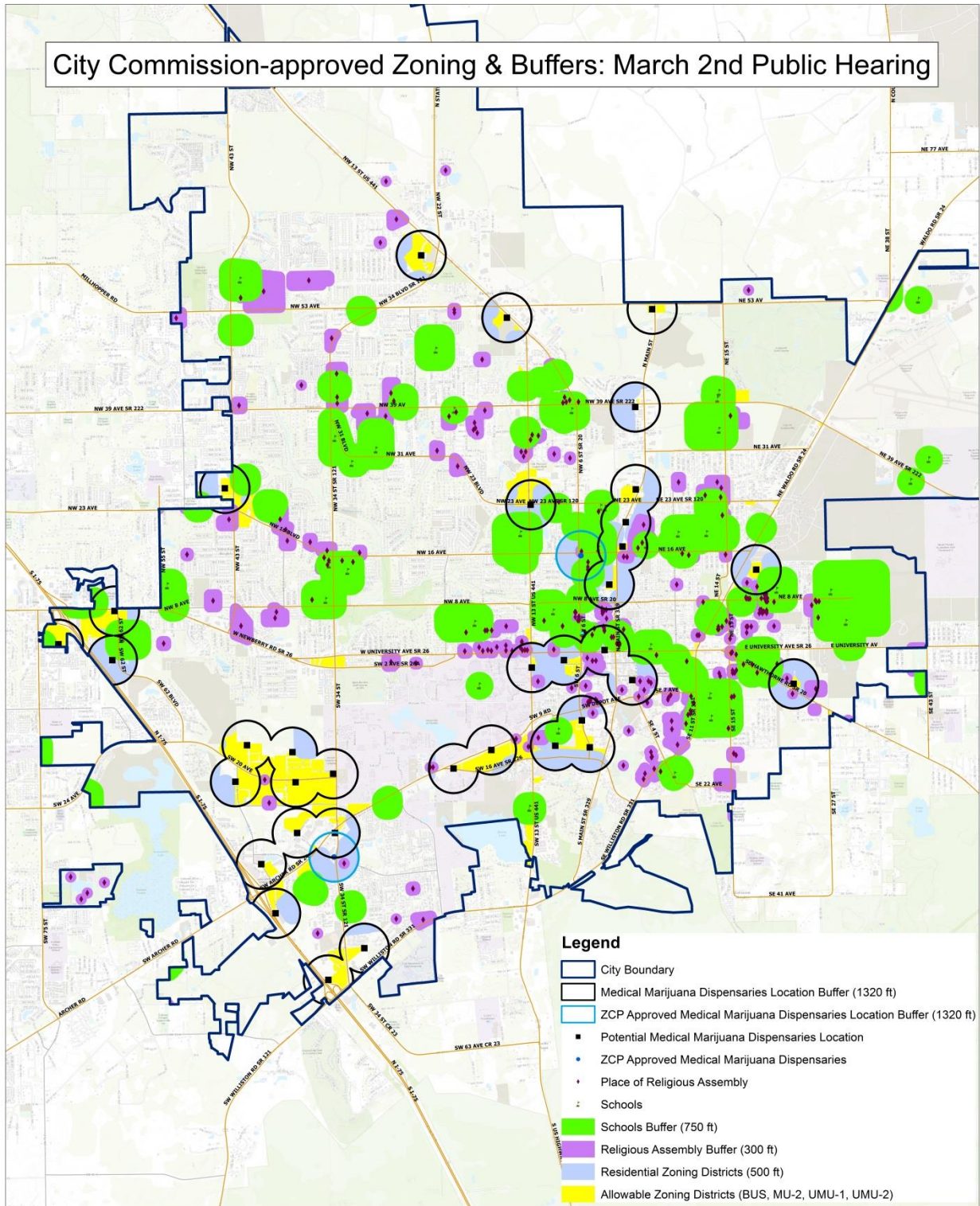
In addition, the use will be allowed by Special Use Permit in the following zoning districts:

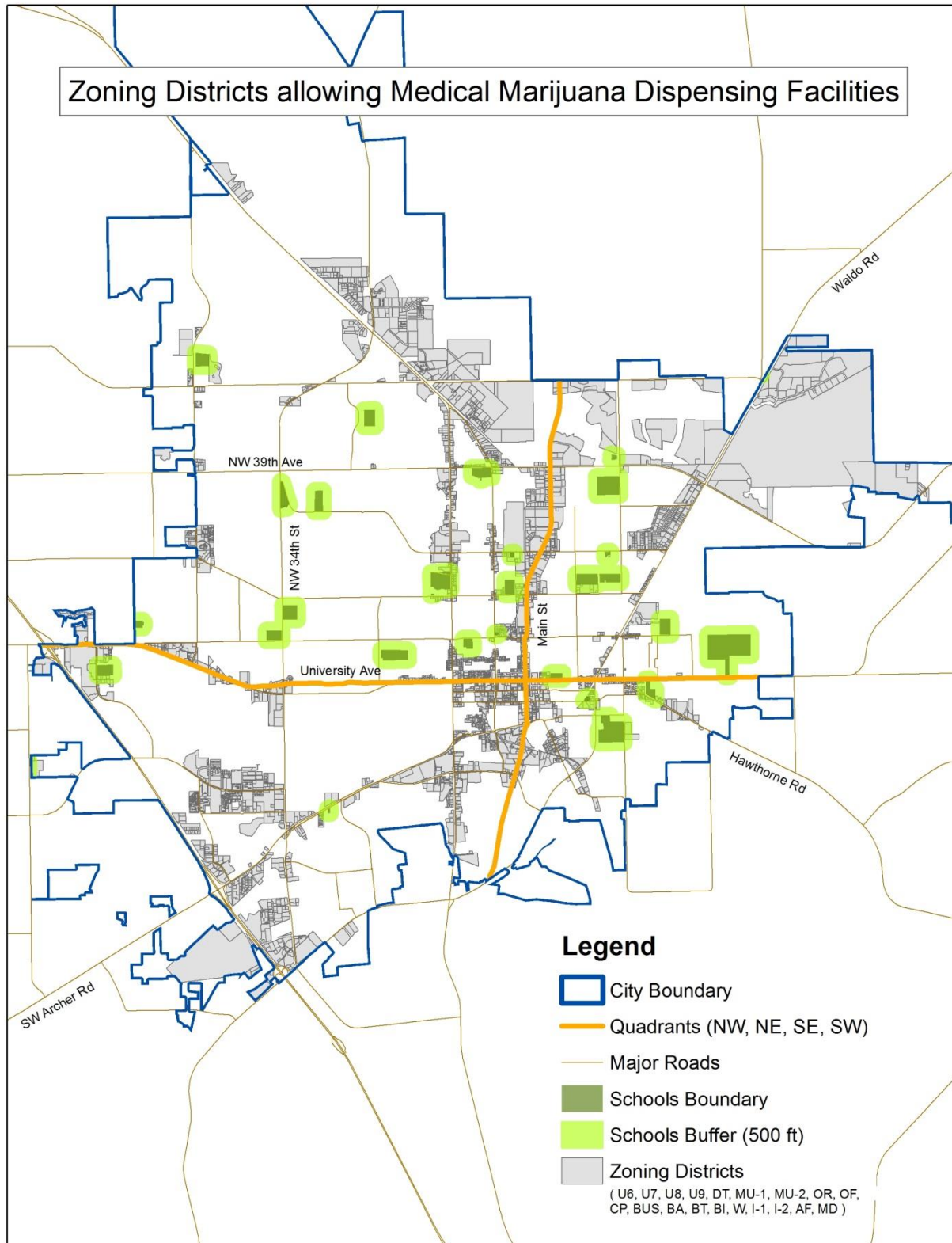
- CP (Corporate Park);
- I-1 (Limited Industrial); and
- I-2 (General Industrial).

Of the total area of the City, approximately 28 percent is comprised of zoning districts in which the proposed use would be allowed. This area will be reduced to approximately 15 percent of the total area of the City due to the statutorily required 500-foot minimum distance to a public or private elementary school, middle school, or secondary school, and due to airport development area limitations pertaining to Gainesville Regional Airport, which is located the AF (Airport Facilities) district.

See maps on next two pages:

- Commission-approved Zoning & Buffers: March 2nd Public Hearing;
- Zoning Districts allowing Medical Marijuana Dispensing Facilities.





Recommended Changes to the Land Development Code:

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

Section 30-2.1. Definitions.

~~Low-THC cannabis~~ means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a medical marijuana dispensary (as defined in this code).

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

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

Section 30-4.12. Permitted Uses.

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

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

LEGEND:

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

1 = When located along a Principal Street.

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

3 = Office uses as a home occupation.

4 = Office uses up to 20% of the building square footage and shall be secondary to a principal residential use. No outdoor storage allowed. SECTION 3. Section 30-4.19. Permitted Uses of the Land Development Code is amended as follows. Except as amended herein, the remainder of Section 30-4.19 remains in full force and effect.

Section 30-4.19. Permitted Uses.

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

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-dispensing facility		P	P	A ¹	A ¹	<u>S</u> A ²	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>S</u>	<u>S</u>

LEGEND:

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

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

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

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

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

Section 30-4.23. Permitted Uses.

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

Table V - 9: Permitted Uses in Special Districts.

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

LEGEND:

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

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

Respectfully submitted,

Andrew Persons, AICP
 Planner IV

Prepared by:

Dean Mimms, AICP
 Planner III

List of Appendices

Appendix A Application

Exhibit A-1 Application

Appendix B Supplemental Documents

Exhibit B-1 FAQs

Exhibit B-2 Excerpts: Section 381.986, F.S.

APPLICATION—CITY PLAN BOARD—TEXT AMENDMENT
Planning & Development Services

RECEIVED
DEC -5 2016
PLANNING DIVISION

OFFICE USE ONLY

Petition No. 7B-16-185 TCH Fee: \$ N/A/Govt
 1st Step Mtg Date: _____ EZ Fee: \$ _____
 Tax Map No. _____ Receipt No. _____
 Account No. 001-660-6680-3401 []
 Account No. 001-660-6680-1124 (Enterprise Zone) []
 Account No. 001-660-6680-1125 (Enterprise Zone Credit) []

Name of Applicant/Agent (Please print or type)

Applicant/Agent Name: City Plan Board
 Applicant/Agent Address: _____
 City: _____
 State: _____ Zip: _____
 Applicant/Agent Phone: (352) 334-5022 Applicant/Agent Fax: _____

Note: It is recommended that anyone intending to file a petition for a text amendment to Chapter 30 of the City of Gainesville Code of Ordinances (Land Development Code) or to the Comprehensive Plan, meet with the Department of Community Development prior to filing the petition, in order to discuss the proposed amendment and petition process. The request will be evaluated as applicable to the particular zoning district or land use category on a citywide basis.

TEXT AMENDMENT

Check applicable request below:

Land Development Code []	Comprehensive Plan Text []	Other []
Section/Appendix No.: <u>30-23(c) - Detachments</u>	Element & Goal, Objective or Policy No.:	Specify:
<u>Article VI - Specially Regulated Uses</u>		
<u>Article IV - Use Regulations</u>		

Proposed text language and/or explanation of reason for request (use additional sheets, if necessary):

Amend the definition of medical marijuana dispensary to: Medical marijuana dispensary means a facility that dispenses cannabis to patients for medical purposes pursuant to and in accordance with Sec. 381.986 F.S. as may be amended from time to time.
Delete definition of low-TMC cannabis from Sec. 30-23 of the Land Development Code.

Delete medical marijuana dispensary from the list of permitted uses in the MU-1, OR, OF, CP, and CCD zoning districts.

Establish minimum distance requirements between medical marijuana dispensaries and other uses (including, but not limited to, places of religious assembly, schools, and residential zoning districts)

Add medical marijuana dispensary as a specially regulated use (Article II of the Land Development Code)

Explanation: In 2016 the FL Legislature amended the "Compassionate Medical Cannabis Act of 2014" (Codified in Sec. 381.986 F.S.) that authorized licensed physicians to order "Low-THC Cannabis" for patients suffering from specified medical conditions or cancer that chronically produce/symptoms of seizures or severe & persistent muscle spasms, and only if no other alternative treatment options exist for such patients. The 2016 amendments expanded the forms of cannabis available for medical purposes, and expanded the kinds of patients eligible to receive medical marijuana, among other provisions. On November 8, 2016, Amendment No. 2 was approved by the voters of Florida (60% threshold was exceeded) just substantially expanded the allowable use of medical marijuana. The city's currently adopted Land Development Code provisions re: medical marijuana dispensaries need to be amended so that they are consistent with the 2016 legislation and the 2016 Constitutional Amendment (2).

The General Policy Committee (the Gainesville City Commission) discussed legislative AB 160395 on November 10, 2016 and provided guidance to City staff re: amending the Land Development Code.

No person submitting an application may rely upon any comment concerning a proposed amendment, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

CERTIFICATION

The undersigned has read the above application and is familiar with the information submitted herewith.

Signature of applicant/agent: Dean L. Munn, AICP, Lead Planner

Date: 12/5/16

Appendix B Supplemental Exhibits

Exhibit B-1 – FAQs

Frequently Asked Questions

Office of Medical Marijuana Use, FL Department of Health

- **850-245-4657**
- medicalmarijuanause@flh.gov
- **Mailing Address**
4052 Bald Cypress Way, Bin A-06
Tallahassee, FL 32399

1. **QUESTION:** What is the status of my Compassionate Use Registry Card Application?

ANSWER: The current processing time for Compassionate Use Registry Identification Cards is 30 days from the time the Department receives your application. If you are submitting an application by mail, please allow an additional 3-5 days for delivery of your application. Submitting an incomplete application will increase the amount of time required to process your account.

2. **QUESTION:** Where can I get medical marijuana?

Answer: A patient must first seek treatment from a qualified physician. Once the ordering physician inputs the patient's information and the order information into the Medical Marijuana Use Registry, the patient or the patient's legal representative need to apply for a Compassionate Use Registry Identification Card. Once approved, a patient or legal representative will then be able to contact one of the [licensed medical marijuana treatment centers](#) and fill the order.

3. **QUESTION:** Can I grow my own marijuana?

ANSWER: No. [Florida law](#) only allows the licensed dispensing organizations to grow, process and dispense marijuana. The department will refer any business or individual suspected of violating state law to local law enforcement for investigation. It is important to remember marijuana is illegal under federal law.

4. **QUESTION:** How do I apply to open a Medical Marijuana Treatment Center?

ANSWER: The Department is currently in the process of rulemaking and is not accepting applications for MMTCs at this time. [To learn more about rulemaking for Amendment 2, please click here.](#) The department will refer any business or individual suspected of violating state law to local law enforcement for investigation. It is important to remember marijuana is illegal under federal law.

5. **QUESTION:** Can I order medical marijuana for my patients?

ANSWER: In order to qualify to order medical marijuana for patients, a physician must have an active, unrestricted license as a physician under Chapter 458, F.S., or osteopathic physician under Chapter 459, F.S. Physicians who meet the above requirements may gain access to the Medical Marijuana Use Registry after completing the required course and examination provided

by the Florida Medical Association and the Florida Osteopathic Medical Association. Successful completion of the course is required each time a physician renews his or her license.

6. **QUESTION:** What is the difference between low-THC cannabis and medical marijuana?

ANSWER: "Low-THC cannabis" means a plant of the genus Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed from a medical marijuana treatment center.

“Marijuana” means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient.

7. **QUESTION:** What is a marijuana delivery device?

ANSWER: An object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing marijuana into the human body, and which is dispensed from a medical marijuana treatment center for medical use by a qualified patient.

8. **QUESTION:** How do patients find qualified physicians who can order low-THC cannabis, medical marijuana or marijuana delivery devices?

ANSWER: A list of physicians authorized to order low-THC cannabis, medical marijuana or cannabis delivery devices is available here: http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/_documents/completed-cme.pdf.

9. **QUESTION:** What are the requirements for a Medical Director of a medical marijuana treatment centers?

ANSWER: A medical director must hold an active, unrestricted license as a physician under Chapter 458, Florida Statutes or as an osteopathic physician under Chapter 459, Florida Statutes. They must also complete a continuing education course and examination.

10. **QUESTION:** Who can sell medical marijuana?

ANSWER: A licensed dispensing organization. (Link to <http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/dispensing-organizations/index.html>).

11. **QUESTION:** How can a patient purchase medical marijuana?

ANSWER: A patient must first seek treatment from a qualified physician. Once the ordering physician inputs the patient’s information and the order information into the Medical Marijuana Use Registry, the patient or the patient’s legal representative need to apply for a Compassionate Use Registry Identification Card. Once approved, a patient or legal representative will then be able to contact one of the [licensed medical marijuana treatment centers](#) and fill the order.

12. **QUESTION:** Who can purchase marijuana from a medical marijuana treatment centers?

ANSWER: Medical marijuana treatment centers may only provide medical marijuana or a marijuana delivery device to a qualified patient or a qualified patient's legal representative.

13. **QUESTION:** Who needs to have a Medical Marijuana Use Registry identification card?

ANSWER: Florida rule 64-4.011, F.A.C. requires all patients and legal representatives to have a Medical Marijuana Use Registry identification card to obtain medical marijuana, or a marijuana delivery device from a licensed dispensing organization.

14. **QUESTION:** How do I use Medical Marijuana Use Registry identification card?

ANSWER: Patients and legal representatives must provide their Medical Marijuana Use Registry identification card to medical marijuana treatment centers in order to obtain medical marijuana, or a marijuana delivery device. Medical Marijuana Use Registry identification cards may also be used to assist in verifying that a patient or legal representative are in the Department of Health's Medical Marijuana Use Registry.

15. **QUESTION:** How do I apply for a card?

ANSWER: The Department accepts applications from patients and legal representatives. Patients must be entered into the Medical Marijuana Use Registry by a qualified physician to receive a card. Applications may be submitted online through the Medical Marijuana Use Registry, or mailed to the Office of Medical Marijuana Use. All applications must include a registration fee of \$75.

16. **QUESTION:** If I am a patient, may I also serve as a legal representative for someone else?

ANSWER: Yes. However, a patient wishing to serve as a legal representative for someone else must apply separately for a legal representative card and a patient card.

17. **QUESTION:** How do I renew my card?

ANSWER: To maintain an active Medical Marijuana Use Registry identification card, a patient and/or legal representative must annually submit a renewal application, along with the application fee and any required accompanying documents to the department forty-five (45) days prior to the card expiration date.

18. **QUESTION:** What happens if I need to change the information on my card?

ANSWER: Requests to replace a lost or stolen card will require the cardholder to submit a Change, Replacement or Surrender Request Form, along with a copy of his or her Florida driver's license or identification card and a \$15 replacement fee.

Medical marijuana is available in Florida, however, remains illegal under federal law.

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September 28, 2017

(Source: <http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/frequently-asked-questions/index.html>)

(* **City staff note:** These FAQs were on the FL Department of Health's Office of Medical Marijuana Use website on September 15, 2017.)

Exhibit B-2: Excerpts: Section 381.986, F.S.

F.S. 381.986. Medical Use of Marijuana

(2017 Florida Statutes)

(1) DEFINITIONS.—As used in this section, the term:

(a) “Caregiver” means a resident of this state who has agreed to assist with a qualified patient’s medical use of marijuana, has a caregiver identification card, and meets the requirements of subsection (6).

(b) “Chronic nonmalignant pain” means pain that is caused by a qualifying medical condition or that originates from a qualifying medical condition and persists beyond the usual course of that qualifying medical condition.

(c) “Close relative” means a spouse, parent, sibling, grandparent, child, or grandchild, whether related by whole or half blood, by marriage, or by adoption.

(d) “Edibles” means commercially produced food items made with marijuana oil, but no other form of marijuana, that are produced and dispensed by a medical marijuana treatment center.

(e) “Low-THC cannabis” means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed from a medical marijuana treatment center.

(f) “Marijuana” means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient.

(g) “Marijuana delivery device” means an object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing marijuana into the human body, and which is dispensed from a medical marijuana treatment center for medical use by a qualified patient.

(h) “Marijuana testing laboratory” means a facility that collects and analyzes marijuana samples from a medical marijuana treatment center and has been certified by the department pursuant to s. [381.988](#).

(i) “Medical director” means a person who holds an active, unrestricted license as an allopathic physician under chapter 458 or osteopathic physician under chapter 459 and is in compliance with the requirements of paragraph (3)(c).

(j) “Medical use” means the acquisition, possession, use, delivery, transfer, or administration of marijuana authorized by a physician certification. The term does not include:

1. Possession, use, or administration of marijuana that was not purchased or acquired from a medical marijuana treatment center.
2. Possession, use, or administration of marijuana in a form for smoking, in the form of commercially produced food items other than edibles, or of marijuana seeds or flower, except for flower in a sealed, tamper-proof receptacle for vaping.
3. Use or administration of any form or amount of marijuana in a manner that is inconsistent with the qualified physician’s directions or physician certification.
4. Transfer of marijuana to a person other than the qualified patient for whom it was authorized or the qualified patient’s caregiver on behalf of the qualified patient.

5. Use or administration of marijuana in the following locations:
 - a. On any form of public transportation, except for low-THC cannabis.
 - b. In any public place, except for low-THC cannabis.
 - c. In a qualified patient's place of employment, except when permitted by his or her employer.
 - d. In a state correctional institution, as defined in s. [944.02](#), or a correctional institution, as defined in s. [944.241](#).
 - e. On the grounds of a preschool, primary school, or secondary school, except as provided in s. [1006.062](#).
 - f. In a school bus, a vehicle, an aircraft, or a motorboat, except for low-THC cannabis.
- (k) "Physician certification" means a qualified physician's authorization for a qualified patient to receive marijuana and a marijuana delivery device from a medical marijuana treatment center.
- (l) "Qualified patient" means a resident of this state who has been added to the medical marijuana use registry by a qualified physician to receive marijuana or a marijuana delivery device for a medical use and who has a qualified patient identification card.
- (m) "Qualified physician" means a person who holds an active, unrestricted license as an allopathic physician under chapter 458 or as an osteopathic physician under chapter 459 and is in compliance with the physician education requirements of subsection (3).
- (n) "Smoking" means burning or igniting a substance and inhaling the smoke.
- (o) "Terminal condition" means a progressive disease or medical or surgical condition that causes significant functional impairment, is not considered by a treating physician to be reversible without the administration of life-sustaining procedures, and will result in death within 1 year after diagnosis if the condition runs its normal course.
- (2) QUALIFYING MEDICAL CONDITIONS.—A patient must be diagnosed with at least one of the following conditions to qualify to receive marijuana or a marijuana delivery device:
 - (a) Cancer.
 - (b) Epilepsy.
 - (c) Glaucoma.
 - (d) Positive status for human immunodeficiency virus.
 - (e) Acquired immune deficiency syndrome.
 - (f) Post-traumatic stress disorder.
 - (g) Amyotrophic lateral sclerosis.
 - (h) Crohn's disease.
 - (i) Parkinson's disease.
 - (j) Multiple sclerosis.
 - (k) Medical conditions of the same kind or class as or comparable to those enumerated in paragraphs (a)-(j).
 - (l) A terminal condition diagnosed by a physician other than the qualified physician issuing the physician certification.
 - (m) Chronic nonmalignant pain.

²(8) MEDICAL MARIJUANA TREATMENT CENTERS.—

(a) The department shall license medical marijuana treatment centers to ensure reasonable statewide accessibility and availability as necessary for qualified patients registered in the medical marijuana use registry and who are issued a physician certification under this section.

1. As soon as practicable, but no later than July 3, 2017, the department shall license as a medical marijuana treatment center any entity that holds an active, unrestricted license to cultivate, process, transport, and dispense low-THC cannabis, medical cannabis, and cannabis delivery devices, under former s. [381.986](#), Florida Statutes 2016, before July 1, 2017, and which meets the requirements of this section. In addition to the authority granted under this section, these entities are authorized to dispense low-THC cannabis, medical cannabis, and cannabis delivery devices ordered pursuant to former s. [381.986](#), Florida Statutes 2016, which were entered into the compassionate use registry before July 1, 2017, and are authorized to begin dispensing marijuana under this section on July 3, 2017. The department may grant variances from the representations made in such an entity's original application for approval under former s. [381.986](#), Florida Statutes 2014, pursuant to paragraph (e).

2. The department shall license as medical marijuana treatment centers 10 applicants that meet the requirements of this section, under the following parameters:

a. As soon as practicable, but no later than August 1, 2017, the department shall license any applicant whose application was reviewed, evaluated, and scored by the department and which was denied a dispensing organization license by the department under former s. [381.986](#), Florida Statutes 2014; which had one or more administrative or judicial challenges pending as of January 1, 2017, or had a final ranking within one point of the highest final ranking in its region under former s. [381.986](#), Florida Statutes 2014; which meets the requirements of this section; and which provides documentation to the department that it has the existing infrastructure and technical and technological ability to begin cultivating marijuana within 30 days after registration as a medical marijuana treatment center.

b. As soon as practicable, but no later than October 3, 2017, the department shall license one applicant that is a recognized class member of *Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999), or *In Re Black Farmers Litig.*, 856 F. Supp. 2d 1 (D.D.C. 2011) and is a member of the Black Farmers and Agriculturalists Association—Florida Chapter. An applicant licensed under this sub-subparagraph is exempt from the requirements of subparagraphs (b)1. and 2.

c. As soon as practicable, but no later than October 3, 2017, the department shall license applicants that meet the requirements of this section in sufficient numbers to result in 10 total licenses issued under this subparagraph, while accounting for the number of licenses issued under sub-subparagraphs a. and b.

3. For up to two of the licenses issued under subparagraph 2., the department shall give preference to applicants that demonstrate in their applications that they own one or more facilities that are, or were, used for the canning, concentrating, or otherwise processing of citrus fruit or citrus molasses and will use or convert the facility or facilities for the processing of marijuana.

4. Within 6 months after the registration of 100,000 active qualified patients in the medical marijuana use registry, the department shall license four additional medical marijuana treatment centers that meet the requirements of this section. Thereafter, the department shall license four medical marijuana treatment centers within 6 months after the registration of each additional 100,000 active qualified patients in the medical marijuana use registry that meet the requirements of this section.

5. Dispensing facilities are subject to the following requirements:

a. A medical marijuana treatment center may not establish or operate more than a statewide maximum of 25 dispensing facilities, unless the medical marijuana use registry reaches a total of 100,000 active registered qualified patients. When the medical marijuana use registry reaches 100,000 active registered qualified patients, and then upon each further instance of the total active registered qualified patients increasing by 100,000, the statewide maximum number of dispensing facilities that each licensed medical marijuana treatment center may establish and operate increases by five.

13. When dispensing marijuana or a marijuana delivery device, a medical marijuana treatment center:

a. May dispense any active, valid order for low-THC cannabis, medical cannabis and cannabis delivery devices issued pursuant to former s. [381.986](#), Florida Statutes 2016, which was entered into the medical marijuana use registry before July 1, 2017.

b. May not dispense more than a 70-day supply of marijuana to a qualified patient or caregiver.

c. Must have the medical marijuana treatment center's employee who dispenses the marijuana or a marijuana delivery device enter into the medical marijuana use registry his or her name or unique employee identifier.

d. Must verify that the qualified patient and the caregiver, if applicable, each have an active registration in the medical marijuana use registry and an active and valid medical marijuana use registry identification card, the amount and type of marijuana dispensed matches the physician certification in the medical marijuana use registry for that qualified patient, and the physician certification has not already been filled.

e. May not dispense marijuana to a qualified patient who is younger than 18 years of age. If the qualified patient is younger than 18 years of age, marijuana may only be dispensed to the qualified patient's caregiver.

f. May not dispense or sell any other type of cannabis, alcohol, or illicit drug-related product, including pipes, bongs, or wrapping papers, other than a marijuana delivery device required for the medical use of marijuana and which is specified in a physician certification.

g. Must, upon dispensing the marijuana or marijuana delivery device, record in the registry the date, time, quantity, and form of marijuana dispensed; the type of marijuana delivery device dispensed; and the name and medical marijuana use registry identification number of the qualified patient or caregiver to whom the marijuana delivery device was dispensed.

h. Must ensure that patient records are not visible to anyone other than the qualified patient, his or her caregiver, and authorized medical marijuana treatment center employees.

(f) To ensure the safety and security of premises where the cultivation, processing, storing, or dispensing of marijuana occurs, and to maintain adequate controls against the diversion, theft, and loss of marijuana or marijuana delivery devices, a medical marijuana treatment center shall:

1.a. Maintain a fully operational security alarm system that secures all entry points and perimeter windows and is equipped with motion detectors; pressure switches; and duress, panic, and hold-up alarms; and

b. Maintain a video surveillance system that records continuously 24 hours a day and meets the following criteria:

(I) Cameras are fixed in a place that allows for the clear identification of persons and activities in controlled areas of the premises. Controlled areas include grow rooms, processing rooms, storage rooms, disposal rooms or areas, and point-of-sale rooms.

(II) Cameras are fixed in entrances and exits to the premises, which shall record from both indoor and outdoor, or ingress and egress, vantage points.

(III) Recorded images must clearly and accurately display the time and date.

(IV) Retain video surveillance recordings for at least 45 days or longer upon the request of a law enforcement agency.

2. Ensure that the medical marijuana treatment center's outdoor premises have sufficient lighting from dusk until dawn.

3. Ensure that the indoor premises where dispensing occurs includes a waiting area with sufficient space and seating to accommodate qualified patients and caregivers and at least one private consultation area that is isolated from the waiting area and area where dispensing occurs. A medical marijuana treatment center may not display products or dispense marijuana or marijuana delivery devices in the waiting area.

4. Not dispense from its premises marijuana or a marijuana delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver marijuana to qualified patients 24 hours a day.

5. Store marijuana in a secured, locked room or a vault.

6. Require at least two of its employees, or two employees of a security agency with whom it contracts, to be on the premises at all times where cultivation, processing, or storing of marijuana occurs.

7. Require each employee or contractor to wear a photo identification badge at all times while on the premises.

8. Require each visitor to wear a visitor pass at all times while on the premises.

9. Implement an alcohol and drug-free workplace policy.

10. Report to local law enforcement within 24 hours after the medical marijuana treatment center is notified or becomes aware of the theft, diversion, or loss of marijuana.

(g) To ensure the safe transport of marijuana and marijuana delivery devices to medical marijuana treatment centers, marijuana testing laboratories, or qualified patients, a medical marijuana treatment center must:

1. Maintain a marijuana transportation manifest in any vehicle transporting marijuana. The marijuana transportation manifest must be generated from a medical marijuana treatment center's seed-to-sale tracking system and include the:

a. Departure date and approximate time of departure.

b. Name, location address, and license number of the originating medical marijuana treatment center.

c. Name and address of the recipient of the delivery.

d. Quantity and form of any marijuana or marijuana delivery device being transported.

e. Arrival date and estimated time of arrival.

f. Delivery vehicle make and model and license plate number.

g. Name and signature of the medical marijuana treatment center employees delivering the product.

(11) **PREEMPTION.**—Regulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers is preempted to the state except as provided in this subsection.

(a) A medical marijuana treatment center cultivating or processing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school.

(b)1. A county or municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality. A county or municipality that does not ban dispensing facilities under this subparagraph may not place specific limits, by ordinance, on the number of dispensing facilities that may locate within that county or municipality.

2. A municipality may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, medical marijuana treatment center dispensing facilities located within the boundaries of that municipality. A county may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, all such dispensing facilities located within the unincorporated areas of that county. Except as provided in paragraph (c), a county or municipality may not enact ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under chapter 465. A municipality or county may not charge a medical marijuana treatment center a license or permit fee in an amount greater than the fee charged by such municipality or county to pharmacies. A dispensing facility location approved by a municipality or county pursuant to former s. [381.986](#)(8)(b), Florida Statutes 2016, is not subject to the location requirements of this subsection.

(c) A medical marijuana treatment center dispensing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location through a formal proceeding open to the public at which the county or municipality determines that the location promotes the public health, safety, and general welfare of the community.

(d) This subsection does not prohibit any local jurisdiction from ensuring medical marijuana treatment center facilities comply with the Florida Building Code, the Florida Fire Prevention Code, or any local amendments to the Florida Building Code or the Florida Fire Prevention Code.