

**ORDINANCE 16-01**

**AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, RELATING TO THE AMENDMENT OF THE CITY'S LAND DEVELOPMENT REGULATIONS; AMENDING SUBSECTION 4.1.2 – TABLE OF ALLOWED USES; AMENDING SUBSECTION 4.3 – USE SPECIFIC STANDARDS, BY CREATING SUBSECTIONS 4.3.2 (E) (3), 4.3.3 (A) (7), AND 4.3.4 (D) (2); AMENDING SUBSECTION 10.2-DEFINITIONS; AMENDING SUBSECTION 3.7.2 (C) (4); RELATING TO THE REGULATING OF MEDICAL MARIJUANA DISPENSARIES, MEDICAL MARIJUANA CULTIVATING SITES, AND MEDICAL MARIJUANA PROCESSING SITES; PROVIDING A REPEALING CLAUSE; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**R E C I T A L S**

**WHEREAS**, a Text Amendment to the City's Land Development Regulations ("LDRs"), as described below, has been proposed; and,

**WHEREAS**, a duly advertised public hearing was conducted on the proposed amendment on December 8, 2015 by the Planning and Zoning Board, sitting as the Local Planning Agency ("LPA"), and the LPA reviewed and considered comments received during the public hearing concerning the application and made its recommendation to the City Commission; and,

**WHEREAS**, the City Commission held duly advertised public hearings on \_\_\_\_\_ and \_\_\_\_\_ on the proposed amendment and provided for and received public participation; and,

**WHEREAS**, the City Commission has determined and found said application for the amendment to be consistent with the City's Comprehensive Plan and City's LDRs; and

**WHEREAS**, for reasons set forth in this ordinance that is hereby adopted and incorporated as findings of fact, that the Alachua City Commission finds and declares that the enactment of this amendment is in the furtherance of the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare; and

**WHEREAS**, the 2014 Florida Legislature approved Senate Bill 1030 providing for the growing, processing, and distributing of specific forms of low-THC (non-euphoric) cannabis to qualified patients and their caregivers for the treatment of listed medical conditions, which became effective on June 16, 2014 as Chapter 2014-157, Laws of Florida, and is codified at Section 381.986, Florida Statutes ("Senate Bill 1030"); and

**WHEREAS**, as of September 2015, the Florida Division of Elections has approved proposed initiatives for placement on the November 2016 ballot proposing to amend the Florida Constitution to authorize recreational use of cannabis, if the required number of signatures are obtained to place the initiatives on the ballot; and

**WHEREAS**, in addition to the potential recreational initiatives, a medical marijuana initiative is also collecting signatures for placement on the ballot for the November 2016 election, which would amend the Florida Constitution to authorize medical marijuana (hereinafter the "proposed 2016 ballot initiative"); and

**WHEREAS**, the Florida legislature may consider and enact legislation permitting the use of additional alternative forms of medical marijuana (medical marijuana in all its forms including low-THC cannabis, together referred to as "medical marijuana") and alternative dispensing methods (including, but not limited to, smoking and food products); and

**WHEREAS**, in the event the Florida legislature enacts legislation expanding the approved forms of medical marijuana and alternative dispensing methods for medical purposes, or in the event the proposed 2016 ballot initiative for medical marijuana or one of the proposed 2016 ballot initiatives for non-medical/recreational marijuana passes, the City Commission believes it is in the best interests of the citizens of Alachua to have in place certain regulations regarding medical marijuana and non medical/recreational marijuana;

**NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF ALACHUA, FLORIDA:**

**Section 1.      Interpretation of Recitals**

The above recitals are true and correct and incorporated in this ordinance.

**Section 2.      Findings of Fact and Conclusions of Law**

The authority for the enactment of this ordinance is Chapter 163, Part I, Florida Statutes; Sections 166.021 and 166.041; and the City's Comprehensive Plan.

**Section 3.      Amendment to the Land Development Regulations**

The proposed amendments to the City's Land Development Regulations are attached as Exhibit "A" and are hereby incorporated herein by reference.

**Section 4.      Codification of and Correction of Scrivener's Errors**

The City Manager or designee, without public hearing, is authorized to correct any typographical errors which do not affect the intent of this ordinance. A corrected copy shall be posted in the public record.

**Section 5.      Ordinance to be Construed Liberally**

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety and welfare of the citizens and residents of the City of Alachua, Florida.

**Section 6.      Repealing Clause**

All ordinances or parts of ordinances in conflict herewith are, to the extent of the conflict, hereby repealed.

**Section 7.     Severability**

It is the declared intent of the City Commission of the City of Alachua that, if any section, sentence, clause, phrase, or provision of this ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by any court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance, and the remainder of the ordinance after the exclusions of such part or parts shall be deemed to be valid.

**Section 8.     Effective Date**

This ordinance shall take effect immediately after its passage and adoption. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before this amendment has become effective.

**PASSED** on first reading the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**PASSED** and **ADOPTED**, in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

CITY COMMISSION OF THE  
CITY OF ALACHUA, FLORIDA

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**Gib Coerper, Mayor**

SEAL

**ATTEST:**

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Traci L. Cain, City Manager/Clerk

## EXHIBIT “A” TO ORDINANCE 16-01

**Table 4.1-1** of the Land Development Regulations is amended as follows (text that is underlined is to be added and text that is shown as ~~strikethrough~~ is to be removed.) Except as amended herein, the remainder of Table 4.1-1 remains in full force and effect.

Table 4.1-1: Table of Allowed Uses																									
P = Permitted Use    S = Special exception permit    A = Allowed in the PD districts    Blank Cell = Prohibited																									
Use Category/ Use Type	CSV	A	Residential								Business								Planned Development				Use Specific Standards (Sec. 4.3)		
			Single-Family (RSF)				Mobile Home (RMH)		Multiple Family (RMF)		OR	CN	CC	CBD	CI	CP	ILW	IG	GF	COMM	R	TND		EC	
			1	3	4	6	5	P	8	15															
<u>Medical Marijuana Dispensary</u>														<u>P</u>		<u>P</u>					<u>A</u>				<u>4.3.2 (E) (3)</u>
<u>Medical Marijuana Cultivation</u>		<u>P</u>															<u>P</u>	<u>P</u>							<u>4.3.3(A)(1), (7)</u>
<u>Medical Marijuana Processing</u>																	<u>P</u>	<u>P</u>							<u>4.3.4 (D) (2)</u>
<u>Non- medical marijuana processing, cultivating, dispensing</u>																									

**Subsection 4.3.2 (E) (3)** of the Land Development Regulations is amended as follows (text that is underlined is to be added and text that is shown as ~~striketrough~~ is to be removed.) Except as amended herein, the remainder of Section 4.3.2 (E) remains in full force and effect.

(3) *Medical Marijuana Dispensary.* All medical marijuana dispensaries shall comply with the following standards:

(a) *Separations.* As measured in a straight line from the property line of each listed use to the center of the primary front entrance of the dispensary, be separated at least:

- (i) 2000 feet from public and private Schools
- (ii) 2000 feet from established houses of worship
- (iii) 2000 feet from established daycares
- (iv) 2000 feet from any other licensed or permitted medical marijuana dispensary
- (v) 2000 feet from uses permitting onsite consumption of alcohol, except for restaurants that derive 51% of their income from sales of nonalcoholic beverages and food
- (vi) 200 feet from residentially zoned parcels and residential PUD parcels
- (vii) 500 feet from the centerlines of the following streets:

1. US Highway 441 (also known as, M L King Boulevard / NW 13<sup>th</sup> Street)

(b) *Adequate facilities.* Provide adequate interior seating or waiting area so that patients will not be required to wait or stand outside.

(c) *Alcohol Sales Prohibited.* No sales of alcohol permitted on site.

(d) *Drive through service prohibited.* Drive-through services, pick-up windows, or any other services in which a patient is not required to exit their vehicle is not permitted, except in compliance with any Americans with Disabilities Act (ADA) requirements.

(e) *Outside display.* Display of any goods, materials, equipment, and marijuana outside of the structure is prohibited.

(f) *Signage.* All signs shall comply with Section 6.5 of these Land Development Regulations.

(g) *Security.* Dispensary uses shall have a security system or apparatus in place that includes:

(i) Time –delay safe

(ii) Security camera system

(iii) At least one of the following: dedicated private security officer on premises during operating hours, pass-through door constructed with bullet-resistant glass or other transparent bullet-resistant -material, or a security services agreement with Alachua Police Department.

(h) *Hours of Operation.* No medical marijuana dispensary shall be open to the general public before 7:00 AM or after 9:00 PM.

(i) *Exclusion areas.* In no case, shall medical marijuana dispensaries be permitted in the following :

(i) Residential zoning categories

(ii) The US Highway 441/ Interstate 75 Gateway Overlay District

(iii) Within the Community Redevelopment Area

(iv) Within the geographic area located south of U.S. Highway 441 and between Turkey Creek Boulevard and NW 109<sup>th</sup> Lane

(j) *Dispensing Organization.* The operator of the property must be a dispensing organization licensed and permitted through the State of Florida Department of Health, Office of Compassionate Use.

(k) *On-site consumption prohibited.* No consumption in any fashion or manner is permitted on the premises.

(l) *Recreational or non-medical marijuana dispensaries prohibited.* Nothing in these Land Development Regulations shall be construed to permit recreational or non-medical marijuana dispensaries.

(m) *Existing pharmacies exempted.* Licensed pharmacies, together only with their existing respective locations, in existence as of the effective date of the enactment of this ordinance shall be exempt from the requirements of this ordinance. All new licensed pharmacies thereafter shall be required to adhere to all of the guidelines and restrictions outlined and specified in this ordinance.



**Subsection 4.3.3 (A) (7)** of the Land Development Regulations is amended as follows (text that is underlined is to be added and text that is shown as ~~struckthrough~~ is to be removed.) Except as amended herein, the remainder of Section 4.3.3 (A) remains in full force and effect.

(7) *Medical Marijuana Cultivating.* All medical marijuana cultivating uses shall comply with the following standards:

(a) *Separations.* As measured in a straight line from the property line of each listed use to the center of the primary front entrance(s) of the structure(s) in which the cultivation use is housed, be separated at least:

- (i) 2000 feet from public and private Schools
- (ii) 2000 feet from established houses of worship
- (iii) 2000 feet from established daycares
- (iv) 2000 feet from any other licensed or permitted medical marijuana dispensary
- (v) 2000 feet from uses permitting onsite consumption of alcohol, except for restaurants that derive 51% of their income from sales of nonalcoholic beverages and food
- (vi) 200 feet from residentially zoned parcels and residential PUD parcels
- (vii) 500 feet from the centerlines of the following streets:

1. US Highway 441 (also known as, M L King Boulevard / NW 13<sup>th</sup> Street)

(b) *No sales or dispensing.* All sales or dispensing of any product is prohibited.

(c) *Outside display.* Display of any goods, materials, equipment, and marijuana outside of the structure is prohibited.

(d) *Security.* Cultivating uses shall have a security systems or apparatus in place that includes:

- (i) Fencing to include all structures used for cultivation purposes.
- (ii) Locking gate at access point(s) to property from right-of-way

(e) *Enclosed structure.* All cultivating must be in an entirely enclosed structure and so designed so that no odor is emitted from the structure and detectable off the site.

(f) *Minimum Lot Size.* The minimum lot size for this use shall be 10 acres.

(g) *Dispensing Organization.* The operator of the property must be a dispensing organization licensed and permitted through the State of Florida Department of Health, Office of Compassionate Use.

(h) *Recreational or non-medical marijuana cultivations prohibited.* Nothing in these Land Development Regulations shall be construed to permit recreational or non-medical marijuana cultivation.

(i) *Exclusion areas.* In no case, shall medical marijuana dispensaries be permitted in the following :

(i) *Residential zoning categories*

(ii) *The US Highway 441/ Interstate 75 Gateway Overlay District*

(iii) *Within the Community Redevelopment Area*

(iv) *Within the geographic area located south of U.S. Highway 441 and between Turkey Creek Boulevard and NW 109<sup>th</sup> Lane*

**Subsection 4.3.4 (D) (2)** of the Land Development Regulations is amended as follows (text that is underlined is to be added and text that is shown as ~~struckthrough~~ is to be removed.) Except as amended herein, the remainder of Section 4.3.4 (D) remains in full force and effect.

(2) *Medical Marijuana Processing.* All medical marijuana processing uses shall comply with the following standards:

(a) *Separations.* As measured in a straight line from the property line of each listed use to the center of the primary front entrance(s) of the structure(s) in which the processing use is housed, be separated at least:

(i) *2000 feet from public and private schools*

(ii) *2000 feet from established houses of worship*

- (iii) 2000 feet from established daycares
- (iv) 2000 feet from any other licensed or permitted medical marijuana dispensary
- (v) 2000 feet from uses permitting onsite consumption of alcohol, except for restaurants that derive 51% of their income from sales of nonalcoholic beverages and food
- (vi) 200 feet from residentially zoned parcels and residential PUD parcels
- (vii) 500 feet from the centerlines of the following streets:
  - 1. US Highway 441 (also known as, M L King Boulevard / NW 13<sup>th</sup> Street)
- (b) No sales or dispensing. All sales or dispensing of any product is prohibited.
- (c) Outside display. Display of any goods, materials, equipment, and marijuana outside of the structure is prohibited.
- (d) Security. Processing uses shall have a security systems or apparatus in place that includes:
  - (i) Security camera system
- (e) Enclosed structure. All processing must be in an entirely enclosed structure and so designed so that no odor is emitted from the structure and detectable off the site.
- (f) Dispensing Organization. The operator of the property must be a dispensing organization licensed and permitted through the State of Florida Department of Health, Office of Compassionate Use.
- (g) Recreational or non-medical marijuana cultivations prohibited. Nothing in these Land Development Regulations shall be construed to permit recreational or non-medical marijuana cultivation.
- (h) Exclusion areas. In no case, shall medical marijuana dispensaries be permitted in the following :
  - (i) Residential zoning categories
  - (ii) The US Highway 441/ Interstate 75 Gateway Overlay District
  - (iii) Within the Community Redevelopment Area

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- (iv) Within the geographic area located south of U.S. Highway 441 and between Turkey Creek Boulevard and NW 109<sup>th</sup> Lane

**Section 10.2** of the Land Development Regulations is amended as follows (text that is underlined is to be added and text that is shown as ~~striketrough~~ is to be removed.) Except as amended herein, the remainder of Section 10 remains in full force and effect. Additional definitions should be placed in their respective alphabetical location.

*Dispensing organization* means an organization that meets the requirements of Section 381.986(5)(b)1., F.S., including its contractual agents, which has been authorized by the State of Florida to cultivate, process and dispense low-THC cannabis.

*Medical marijuana dispensary* means a location where the dispensing organization has been authorized by the State of Florida to dispense medical marijuana at retail to those individuals who have been added to the State's compassionate use registry by an authorized physician.

*Medical marijuana cultivation* means a location where the dispensing organization has been authorized by the State of Florida to cultivate medical marijuana. This includes research carried out by entities permitted by the State to carry out such research.

*Medical marijuana processing* means a location where the dispensing organization has been authorized by the State of Florida to process medical marijuana.

*Medical marijuana* means low- THC cannabis permitted by the State of Florida for the treatment of medical conditions.

*Cannabis farm* means a location used for medical marijuana cultivation.

*Medical cannabis* means medical marijuana.

Recreational or non-medical marijuana means any marijuana or marijuana product that does not meet the definition of medical marijuana.

Non-medical marijuana dispensary means a location, as defined in Chapter 64-4, F.A.C., where recreational or non-medical marijuana is distributed at retail.

Non-medical marijuana cultivation means a location, as defined in Chapter 64-4, F.A.C., where recreational or non-medical marijuana is cultivated.

Non-medical marijuana processing means a location, as defined in Chapter 64-4, F.A.C., where recreational or non-medical marijuana is processed.

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 dispensing organization. The term does not include the possession, use, or administration of cannabis or cannabis derivative by burning or igniting and inhaling the smoke. See s. 385.211, F.S.

Security Camera System means a system of video cameras that record the following areas: all entrances and exits to all buildings, including loading bays or doors, parking lots, and any other sensitive areas of the site including vaults, safes, points of customer transactions and restricted areas. Each camera must be placed where it can obtain an unobstructed front view of the head and shoulders of all individuals entering and exiting the facility. Digital or analog records of activity must be maintained for a minimum of ten days.

*Private Security Officer* means an individual who is licensed through the Florida Department of Agriculture and Consumer Services to provide security services.

**Subsection 3.7.2 (C) (4)** of the Land Development Regulations is amended as follows (text that is underlined is to be added and text that is shown as ~~striketrough~~ is to be removed.) Except as amended herein, the remainder of Section 3.7.2 (C) remains in full force and effect.

(4) *Prohibited uses.*

- (a) Permitted and special exception uses allowed in the underlying zoning designation shall be allowed in the U.S. 441/1-75 Gateway Overlay District, unless modified by the Overlay District standards of this section. The following uses shall be prohibited within the U.S. 441/1-75 Gateway Overlay District:

- (i) Automobile body shop.
- (ii) Commercial parking lot or structure.
- (iii) Crematory.
- (iv) Funeral home.
- (v) Laundromat.
- (vi) Machine shop.
- (vii) ~~Medical and non-medical marijuana dispensaries, processing locations, and cultivation locations~~
- ~~(vii)~~(viii) Outdoor display of any type of motorized vehicles, boats, or equipment for sale or rental, except for automobile rentals associated with hotels or motels.
- ~~(viii)~~(ix) Outdoor kennel.
- ~~(ix)~~(x) Recycling dropoff center.
- ~~(x)~~(xi) Sexually oriented businesses.
- ~~(xi)~~(xii) Tattoo parlors.