



City of North Port

ORDINANCE NO. 2016-33

(Amendments to the Code of the City of North Port and the City of North Port Unified Land Development Code to include regulations related to low-THC cannabis and medical cannabis dispensing facilities, including Unified Land Development Code Section 25-17 off-street parking requirements, Unified Land Development Code Section 53-254 special exception provisions, Unified Land Development Code Section 61-3 definitions, and Code of the City of North Port Section 34-40 business tax receipt provisions)

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CODE OF THE CITY OF NORTH PORT AND THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT CODE TO INCLUDE REGULATIONS RELATED TO LOW-THC CANNABIS AND MEDICAL CANNABIS DISPENSING FACILITIES BY AMENDING UNIFIED LAND DEVELOPMENT CODE CHAPTER 25 PARKING AND LOADING REGULATIONS, ARTICLE II OFF-STREET PARKING, SECTION 25-17.B MINIMUM OFF-STREET PARKING REQUIREMENTS; AMENDING UNIFIED LAND DEVELOPMENT CODE CHAPTER 53 ZONING REGULATIONS, ARTICLE XXII SPECIAL EXCEPTIONS, SECTION 53-254 GENERAL PROVISIONS TO ADD NEW SUBSECTION A(1)(g); AMENDING UNIFIED LAND DEVELOPMENT CODE CHAPTER 61 DEFINITIONS, SECTION 61-3 DEFINITIONS AND WORD USAGE; AMENDING CODE OF THE CITY OF NORTH PORT CHAPTER 34 LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS, ARTICLE II BUSINESS TAX RECEIPTS TO ADD NEW SECTION 34-40 DISPENSING FACILITIES; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODING OF AMENDMENTS; PROVIDING FOR A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 16, 2014, Florida Statutes Section 381.986 became law, allowing for the “compassionate use” of low-THC cannabis by individuals with cancer or chronic symptoms of seizures or severe and persistent muscle spasms; and

WHEREAS, on March 25, 2016, amendments to Florida Statutes Sections 381.986 and 499.0295 became law, allowing access to medical cannabis for patients who are terminally ill and expected to die within a year without medical intervention; and

WHEREAS, from July 26, 2016 to October 1, 2016, at least 3 cannabis dispensaries have opened in the State of Florida, with more applications for authorization from the Florida Department of Health pending; and

WHEREAS, pursuant to Article VIII Section 2 of the Constitution of the State of Florida and Florida Statutes Section 166.021, the City of North Port has the governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Florida Statutes Section 381.986(8) preempts to the state all matters regarding the regulation of the cultivation and processing of medical cannabis or low-THC cannabis by dispensing organizations, and further provides that, “A municipality may determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with state law or [Florida Department of Health] rule for, dispensing facilities of dispensing organizations located within its municipal boundaries”; and

WHEREAS, the City Commission of the City of North Port has determined that it is advisable and in the public interest to set certain distance and other siting and permitting standards in regard to the location and operation of dispensing facilities; and

WHEREAS, the City of North Port Planning and Zoning Advisory Board designated as the Local Planning Agency (LPA) has held a public hearing with due public notice to receive public comments on the revision of the Unified Land Development Code; and

WHEREAS, the North Port City Commission has held public hearings with due public notice to review the recommendations of the North Port Planning and Zoning Advisory Board, and to receive public comments on the revision of the Unified Land Development Code; and

WHEREAS, the City Commission of the City of North Port finds that this ordinance promotes the general health, welfare, and safety of the citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, AS FOLLOWS:

SECTION 1 – FINDINGS:

The City Commission hereby makes the following findings:

1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

1.02. The Commission has held public hearings on the proposed amendments described herein in accordance with the requirements of the City of North Port Unified Land Development Code and has considered the information received at said public hearings.

1.03. The Commission has reviewed the proposed amendments provided herein and has found that the amendments are consistent with the City of North Port Comprehensive Plan.

SECTION 2 – ADOPTION:

2.01 The North Port City Commission hereby approves and adopts the following amendments to the Code of the City of North Port and the City of North Port Unified Land Development Code, attached hereto as Exhibit "A" and incorporated as if set forth herein.

SECTION 3 – CONFLICTS:

3.01 In the event of any conflict between the provisions of this Ordinance and any other Ordinance or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 4 – SEVERABILITY:

4.01 If any section, subsection, sentence, clause, phase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5 – CODING OF AMENDMENTS:

5.01 In this Ordinance, additions are shown as underlined and deletions as strikethrough. These editorial notations shall not appear in the codified text.

SECTION 6 – PENALTY:

6.01 Any person, firm or corporation convicted for violating any of the provisions or terms of this Ordinance shall be subject to the penalties provided for in Code of the City of North Port Sections 1-7 and 34-23 and City of North Port Unified Land Development Code Section 1-23, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 7 – SAVINGS CLAUSE:

7.01 The Code of the City of North Port, as amended, and the City of North Port Unified Land Development Code, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

SECTION 8 – EFFECTIVE DATE:

8.01 This Ordinance shall take effect immediately after adoption by the City Commission of the City of North Port. No development order or development permits dependent on this Ordinance may be issued nor may development commence before it has become effective.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session this _____ day of _____, 2016.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, on the second and final reading in public session this _____ day of _____, 2016.

CITY OF NORTH PORT, FLORIDA

LINDA M. YATES
MAYOR

ATTEST:

PATSY C. ADKINS, MMC
CITY CLERK

APPROVED AS TO FORM AND
CORRECTNESS:

MARK MORIARTY
CITY ATTORNEY

Exhibit A

Sec. 61-3. – Definitions and word usage.

...

DISPENSING FACILITY – A facility of a dispensing organization that dispenses low-THC cannabis and/or medical cannabis.

DISPENSING ORGANIZATION – An organization authorized by the Florida Department of Health to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis.

...

LOW-THC CANNABIS – 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.

...

MEDICAL CANNABIS – 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, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in Florida Statutes Section 499.0295.

* * *

Sec. 53-254. – General provisions.

A. A special exception is a use that would not be appropriate generally or without restriction throughout a zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or the general welfare.

- (1) The following uses shall be considered special exceptions in all zoning districts and shall require a special exception permit unless specifically permitted.

...

(g) Dispensing facilities.

- (i) Except as otherwise specified in this section, dispensing facilities shall be permitted in all Activity Centers with Commercial General (CG) or Planned Community Development (PCD) zoning, only after the issuance of a special exception in accordance with Chapter 53, Article XXII and in accordance with the following standards. In a Community Development (PCD) Zoning District, dispensing facilities shall only be allowed where the established use is Commercial General (CG) and where no residential use exists on the property. Dispensing facilities shall not be permitted in Activity Center 6 unless and until the Urban Service Boundary is moved to include that location.
- (ii) Number. The number of dispensing facilities shall be limited to two (2) throughout the whole of the City of North Port. One (1) dispensing facility may be located east of Sumter Boulevard and one (1) dispensing facility may be located west of Sumter

Boulevard. No more than one (1) dispensing facility may be located in any one Activity Center.

- (iii) Distance. Dispensing facilities shall comply with the following separation requirements:
 - (a) No dispensing facility shall be located within one thousand five hundred (1,500) feet of any church, daycare, preschool, elementary school, middle school, high school, or any property owned by the School Board of Sarasota County.
 - (b) No dispensing facility shall operate within one thousand five hundred (1,500) feet of any existing dispensing facility.
 - (c) No dispensing facility shall operate within eight hundred (800) feet of any property with a residential use.
 - (d) The distance shall be measured by using a buffer starting on the perimeter of the parcel on which the existing use described in subsections (a) and (b) above is located. If the outside edge of the buffer crosses through a parcel, the use shall not be permitted on any part of said parcel.
 - (e) In case of dispute, City staff may require that the applicant furnish a certified survey from a registered engineer or surveyor licensed by the State of Florida. The map shall indicate the distance between the proposed dispensing facility to an existing dispensing facility, daycare, preschool, elementary school, middle school, or high school within the applicable radius. The measurement as determined by the Director of Neighborhood Development Services shall govern.
- (iv) Petition. In addition to the other materials required by this Article, as part of its written petition for a special exception, each applicant shall include a security plan exhibiting compliance with all provisions set forth in Florida Statutes Section 381.986(6)(d).
- (v) Conditions and safeguards. In addition to any other conditions and safeguards made a part of the terms under which a special exception is granted, all special exceptions granted for a dispensing facility shall include conditions that require ongoing compliance with the provisions set forth in Florida Statutes Section 381.986(6)(d).
- (vi) Landlord responsibility. Landlords who lease space to a dispensing facility must expressly incorporate language into the lease or rental agreement stating that failure to comply with the North Port Unified Land Development Code is a material non-curable breach of the lease and shall constitute grounds for termination of the lease and immediate eviction by the landlord.

* * *

Sec. 25-17. – Minimum off-street parking requirements.

...

- B. The following minimum off-street parking requirements are applicable to all zoning districts:

Use	Number of Spaces
... <u>Dispensing facility</u> ...	<u>1 for each 250 square feet of floor area.</u>

* * *

Sec. 34-40 – Dispensing facilities.

The applicant for a business tax receipt who wishes to operate a dispensing facility must produce current written notification from the Florida Department of Health authorizing the applicant as a dispensing organization.