

## **Land Development Code Amendment Request**

**ORIGIN:** Hurricane Irma After-Action Report to the Board of County Commissioners

**AUTHOR:** Zoning Division Staff

**LDC SECTION:** 5.05.04 Group Housing

**SUMMARY:** This amendment creates new requirements for assisted living facilities and nursing homes, as defined by §§ 400 and 429 F.S. that require Emergency Environmental Control Plans (EECP), and installation of permanent emergency generators.

**DESCRIPTION:** In September of 2017, Governor Rick Scott issued Emergency Rules after Hurricane Irma caused an extended power outage to a Broward County nursing home, resulting in heat-related deaths to several of its residents. After the close of the 2018 legislative session, Senate Bill 7028 ratified Rule 58A-5.036, F.A.C. entitled “Emergency Environmental Control for Assisted Living Facilities” and implemented by the Department of Elder Affairs (DOEA). Additionally, HB 7099 ratified Rule 59A.-4.1265 entitled “Emergency Environmental Control for Nursing Homes” and implemented by the Agency for Health Care Administration (ACHA). These rules require nursing homes and assisted living facilities to acquire alternative power sources, such as a generator, that ensure sufficient cooling temperatures are maintained at 81 degrees Fahrenheit or cooler, during extended power outages for at least 96 hours, to all of the facility’s residents.

With respect to the After-Action Findings of Collier County’s Hurricane Irma Response, Staff presented several regulatory responses to the Board of County Commissioners at their Work Session on November 7, 2017. Regulatory Action #1 suggested drafting an ordinance that would require the expansion of on-site generator requirements for licensed health care facilities.

This amendment proposes to incorporate some of the standards of Rules 58A-5.036 and 59A.-4.1265 F.A.C., including the requirement for an EECP. Assisted living facilities (ALFs) and nursing homes, as defined by §§ 400 and 429 F.S., are now required to submit an EECP to the County’s Bureau of Emergency Services (BES) and continue to do so on an annual basis. The EECP must identify the County’s primary and secondary evacuation locations and the finished floor elevation for the first and second floors of all ALFs and nursing homes. The EECP also includes information regarding permanent emergency generators. The following is required for permanent emergency generators:

- Capability of keeping the ambient air temperature in all ALFs and nursing homes at or below 81 degrees Fahrenheit for a minimum of 96 hours in the event of the loss of primary electrical power;
- Sufficient fuel supply to ensure compliance with §§ 58A-5.036 F.A.C., as amended, and 59A-4.1265 F.A.C., as amended;
- Backup power connectivity to accommodate a secondary back-up generator, in the event of permanent emergency generator failure; and

- Annual third-party testing and inspection of permanent emergency generator, under load, by manufacturer’s specifications.

**FISCAL & OPERATIONAL IMPACTS:** In the “Statement of Estimated Regulatory Costs” of the summary bill analysis for Senate Bill 7028 prepared by DOEA, a one-time estimated average ALF facility cost to comply was assumed at \$19,033 for 6 beds or less; \$68,637 for 7 to 49 beds; \$106,721 for 50 to 100 beds and for more than 100 beds, \$439,000. In the “Statement of Estimated Regulatory Costs” prepared by AHCA, a one-time estimated average nursing home cost to comply was assumed at \$2,627 per bed. There will be additional costs to comply with the requirements for backup power connectivity and third-party testing. The one-time estimates did not include reoccurring operational and maintenance costs.

**GROWTH MANAGEMENT PLAN IMPACT:** This LDC amendment supports Goal 12 of the Conservation and Coastal Management Element of the GMP which requires the County, “to make every reasonable effort to ensure the public safety, health and welfare of people and property from the effects of hurricane storm damage.” It is consistent with Policy 12.1.14, which states:

*All new nursing homes and assisted living facilities that are licensed shall have a core area to shelter residents and staff on site. The core area will be constructed to meet the Public Shelter Design Criteria that are required for new public schools and public community colleges and universities (“State Requirements for Educational Facilities,” 2014). Additionally, this area shall be capable of ventilation of air conditioning provided by back-up generator for a period of no less than seventy-two (72) hours.*

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**Amend the LDC as follows:**

1  
2 **5.05.04 – Group Housing**

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4 E. Emergency Environmental Control Plans. In accordance with Rules 58A-5.036 and 59A-  
5 4.1265, F.A.C., as amended, Emergency Environmental Control Plans for assisted living  
6 facilities and nursing homes, as defined by §§ 400 and 429 F.S., shall be submitted  
7 annually to the Bureau of Emergency Services-Emergency Management Division in care  
8 of Human Services.

9 1. Emergency Environmental Control Plans shall include the following:

10 a. Primary evacuation locations, either within or outside the County, and a  
11 secondary location outside of the county.

12 b. Finished floor elevation of the first and second floors of all structures.

13 c. Permanent emergency generator. Assisted living facilities or nursing  
14 homes, as defined by §§ 400 and 429 F.S., shall install permanent  
15 emergency generators to ensure ambient air temperatures will be  
16 maintained at or below 81 degrees Fahrenheit for a minimum of 96 hours  
17 in the event of the loss of primary electrical power.

18 i. Generator specifications.

19 a) Permanent emergency generators and the associated fuel  
20 supply shall be sized to ensure compliance with §§ 58A-

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5.036 F.A.C., as amended, for assisted living facilities and 59A-4.1265 F.A.C., as amended, for nursing homes.

b) Permanent emergency generators shall be installed, tested and maintained in accordance with NFPA 99 Health Care Facilities Code, and NFPA 110, Standard for Emergency and Standby Power Systems.

ii. Backup connectivity. A power transfer switch or automatic transfer switch shall be installed to accommodate a secondary or back-up generator connection point in the event of permanent emergency generator failure.

iii. Submittal Requirements. The following shall be submitted when installing a permanent emergency generator:

a. Manufacturer's specifications of the generator.

b. Calculations demonstrating adequacy of fuel supply to comply with §§ 58A-5.036 F.A.C., as amended, for assisted living facilities and 59A-4.1265 F.A.C., as amended, for nursing homes.

iv. Regular testing and inspections required. Permanent emergency generators shall be tested under load as required by §§ 58A-5.036 F.A.C., as amended, for assisted living facilities and 59A-4.1265 F.A.C., as amended, for nursing homes, and by manufacturer's specifications, and be inspected a minimum of once a year. Each facility shall keep a written statement on site attesting to the regular maintenance, third-party testing, and inspection of the generator and fuel system by a service organization authorized by the manufacturer.

2. Emergency Environmental Control Plans shall be reviewed and approved by the Bureau of Emergency Services-Emergency Management Division in care of Human Services.

3. Notification of plan submittal shall be as identified in Rules 58A-5.036 and 59A-4.1265, F.A.C., as amended.

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## **Land Development Code Amendment Request**

**ORIGIN:** Hurricane Irma After-Action Report to the Board of County Commissioners

**AUTHOR:** Growth Management Department, Zoning Division Staff

**LDC SECTIONS:** 5.05.05 Facilities with Fuel Pumps

**SUMMARY:** This amendment clarifies the requirement to install a generator transfer switch at gas station facilities and introduces the requirement to install a permanent emergency generator.

**DESCRIPTON:** At the Board of County Commissioners Work Session on November 7, 2017, Staff presented several regulatory responses to the After-Action Findings regarding the County's Hurricane Irma Response. Regulatory Action #3 suggested strengthening the emergency generator requirements for commercial gas stations located near the interstate highway and multi-pump stations located further inland. The recommendation also stated the need for annual testing of permanent on-site generators and operational certificates.

Pursuant to F.S. 526.143, there are existing standards for newly constructed and substantially renovated gas stations that require such facilities to be capable of operating under an alternate form of generated power. These standards require gas stations to be pre-wired with a generator transfer switch (GTS). Entities or corporations owning 10 or more gas stations within the County are required to have at least one portable generator for every 10 gas stations. The standards also include the periodic testing of related equipment.

This LDC amendment incorporates some of the standards from F.S. 526.143 and includes additional requirements based on the Board's After-Action Findings recommended regulatory action. This amendment proposes the following changes to LDC section 5.05.05 I:

- 1) Clarifies an existing LDC provision that requires all facilities with fuel pumps to be pre-wired with a GTS;
- 2) Facilities that are newly constructed, facilities located within one-half mile of an interstate or evacuation route, and facilities that are substantially renovated are required to install a permanent emergency generator;
- 3) Facilities with a permanent emergency generator shall conduct annual testing of the generator and keep a written statement on site attesting to the periodic testing of the equipment; and
- 4) Includes exempted businesses, such as automotive vehicle dealers (SIC 5511), establishments operating a fleet of motor vehicles, and others.

**FISCAL & OPERATIONAL IMPACTS:** There are no anticipated fiscal or operational impacts associated with this amendment.

**GROWTH MANAGEMENT PLAN IMPACTS:** This amendment supports Goal 12 of the Conservation and Coastal Management Element of the GMP which requires the County, "to make every reasonable effort to ensure the public safety, health and welfare of people and property from the effects of hurricane storm damage."

**Amend the LDC as follows:**

**5.05.05 – Facilities with Fuel Pumps**

- \* \* \* \* \*
- 1. Permanent emergency generators.
  - 1. Purpose and intent. The following provisions are intended to protect the public health, safety and welfare through improved evacuation capability and commercial fuel availability during a state of emergency.
  - 2. Each facility with fuel pumps shall provide the necessary infrastructure and pre-wiring in order to provide the capabilities for generator service capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment in case of emergencies.
  - 3. Facilities with fuel pumps that are newly constructed, or that are located within one-half mile to an interstate highway or state or federally designated evacuation route, or when additions or renovations exceed 50 percent of the assessed value of the existing structure shall install a permanent emergency generator capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment for use in case of emergencies.
  - 4. Permanent emergency generators or transfer switches must be tested under load and according to manufacturer’s specifications. Each facility must keep a written statement on site attesting to the periodic testing of the equipment.
  - 5. The following are exempt from LDC section 5.05.05 I:
    - a. Automotive vehicle dealers (SIC Code 5511);
    - b. Establishments operating a fleet of motor vehicles;
    - c. Establishments which sell motor fuel exclusively to a fleet of motor vehicles;
    - or
    - d. Establishments that have a written agreement with a public hospital in a form approved by the Florida Division of Emergency Management, wherein the public hospital agrees to provide the establishment with an alternative means of power generation on-site so that the establishment’s fuel pumps may be operated in the event of a power outage.

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**Land Development Code Amendment Request**

**ORIGIN:** Hurricane Irma After-Action Report to the Board of County Commissioners

**AUTHOR:** Zoning Division Staff

**LDC SECTIONS:** 5.05.17 Residential Developments with Community Clubhouses or Recreational Facilities (New Section)

**SUMMARY:** This amendment establishes new standards for community clubhouses or recreational facilities in residential developments, to aid in the County’s emergency response and recovery after an emergency event, such as a tropical storm or a hurricane.

**DESCRIPTION:** At the Board’s Work Session on November 7, 2017, Staff presented several regulatory responses to the After-Action Findings regarding the County’s Hurricane Irma Response. Regulatory Action #2 suggested creating a local ordinance to help address evacuation shelter deficits.

This amendment proposes to allow community clubhouses or recreational facilities in private residential developments to be used in the post-event response and recovery efforts by requiring permanent emergency generators be installed at such new facilities that are at least 10,000 square feet. Existing facilities would be subject to these standards if they undergo a substantial addition or renovation and are at least 10,000 square feet. The amendment also creates minimum operating standards for permanent emergency generators at community clubhouses or recreational facilities.

Lastly, this amendment requires coordination, at time of generator installation, with the Bureau of Emergency Services-Emergency Management Division to consider allowing the County to use their private community clubhouses or recreational facilities for post-emergency response activities.

**FISCAL & OPERATIONAL IMPACTS:** There are no anticipated fiscal or operational impacts associated with this amendment.

**GROWTH MANAGEMENT PLAN IMPACT:** This amendment supports Goal 12 of the Conservation and Coastal Management Element of the GMP, “to make every reasonable effort to ensure the public safety, health and welfare of people and property from the effects of hurricane storm damage.”

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**Amend the LDC as follows:**

**5.05.17 – Residential Developments with Community Clubhouses or Recreational Facilities**

A. Purpose and intent. The purpose of this section is to protect the public health, safety and welfare and aid in the implementation of the County’s emergency response and recovery activities at the community level. The requirements are also intended to improve communication to residents before, during, and after emergency events.

1 B. Applicability. The following requirements shall apply to all residential developments with  
2 recreational facilities including, but not limited to, clubhouses or community center  
3 buildings.

4 C. Permanent emergency generators. Permanent emergency generators shall be required  
5 at clubhouses and community center buildings with a floor area of 10,000 square feet or  
6 greater that are newly constructed or when existing buildings undergo an addition or  
7 renovation that exceeds 50 percent of the assessed value, and have a total of 10,000  
8 square feet or greater.

9 1. Exemption. Residential developments with more than one community clubhouse  
10 or recreational center with a floor area of 10,000 square feet or greater are only  
11 required to install one permanent emergency generator at one of the centers.  
12 Any remaining centers are exempt from the requirements for permanent  
13 emergency generators.

14 2. Standards

15 a. Generator Capacity. Permanent emergency generators shall have a  
16 minimum operating capacity to provide service for the following:

17 i. Essential electrical systems within the building, including but not  
18 limited to exit lighting, emergency lighting, elevators, fire alarm  
19 system, bathroom exhaust fans, bathroom hot water heaters, and  
20 water and sewer lift stations.

21 ii. Lighting for a minimum of 30 percent of the building's floor area,  
22 including but not limited to the main meeting or gathering areas,  
23 hallways, and bathrooms.

24 iii. Air-conditioning for 30 percent of the building's floor area including  
25 the largest meeting or gathering area.

26 iv. Sufficient fuel to operate the generator for a minimum of 72 hours  
27 at the full load capacity.

28 b. Setbacks. Permanent emergency generators shall comply with the  
29 dimensional standards in LDC section 4.02.03.

30 D. Coordination with Emergency Management. At time of generator installation, residential  
31 communities shall coordinate with the Bureau of Emergency Services-Emergency  
32 Management Division to consider allowing the County to use their private community  
33 centers for post-emergency response activities. Communities choosing this cooperative  
34 effort with the County may do so through a voluntary Memorandum of Understanding  
35 (MOU) that allows the County to provide resources for post-storm refuge or staging of  
36 resources.

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## **Land Development Code Amendment Request**

**ORIGIN:** Hurricane Irma After-Action Report to the Board of County Commissioners

**AUTHOR:** Zoning Division Staff

**LDC SECTIONS:** 4.02.01 Dimensional Standards for Principal Uses in Base Zoning Districts  
4.05.04 Parking Space Requirements  
4.06.05 General Landscaping Requirements  
10.02.03 Requirements for Site Development, Site Improvement Plans and Amendments thereof

**SUMMARY:** This amendment creates new exemptions from certain design standards for existing facilities with fuel pumps, assisted living facilities (ALFs), and nursing homes that install permanent emergency generators and related fuel storage for an emergency event.

**DESCRIPTON:** At the Board of County Commissioners Work Session on November 7, 2017, Staff presented several regulatory responses to the After-Action Findings regarding the County's Hurricane Irma Response. Regulatory Actions #2 and #3 suggested the creation of new requirements to improve the County's recovery efforts after emergencies. Two other companion LDC amendments require permanent emergency generators in certain circumstances at assisted living facilities (ALFs), nursing homes, and facilities with fuel pumps.

This LDC amendment grants relief from certain design standards. The amendment reduces the minimum setbacks, parking requirements, and building foundation planting requirements for existing ALFs, nursing homes, and facilities with fuel pumps that install a permanent emergency generator. These reductions are intended to reduce or remove potential constraints that might limit the ability of existing businesses to install generators. Other requirements applicable to generators and other equipment such as screening requirements in LDC sections 4.06.02 and 5.05.08, and sound attenuation requirements in LDC section 4.02.01 D.13 are unchanged.

Additionally, this amendment also expands the list of items required on a site plan per LDC section 10.02.03 D to ensure that the location of permanent emergency generators and any related equipment is clearly identified on the site plan.

**FISCAL & OPERATIONAL IMPACTS:** There are no anticipated fiscal or operational impacts associated with this amendment.

**GROWTH MANAGEMENT PLAN IMPACTS:** There are no anticipated Growth Management Plan impacts associated with this amendment.



Amend the LDC as follows:

4.02.01 – Dimensional Standards for Principal Uses in Base Zoning Districts

D. Exemptions and exclusions from design standards.

13. Permanent emergency generators may be placed within the rear yard with a 10-foot rear yard setback. Permanent emergency generators may encroach into side yards up to 36 inches. Generators are not permitted to encroach into required front yards. Above-ground fuel tanks for the generators are subject to the same setbacks; however, underground tanks are not subject to setback requirements. In order to reduce noise during required routine exercising of the generators, this exercising is restricted to operating the generator for no more than 30 minutes weekly during the hours of 9:00 a.m. to 5:00 p.m. and shall not exceed sound level limits for Manufacturing and Industrial uses as set forth in Ordinance 90-17, the Noise Ordinance, as amended. All permanent emergency generators must be equipped with sound attenuating housing to reduce noise.

a. Facilities with fuel pumps. Permanent emergency generators and related fuel storage, installed at existing facilities with fuel pumps, may encroach into any required side or rear yards, provided no hazard to pedestrian or vehicular traffic is created.

b. Assisted living facilities and nursing homes. Permanent emergency generators and related fuel storage installed at existing assisted living facilities or nursing homes subject to LDC section 5.05.04 E. may encroach into any required side or rear yards or buffers, provided no hazard to pedestrian or vehicular traffic is created.

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4.05.04 – Parking Space Requirements

F. Minimum requirement.

1. Irrespective of any other requirement of this LDC, each and every separate individual store, office, or other business shall be provided with at least one (1) off-street parking space, unless specific provision is made to the contrary.

2. Existing facilities with fuel pumps that meet the off-street parking requirements of LDC section 4.05.04 G., may remove one required off-street parking space to accommodate the installation of a permanent emergency generator, fuel storage, and related screening.

3. Existing assisted living facilities or nursing homes subject to LDC section 5.05.04 E. that meet the required off-street parking requirements of LDC section 4.05.04 G., may remove up to 10 off-street parking spaces to accommodate the installation of a permanent emergency generator, fuel storage, and related screening.

24. The County Manager or designee may determine the minimum parking requirements for a use which is not specifically referenced below or for which an applicant has provided evidence that a specific use is of such a unique nature that the applicable minimum parking ratio listed in this LDC should not be applied. In making such a determination the County Manager or designee may require submission of parking generation studies; evidence of parking ratios applied by other counties and municipalities for the specific use; reserved parking pursuant

to section 4.05.05; and other conditions and safeguards deemed to be appropriate to protect the public health, safety and welfare.

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**4.06.05 – General Landscaping Requirements**

C. Building foundation plantings. All commercial buildings, residential buildings with 3 or more units, and retail and office uses in industrial buildings shall provide building foundation plantings in the amount set forth in table 4.06.05.C. and illustration 4.06.05.C. These planting areas shall be located adjacent to building entrance(s), primary façades, and/or along façades facing a street. For projects subject to architectural design standards, see LDC sections 5.05.08 E.—F. for related provisions.

\* \* \* \* \*

10. Existing facilities with fuel pumps may reduce the required building foundation planting area to accommodate the installation of a permanent emergency generator, fuel storage, and related screening. The reduction in building foundation planting area shall be less than or equal to the total area that is required to accommodate the generator, fuel storage, and related screening.

11. Existing assisted living facilities or nursing homes subject to LDC section 5.05.04 E. may reduce the required building foundation planting area to accommodate the installation of a permanent emergency generator, fuel storage, and related screening. The reduction in building foundation planting area shall be less than or equal to the square feet required to accommodate the generator, fuel storage, and related screening.

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**10.02.03 – Requirements for Site Development, Site Improvement Plans and Amendments thereof**

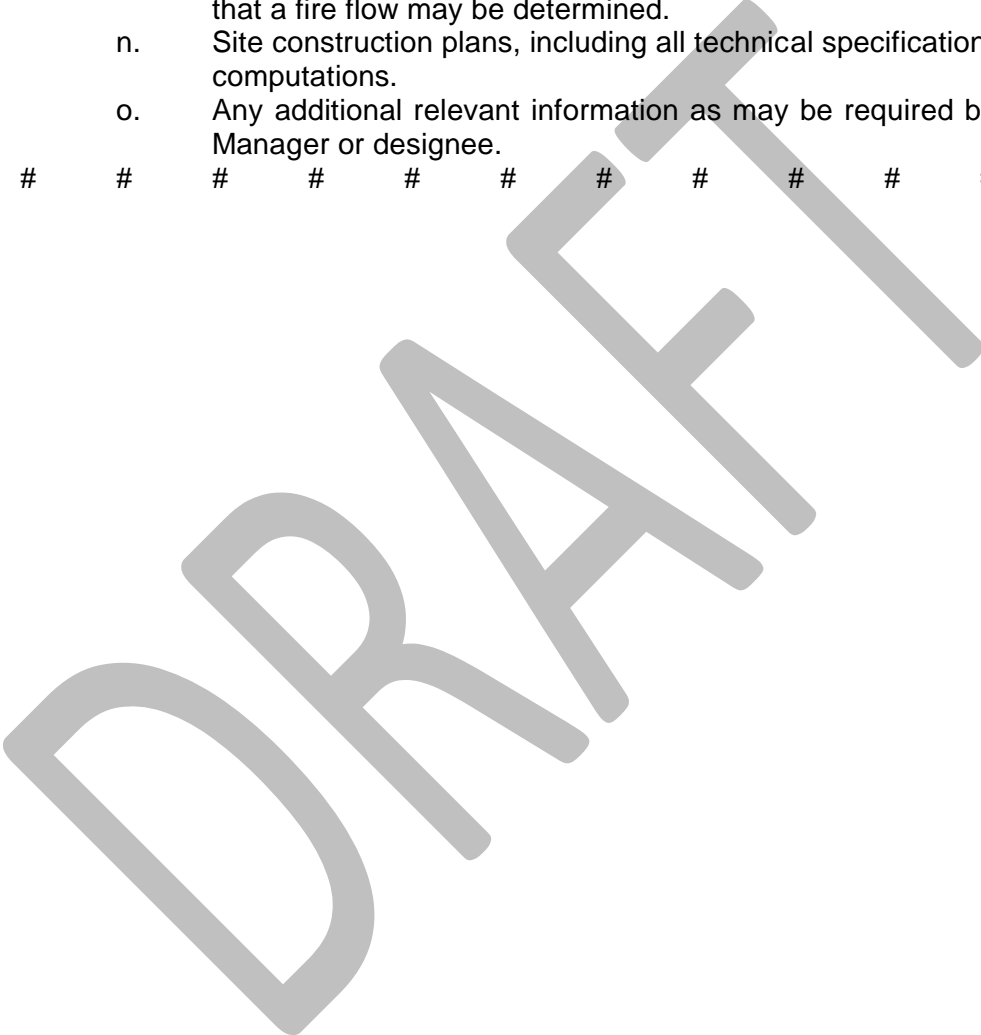
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D. *Site Development Plan Requirements (SDP)*. A pre-application meeting shall be conducted by the County Manager or designee prior to the submission of any site development plan for review. This meeting may be waived by the County Manager or designee upon the request of the applicant.

1. Application. The Administrative Code shall establish the process and submittal requirements for a site development plan. A site development plan application shall include, but not be limited to, the following information in order to illustrate compliance with LDC standards and other State, Federal, and local agency requirements.

- a. Zoning designation of the subject and adjacent properties.
- b. Site plan with existing and proposed buildings and structures, including equipment, permanent emergency generators and related above-ground equipment and screening, dimensions, heights, setbacks, and separations. Parking, open space, preserves, and other applicable land uses shall be identified on the site plan.
- c. Architectural plans.
- d. Environmental Data, as applicable.
- e. Landscape plans.
- f. Streetlight plans.
- g. Transportation system, sidewalks, and pathways, including all ADA information.

- 1 h. Stormwater management plan including all technical specifications and
- 2 design computations.
- 3 i. Utility information, including existing and proposed facilities.
- 4 j. Trash and recycling information.
- 5 k. Building plans.
- 6 l. Information from the Fire Code, including Fire Hydrant Flow test report,
- 7 if applicable.
- 8 m. Information from the Standard Building Code, including type of
- 9 construction, number of stories, total square footage under roof,
- 10 occupancy/use and fire sprinkler intentions of all proposed structures so
- 11 that a fire flow may be determined.
- 12 n. Site construction plans, including all technical specifications and design
- 13 computations.
- 14 o. Any additional relevant information as may be required by the County
- 15 Manager or designee.
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## **Land Development Code Amendment Request**

**ORIGIN:** Board of County Commissioners

**AUTHOR:** Zoning Division Staff

**LDC SECTIONS:** 4.06.01 Generally  
4.06.02 Buffer Requirements  
4.06.03 Landscaping Requirements for Vehicular Use Areas and Rights-of-Way  
4.06.05 General Landscaping Requirements

**SUMMARY:** This amendment increases the size of required landscaping trees and modifies the standards at shopping centers that remove mature canopy trees within the vehicular use areas (VUAs) and “Type D” buffers through a landscaping plan change.

### **DESCRIPTION:**

#### *Board Direction:*

Over several years, residents have petitioned the Board regarding impacts on surrounding residential neighborhoods when mature canopy trees are removed from shopping centers and replaced with the minimum tree planting requirements of the LDC.

On January 23, 2018, Zoning Division staff presented to the Board background information regarding landscaping changes in shopping centers, and potential LDC changes that could mitigate the impact of the loss of mature canopy trees on the surrounding community. The Board directed staff to draft LDC standards that maintain the ability to change existing landscaping plans while also ensuring any changes would maintain a favorable tree canopy and an aesthetically pleasing community appearance.

#### *Existing standards:*

When trees are replaced in the VUAs or “Type D” buffers at shopping centers, the replacement trees are required to meet the same minimum standards for landscaping material required for new developments. The minimum tree height, caliper, and canopy spread required at the time of installation are:

- Height: 10 feet,
- Caliper: 1 ¾ inches, and
- Canopy spread: four feet.

Additionally, for buildings that are a minimum of 20,000 square feet, LDC section 4.06.03 B.9 requires that trees in the VUAs be a minimum of:

- Height: 14 to 16 feet,
- Caliper: three to four inches,
- Canopy spread: six to eight feet, and
- Clear trunk height: six feet high.

*Proposed changes:*

The amendment proposes new minimum standards for shopping centers when replacing non-palm species trees through a landscaping plan change as follows:

- A new table to determine the minimum size of replacement trees. The replacement trees shall have a caliper of approximately 50 percent of the removed tree(s) within the VUAs and “Type D” buffers.
  - The new minimum sizes for replacement trees may be satisfied by providing either a single tree or a combination of multiple smaller trees, which would provide the equivalent total caliper inches.
- New tree spacing standards within “Type D” buffers will provide better visibility to buildings and wall signage within shopping centers. This new standard would:
  - Allow an increase to tree spacing from 30 feet on-center to 60 feet on-center in limited situations (see new LDC Section 4.06.03 D.3).
  - Require three trees on both sides of the 60 foot on-center spacing within the “Type D” buffer to have a minimum of a 30-foot crown spread.
- Slash pine and bald cypress trees shall be prohibited in new landscape plans and changes to existing landscape plans within the VUA and “Type D” buffer due to their ineffectiveness to provide an adequate canopy and flourish in areas of a site that are irrigated.
- Adds to the landscaping plan submittal requirements in LDC section 4.06.01 to include the caliper of existing trees to facilitate review of these new requirements.
- Lastly, the amendment adds cross-references to the new standards in LDC section 4.06.02.

These changes are intended to balance the aesthetical value of mature canopy trees with the surrounding neighborhoods, and owners with the need to redesign and update the appearance of shopping centers. The standards provide options for compliance and provides flexibility in site design and an alternative to replacing trees or maintaining the existing mature trees.

*Summary of public input:*  
Forthcoming.

**FISCAL & OPERATIONAL IMPACTS:** The amendment may increase costs to shopping center owners updating landscaping plans by replacing non-palm tree species.

**GROWTH MANAGEMENT PLAN IMPACT:** Forthcoming.

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**Amend the LDC as follows:**

- 1 **4.06.01 Generally**
- 2 E. Landscaping Plans Required.
- 3 1. Landscape summary. A landscape summary in matrix form which shall include:
- 4 a. Graphic symbol to indicate each type of plant material.
- 5 b. Botanical name.
- 6 c. Common name.
- 7 d. Total number of each type of plant material.
- 8 e. Height and spread of each type of plant material.

- f. Spacing of each type of plant material.
- g. In accordance with LDC section 4.06.03 D., caliper of existing and replacement trees for shopping centers when replacing non-palm tree species within the vehicular use areas and Type D landscape buffers through a landscaping plan change.

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**4.06.02 Buffer Requirements**

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C. Types of buffers. Within a required buffer strip, the following types of buffers shall be used based on the matrix in table 2.4. (See Figure 4.06.02.C-1)

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- 4. *Type D Buffer:* A landscape buffer shall be required adjacent to any road right-of-way external to the development project and adjacent to any primary access roads internal to a commercial development. Said landscape buffer shall be consistent with the provisions of the Collier County Streetscape Master Plan, which is incorporated by reference herein. The minimum width of the perimeter landscape buffer shall vary according to the ultimate width of the abutting right-of-way. Where the ultimate width of the right-of-way is zero to 99 feet, the corresponding landscape buffer shall measure at least ten feet in width. Where the ultimate width of the right-of-way is 100 or more feet, the corresponding landscape buffer shall measure at least 15 feet in width. Developments of 15 acres or more and developments within an activity center shall provide a perimeter landscape buffer of at least 20 feet in width regardless of the width of the right-of-way. Activity center right-of-way buffer width requirements shall not be applicable to roadways internal to the development.

- a. Trees shall be spaced no more than 30 feet on center in the landscape buffer abutting a right-of-way or primary access road internal to a commercial development. However, for shopping centers replacing non-palm tree species within a Type D buffer through a landscaping plan change, see LDC section 4.06.03 D.

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**4.06.03 Landscaping Requirements for Vehicular Use Areas and Rights-of-Way**

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D. Standards for shopping centers. The following standards apply when replacing non-palm tree species within the vehicular use areas and Type D landscape buffers through a landscaping plan change.

- 1. The following table shall determine the minimum size of replacement trees at time of installation.

a. Table 4.06.03 D.1.a. – Required minimum caliper for replacement trees.

<u>Existing tree (DBH)</u>	<u>Required minimum Caliper for replacement tree</u>
<u>9 to 10 inches</u>	<u>5 inches</u>
<u>11 to 12 inches</u>	<u>6 inches</u>
<u>13 to 14 inches</u>	<u>7 inches</u>
<u>15 inches and above</u>	<u>8 inches</u>

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- 2. Multiple trees with a caliper smaller than the required minimum caliper for a replacement tree may be substituted to create the equivalent total caliper inches required by LDC section 4.06.03 D.1.
- 3. To provide additional visibility into shopping centers, the required trees within Type D buffers may be spaced no more than 60 feet on center and shall have at least three consecutive trees, spaced no more than 30 feet on center with at least a 30-foot crown spread, on both sides of the 60 foot spacing.

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**4.06.05 – General Landscaping Requirements**

D. Plant Material Standards

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- 2. Trees and palms. All required new individual trees, shall be species having an average mature spread or crown of greater than 20 feet in the Collier County area and having trunk(s) which can be maintained in a clean condition over five feet of clear wood. Trees adjacent to walkways, bike paths and rights-of-way shall be maintained in a clean condition over eight feet of clear wood. Trees having an average mature spread or crown less than 20 feet may be substituted by grouping the same so as to create the equivalent of 20-foot crown spread. For code-required trees, the trees at the time of installation shall be a minimum of 25 gallon, ten feet in height, have a 1¼-inch caliper (at 12 inches above the ground) and a four-foot spread.
  - a. A grouping of three palm trees will be the equivalent of one canopy tree. Exceptions will be made for Roystonea spp. and Phoenix spp. (not including roebelenii) which shall count one palm for one canopy tree. Palms may be substituted for up to 30 percent of required canopy trees with the following exceptions. No more than 30% of canopy trees may be substituted by palms (or palm equivalent) within the interior of a vehicular use area and within each individual Type D road right-of-way landscape buffer. Palms must have a minimum of 10 feet of clear trunk at planting.
  - b. All new trees, including palms, shall be of a species having an average mature height of 15 feet or greater.
  - c. In effect of {Date of Ordinance Approval}, all new landscape plans or landscaping plans that are replacing or removing existing required trees within the vehicle use areas and “Type D” buffers shall not include slash pine (Pinus elliottii) or bald cypress (Taxodium distichum).

## **Land Development Code Amendment Request**

**ORIGIN:** Board of County Commissioners

**AUTHOR:** Growth Management Department Staff

**LDC SECTION(S):** 1.08.02 Definitions  
2.03.03 Commercial Zoning Districts  
2.03.04 Industrial Zoning Districts  
2.03.06 Planned Unit Development Districts  
2.03.07 Overlay Zoning Districts  
5.05.16 Medical Marijuana Dispensaries (New Section)

**SUMMARY:** This amendment allows medical marijuana dispensaries to become a new permitted land use in the same zoning districts as a pharmacy or a drug store.

**DESCRIPTION:** On December 12, 2017, the Board of County Commissioners extended a temporary moratorium on Cannabis dispensing businesses to June 30, 2018. The extended date was authorized to grant staff enough time to analyze and evaluate any changes to F.S. 381.986 relative to the medical use of marijuana that was under consideration by the 2018 Florida legislature. Because the legislative session ended without an amendment, the Board directed staff on March 13, 2018, to publicly vet a land development code amendment to permit medical marijuana dispensing facilities in the same zoning districts as pharmacies and not located within 500 feet of a public or private elementary, middle, or secondary school. A brief review of the current regulatory framework to medical marijuana dispensing facilities, as distinguished from the cultivation and processing and the delivery of medical marijuana is provided below to clarify some of the administrative provisions of F.S. 381.986. Afterwards, the specific changes to the land development code are described.

### *Medical Marijuana Dispensing Regulatory Framework:*

On June 9, 2017, the Florida legislature enacted Senate Bill 8-A to allow the medical use of marijuana to be dispensed through a state approved Medical Marijuana Treatment Center (MMTC). Only a MMTC is licensed to cultivate, process, transport and dispense medical cannabis. F.S. 381.986 (11), states “Regulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers is preempted to the state...” The proposed LDC amendment does not address the cultivation and processing of medical marijuana use.

F.S. 381.986 (11) (b.2) states, “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 such dispensing facilities located within the unincorporated areas of that county.” Additionally, a county may not enact an ordinance for permitting or determining the location of dispensing facilities which is more restrictive than its ordinance for permitting or determining the locations for pharmacies licensed under F.S. 465. Consequently, the County is prohibited from setting limits on medical marijuana dispensing facilities that do not also apply to pharmacies.

### *Number of Licensed MMTCs and Dispensing Facilities:*



The initial maximum number of statewide licensed dispensing facilities is determined by multiplying the current number of approved MMTCs times 25 dispensaries. As of April 6, 2018, the Florida Department of Health has licensed 13 MMTCs, which allows the statewide maximum to be 325 dispensing facilities. Upon reaching the initial 100,000 active registered patient limitation, this number can be increased at the rate of five additional dispensaries for each MMTC currently approved, and similarly thereafter, when there are an additional 100,000 registered qualified patients.

The maximum number of dispensing facilities allowed in the Southwest Florida (SWF) region, and as administered by the DOH, is determined by calculating the percentage of the SWF region of the total statewide 2016 estimated population and applying that percentage to the total number of dispensaries permitted statewide. The SWF region accounts for 18 percent of the statewide population, resulting in a maximum of 59 licensed dispensaries in the SWF region. It should be noted that a MMTC may sell one or more of its unused dispensing facilities slots to another licensed MMTC at the reduction of the selling MMTC's maximum statewide number of dispensing facilities. This would allow for an approved MMTC to increase its regional maximum number of dispensing facilities. According to F.S. 381.986 (8) (a.5.d), this method of determining the maximum number of dispensaries (i.e., the placement of caps on the number of dispensaries) will expire on April 1, 2020.

As published by the "Office of Medical Use of Marijuana" and in the latest weekly update report, April 6, 2018, the DOH has approved a total of 32 dispensing locations for seven of the MMTCs, and registered 95,460 qualified patients. There are currently four licensed dispensing facilities located within the SWF region. Currently, the closest licensed dispensaries to Collier County are operated by *Trulieve*, located in North Fort Myers and *Curaleaf*, located in Fort Myers.

*Changes to LDC Section 1.08.02*

The definitions for this amendment consist of the following: *Low-THC Cannabis, Marijuana, Medical marijuana dispensary*, and *Medical Use*. These definitions have the same meaning as provided for in F.S. 381.986 (1). They are included to establish a consistent relationship with statutory law and describe a new land use facility.

*Changes to LDC Section 2.03.03*

For the Commercial Districts: C-2, C-3, C-4, and C-5, a medical marijuana dispensary is treated the same as a pharmacy subject to limitations.

*Changes to LDC Section 2.03.04*

For the Business Park District (BP), a medical marijuana dispensary is one of several secondary uses that are allowed but subject to a maximum of 30 percent of the total district's acreage. This is the same limitation for a pharmacy or drug store.

*Changes to LDC Section 2.03.06*

For the Research and Technology Park PUDs (RTP-PUDs), a pharmacy is one of several businesses that are non-targeted permissible industries serving as commercial support services to light industrial uses. The development of these uses, including a medical marijuana dispensary, are limited up to 20 percent of the total research and technology park's acreage.

A new LDC section 2.03.06 I, is added to identify a medical marijuana dispensary would be allowed within a previously approved PUD, when such PUD includes SIC 5912, drug store, pharmacy, or listing any of the following zoning districts: C-2, C-3, C-4, C-5, BP, or RTP-PUD.

*Changes to LDC Section 2.03.07*

Medical marijuana dispensaries are added to those Overlay Zoning Districts where a drug store is specifically listed as a permitted use. They are the Santa Barbara Commercial Overlay (SBCO) and Golden Gate Downtown Center Commercial Overlay (GGDCCO) districts.

*New LDC section 5.05.16*

All medical marijuana dispensaries are subject to the provisions of this new LDC section which consists of the following:

- A purpose and intent section. This section establishes that the change will provide consistency and compatibility with the need for medical use of marijuana at a medical marijuana dispensary.
- A separation distance section. Per section 381.986 (11.c) F.S., the amendment affirms the statutory minimum separation between schools and a MMTC dispensary at 500 feet. It describes how the distance shall be measured, consistent with LDC Section 5.05.01-Businesses Serving Alcoholic Beverages. A clause is provided to clarify the construction of a school after the issuance of a development order would not cause a medical marijuana dispensary to become a non- conforming use.
- A signage section. Per section 381.986 (8.h) F.S. sets forth limitations to advertising and signage. A MMTC may not engage in advertising that is visible to members of the public from any street, sidewalk, park, or other public place except:
  - The dispensing location may have a sign that is affixed to the outside or hanging in the window of the premises which identifies the dispensary by the licensee's business name, a department-approved trade name, or a department-approved logo.
  - For Internet advertising and marketing under certain conditions, such as the advertisements have been approved by the DOH.

Each dispensing facility and its location must be authorized by the DOH. The retail sale activity at the dispensary is limited to qualified patients or authorized caregivers. To verify the use is a lawfully license activity, staff is recommending the MMTC's license and any other state or county licenses required by law be posted and made visible within the qualified patient waiting area of the dispensing facility. The sale transaction can only occur within the indoor designated area that is separate from the waiting area or outside of the building.

- A security measures and design section. There are various operational security and safety requirements mandated in Section 381.986 (8.f) F.S. that have an effect on a medical marijuana dispensary. Staff integrated some of the requirements related to signage, indoor design and security measures, outdoor lighting, and the handling and storage of medical marijuana.

In general, the statutory requirements are to:

- “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.”
  - Maintain a video surveillance system that records continuously 24 hours a day and retain video surveillance recordings for at least 45 days or longer upon the request of a law enforcement agency. “Cameras are fixed in entrances and exits to the premises, which shall record from both indoor and outdoor, or ingress and egress, vantage points.”
  - “Ensure the MMTC’s outdoor premises have sufficient lighting from dusk until dawn”
  - “Ensure that 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 MMTC may not display products or dispense marijuana or marijuana delivery devices in the waiting area.”
  - “Not dispense from its premises marijuana or a marijuana delivery device between the hours of 9 P.M. and 7 A.M., ...”
  - “Store marijuana in a secured, locked room or vault.”
- There are two prohibitions recommended by staff that serve to deter crime, limit the potential for the illicit sale of marijuana, and reduce the potential risk of driver intoxication. They are:
    - The dispensing of marijuana pick-up at curbside, take-out by window, drive-in or drive-through facility, or other similar outdoor transaction facilities.
    - The display of medical marijuana products or marijuana delivery devices within the waiting and entry area.

**FISCAL & OPERATIONAL IMPACTS:** There are no anticipated fiscal or operational impacts associated with this amendment.

**GROWTH MANAGEMENT PLAN IMPACT:** There are no Growth Management Plan impacts associated with this amendment

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**Amend the LDC as follows:**

1 **1.08.02 Definitions**  
2 \* \* \* \* \*  
3 Low-THC cannabis: Has the same meaning as in F.S.381.986; a plant of the genus  
4 Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and  
5 more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted  
6 from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or  
7 preparation of such plant or its seeds or resin that is dispensed from a medical marijuana  
8 dispensary.  
9 \* \* \* \* \*

Marijuana: Has the same meaning as in F.S. 381.986; 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 dispensary for medical use by a qualified patient.

\* \* \* \* \*

Medical marijuana dispensary: A dispensing facility of a medical marijuana treatment center, which is licensed in accordance with F.S. 381.986.

\* \* \* \* \*

Medical use: Has the same meaning as in F.S. 381.986; 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 dispensary.
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 F.S. 944.02 or a correctional institution, as defined in F.S. 944.241.
  - e. On the grounds of a preschool, primary school, or secondary school, except as provided in F.S. 1006.062.
  - f. In a school bus, a vehicle, an aircraft, or a motorboat, except for Low-THC cannabis.

# # # # # # # # # # # # # #

**2.03.03 Commercial Zoning Districts**

\* \* \* \* \*

**B. Commercial Convenience District (C-2).**

\* \* \* \* \*

1. The following uses, as identified with a number from the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section are permissible by right, or as accessory or conditional uses within the C-2 commercial convenience district.

a. Permitted uses.

\* \* \* \* \*

46. Medical marijuana dispensary with 1,800 square feet or less gross floor area and subject to LDC section 5.05.16.

*\*\*Renumber remaining uses\*\**

\* \* \* \* \*

**C. Commercial Intermediate District (C-3).**

\* \* \* \* \*

1. The following uses, as identified with a number from the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section are

permissible by right, or as accessory or conditional uses within the commercial intermediate district (C-3).

a. *Permitted uses.*

57. Medical marijuana dispensary, subject to LDC section 5.05.16.

~~\*\*Renumber remaining uses\*\*~~

D. General Commercial District (C-4).

1. The following uses, as defined with a number from the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section are permissible by right, or as accessory or conditional uses within the general commercial district (C-4).

a. *Permitted uses.*

86. Medical marijuana dispensary, subject to LDC section 5.05.16.

~~\*\*renumber remaining uses\*\*~~

E. Heavy Commercial District (C-5).

1. The following uses, as identified with a number from the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section are permissible by right, or as accessory or conditional uses within the heavy commercial district (C-5).

a. *Permitted uses.*

106. Medical marijuana dispensary, subject to LDC section 5.05.16.

~~\*\*renumber remaining uses\*\*~~

**2.03.04 Industrial Zoning Districts**

B. Business Park District (BP).

1. The following uses, as identified within the latest edition of the Standard Industrial Classification Manual, or as otherwise provided for within this section, are permitted as of right, or as uses accessory to permitted primary or secondary uses, or are conditional uses within the business park district.

b. Permitted secondary uses accessory to the business park district. Development is limited to a maximum of 30 percent of the total acreage of the business park district for the following uses:

4. Drug stores (5912, limited to drug stores and pharmacies) in conjunction with health services group and medical laboratories/research/rehabilitative groups-; and medical marijuana dispensaries, subject to LDC section 5.05.16.

**2.03.06 Planned Unit Development Districts**

D. The following are permissible uses in the Research and Technology Park PUD:

Identified Use	Special Notes Or Regulation	RTPPUD
Accessory uses and structures	4.07.02 and 5.03.00	P
Accounting 8721, 7521,7231,7241		NT
Administrative offices		P (2)
Aircraft & Parts 3721-3728		T
Aviation/Aerospace Industries		T
ATM (automatic teller machine)		P
Automobile service station	§5.05.05	NT
Banks and financial establishments Group I 6011—6062 Group II 6081—6173	NT NT	
Bar or cocktail lounge		-
Barber Shops 7241		NT
Beauty Shops 7231		NT
Boats: Boat ramps and dockage (not marinas) Boat rental Boat repair and service Boat sales	5.03.06	NT -NT
Broadcast studio, commercial radio and television		T
Business services 7311—7352, 7359—7389		NT
Cable and other pay television services 4841		T
Call Center and Customer Support Activities		T
Car wash		NT
CD-ROM development		T
Clothing stores, general		NT
Communication groups 4812—4841		T
Communication towers: 75 feet or less in height More than 75 feet in height	5.05.09	P CU
Computer and data processing services, Computer related services, not elsewhere classified		T
Consumption on premises		NT
Convenience food and beverage store		NT
Day care center, adult & child services		P/NT
Data and Information processing		T
Development testing and related manufacturing		T
Drive-through facility for any Permitted use		P
Drugs, Medicine 2833-2836		T
Drugstore, pharmacy 5912		NT
Dwelling unit: Single-family, duplex Two-family attached Townhouse, multiple-family building		P P P
Educational, scientific and research organizations		T
Engineering 0781, 8711—8713, 8748		NT
Export based laboratory research or testing activities		T

Fences, walls	5.03.02	P
Food and beverage service, limited		NT
Food stores 5411—5499		NT
Gasoline dispensing system, special		NT
General Merchandise 5331—5399		NT
General Contractors 1521—1542		NT
Gift and souvenir shop		NT
Hardware store 5251		NT
Health care facilities: 8011—8049		NT
8051—8099		NT
Health Technologies		T
Heliport or helistop		P
Hobby, toy and game shops		NT
Hotel/motel: 7011, 7021, 7041		NT
Housing units for employees only	5.05.03	P
Insurance companies 6311—6399, 6411		NT
Information Technologies		T
Laboratories 5047, 5048, 5049, 8071, 8731, 8734		T
Laundry or dry cleaning		NT
Legal Offices 8111		NT
MANUFACTURING OF:		
1. Electronics 3612—3699		T
2. Measuring, analyzing & Controlling instruments, 3812—3873		T
3. Novelties, jewelry, toys and signs		NT
Management 8741—8743, 8748		NT
Medical Laboratory 8071, 8072, 8092, 8093		T
Medical marijuana dispensary	<u>5.05.16</u>	<u>NT</u>
Membership Organization 8611—8699		NT
Motion picture production studio 7812—7819		NT
Multimedia activities		T
Parks		P
Parking lot: Accessory		P
Garage, public parking		P
Personal services 7211—7299		NT
Pharmacy		NT
Photo finishing laboratory		T
Photographic Studios 7221		NT
Physical Fitness 7991		NT
Play Ground		P
Printing and publishing 2752		T
Production facilities and operations/technology based		T
Professional Office		NT
Research, development laboratories & Technology Parks: 8071, 8731, 8734	See Note (3)	P
All others		P
Residential Development including care units, family care facilities and group care facilities		P

Residential accessory uses		NT
Restaurant, fast food		NT
Restaurants 5812—5813		NT
Schools:		
Commercial 8243—8299		NT
Security & Commodity Brokers 6211—6289		NT
Self-service fuel pumps		NT
Signs in accordance with 5.06.00	§ 5.06.00	P
Storage:		
Indoor only		P
Studios		NT
Telephone communications 4813		T
Travel Agency 4724		NT

Legend: (-) not permitted, (P) permitted, (CU) conditional use (T) target industry [RTPPUD only], (NT) non-target industry [RTPPUD only]

Notes:

- (1) Subject to limitations for commercial uses set forth in LDC subsection 2.03.03 C. of this LDC.
- (2) Accessory uses only
- (3) Subject to ordinance 02-24 (GMP amendment).

I. Medical marijuana dispensaries shall be considered a permitted use, subject to LDC section 5.05.16, within PUDs approved prior to [effective date of the ordinance], only when the PUD allows SIC code 5912, drug store, pharmacy, or any of the following zoning districts listed in the PUD: C-2, C-3, C-4, C-5, BP, or RTP-PUD.

# # # # # # # # # # # # # #

**2.03.07 Overlay Zoning Districts**

\* \* \* \* \*

H. Santa Barbara Commercial Overlay District (SBCO). Special conditions for properties abutting the east side of Santa Barbara Boulevard and the west side of 55th Terrace S.W., as referenced in the Santa Barbara Commercial Subdistrict Map (Map 7) of the Golden Gate Area Master Plan. This is referenced as figure 2.03.07 H. below.

\* \* \* \* \*

6. The following uses, as identified within the latest edition of the Standard Industrial Classification Manual, or as otherwise provided for within this section, are permitted as of right, or as uses accessory to permitted primary or secondary uses, or are conditional uses within the Santa Barbara Commercial Overlay District.

a. Permitted uses.

\* \* \* \* \*

51. Medical marijuana dispensary, subject to LDC section 5.05.16.

*\*\*Renumber remaining uses\*\**

\* \* \* \* \*

O. Golden Gate Downtown Center Commercial Overlay District (GGDCCO). Special conditions for properties in the vicinity of Golden Gate Parkway in Golden Gate City, as identified on the Golden Gate Downtown Center Commercial Subdistrict Map of the Golden Gate Area Master Plan and as contained herein.

\* \* \* \* \*



1           4.     **Permitted uses.**

2     \*     \*     \*     \*     \*     \*     \*     \*     \*     \*     \*     \*     \*

3           c.     Commercial uses:

4     \*     \*     \*     \*     \*     \*     \*     \*     \*     \*     \*     \*

5                     48.     Medical marijuana dispensary limited to 5,000 square feet per  
6                     floor and subject to LDC section 5.05.16.

7                     \*\*Renumber remaining uses\*\*

8     #     #     #     #     #     #     #     #     #     #     #     #     #

9     **5.05.16 Medical Marijuana Dispensaries.**

10    A.     Purpose and Intent. The purpose of this section is to provide for the compatibility of  
11    medical marijuana dispensaries with surrounding uses and to protect the health, safety,  
12    and welfare of the general public by adherence to chapter 381.986 F.S.

13    B.     Separation Distances.

14           1.     A medical marijuana dispensary shall not be located within 500 feet of the real  
15                     property that comprises a public or private elementary, middle, or secondary  
16                     school. The distance of 500 feet shall be measured as the shortest distance  
17                     between the lot on which the school is located and the lot on which the medical  
18                     marijuana dispensary is located, except that medical marijuana dispensaries  
19                     located in shopping centers shall be measured to the outer wall of the  
20                     establishment.

21           2.     The erection of any public or private elementary school, middle school, or  
22                     secondary school subsequent to the issuance of a development order for a  
23                     medical marijuana dispensary shall not cause the medical marijuana dispensary  
24                     to become nonconforming.

25    C.     Signage.

26           1.     Signage shall be limited to one wall sign or hanging sign in the window of the  
27                     premises that identify the medical marijuana dispensary by business name, the  
28                     state Department of Health (DOH) approved trade name, or the DOH approved  
29                     logo. The trade name or logo may not contain wording or images that target  
30                     market children or promote recreational use of marijuana.

31           2.     No advertisement for the establishment, cannabis, cannabis derivative product,  
32                     cannabis delivery devices, or cannabis related products is permitted on signs  
33                     mounted on vehicles, temporary signs, hand-held or other portable signs,  
34                     handbills, leaflets or other flyers directly handed to any person in a public place,  
35                     left upon a motor vehicle or posted upon any public or private property without  
36                     the consent of the property owner.

37    D.     Security Measures and Design.

38           1.     Medical marijuana dispensaries shall be designed and equipped with the  
39                     following:

40                     a.     A dark sky compliant outdoor lighting system to clearly identify persons  
41                     and vehicles on premise, oriented downward and shielded to minimize  
42                     light trespass and glare.

43                     b.     A separate waiting area with adequate seating for qualified patients and  
44                     caregivers, at least one private consultation area isolated from the waiting  
45                     area, the area where dispensing occurs and the storage of marijuana is  
46                     located.

47                     c.     A copy of the medical marijuana treatment center's license and any other  
48                     required state or county licenses shall be posted within the patient waiting  
49                     area to verify lawful activity.

50                     d.     The medical marijuana transport delivery vehicle shall be parked in a  
51                     garage or fully enclosed structure.

52           2.     The following are prohibited:

- 1 a. Drive-through, drive-ins, curbside pickup, take-out windows or similar
- 2 outdoor transaction facilities and all outdoor transactions.
- 3 b. The display of products, marijuana, or marijuana delivery devices in the
- 4 waiting area.
- 5 # # # # # # # # # # # # #

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