

ORDINANCE NO. 2023-10

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 16, ARTICLE I, IN GENERAL, SECTION 16-1, DEFINITIONS; ARTICLE III, DISTRICT REGULATIONS, DIVISION 8, OFFICE, PROFESSIONAL AND INSTITUTIONAL (OPI), SECTION 16-425; DIVISION 9, COMMERCIAL NEIGHBORHOOD (CN), SECTION 16-450; DIVISION 10, COMMERCIAL GENERAL (CG), SECTION 16-475; DIVISION 11, COMMERCIAL INTENSIVE (CI), SECTION 16-500; DIVISION 14, MIXED DEVELOPMENT (MXD), SECTION 16-546; DIVISION 15, MIXED USE DEVELOPMENT – OFFICE (MXD-O), SECTION 16-562; AND DIVISION 16, MIXED USE DEVELOPMENT – ORIGINAL SECTION (MXD-OS), SECTION 16-577; CREATING CHAPTER 9, MISCELLANEOUS OFFENSES, DIVISION 1, SECTION 9-10; PROHIBITING THE DISPENSING OF MEDICAL MARIJUANA WITHIN THE CITY; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 16, ZONING REGULATIONS, SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING FOR NONCONFORMING USES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 8, 2016, the voters of the State of Florida approved an amendment to the State Constitution authorizing medical marijuana use, subject to legislation regarding implementation of such industry; and

WHEREAS, Amendment 2 legalized the medical use of marijuana throughout the State of Florida and authorized the cultivation, processing, distribution and sale of marijuana and related activities by licensed "Medical Marijuana Treatment Centers"; and

WHEREAS, Section 381.986, Florida Statutes, expressly authorizes a county or municipality, by ordinance, to ban medical marijuana treatment center dispensing facilities ("Dispensing Facilities") from being located within the boundaries of that county or municipality, and if Dispensing Facilities are not banned "a county or municipality

may not enact ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under Chapter 465"; and

WHEREAS, on April 15, 2019, the City Council amended the Code of Ordinances to prohibit Dispensing Facilities in the City; and

WHEREAS, on September 10, 2020, the City Council amended the Code of Ordinances to allow Dispensing Facilities in certain areas of the City; and

WHEREAS, the State of Florida could pass legislation authorizing the use of recreational marijuana and, if legalized, there are concerns that existing Medical Marijuana Treatment Center Dispensing Facilities may be authorized to dispense recreational marijuana; and

WHEREAS, to protect the City from proliferation of additional Medical Marijuana Treatment Center Dispensing, the City Council now believes it is in the best interest of the City to prohibit new Dispensing Facilities from being established in the City; and

WHEREAS, the Development Review Committee provided its recommendation regarding the proposed amendment to the Code of Ordinances; and

WHEREAS, the Planning and Zoning Board of Appeals, after notice and public hearing, has considered the proposed amendment to the Code of Ordinances, more specifically described herein, and submitted its recommendation to the City Council; and

WHEREAS, the City Council, after notice and public hearing, has considered the proposed amendment to the Code of Ordinances, the recommendations of the Planning Commission, and all public comments; and

WHEREAS, the City Council finds that the proposed amendment to the Code of

Ordinances is consistent with the City of Greenacres Comprehensive Plan; and

WHEREAS, the City Council desires to amend the Code of Ordinances in order to incorporate the above-described amendment; and

WHEREAS, the City Council deems approval of this Ordinance to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Greenacres and the public at large.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AS FOLLOWS:

Section 1. Chapter 16, Article I is hereby amended as follows:

Sec. 16-1. Definitions

Medical marijuana treatment center-dispensing facility (MMTC-DF) means a retail establishment, licensed by the Florida Department of Health as a "medical marijuana treatment center dispensing facility," established by a licensed "medical marijuana treatment center," "dispensing organization," "dispensing organization facility," or similar use, that sells and dispenses marijuana, products containing marijuana, or related supplies, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of marijuana, marijuana products, or related supplies, and does not allow on-site consumption of marijuana or marijuana products. Medical marijuana treatment center-dispensing facilities are prohibited within the City of Greenacres, with the exception that medical marijuana treatment center dispensing facilities that are lawfully operating as of November 2, 2023, shall be considered nonconforming uses.

[Sections 16-2 through 16-28 to remain unchanged and are omitted for brevity]

Section 2. Chapter 16, Article III, Divisions 8, 9, 10, 11, 14,15, and 16 are hereby amended as follows:

Sec. 16-425. Prohibited uses.

The following are the prohibited uses in the office, professional and institutional (OPI) district:

- (1) Any use or structure not specifically, or by reasonable implication permitted herein or permissible by special exception.

- (2) Medical marijuana treatment center dispensing facilities and any general medical marijuana retailers.
 - a. Medical marijuana treatment center dispensing facilities, including medical marijuana retail centers, are prohibited, as authorized by Section 381.986(11), et seq., Florida Statutes.
 - b. In addition to the prohibition set forth in subsection a., marijuana remains a Schedule 1 drug and is illegal pursuant to federal law; therefore, any facilities related to the cultivation, processing, distribution, storage, sales, or other wholesale or retail transaction of marijuana, whether for compensation or otherwise, including medical marijuana treatment center dispensing facilities, are prohibited.

[Sections 16-426 through 16-449 to remain unchanged and are omitted for brevity]

Sec. 16-450. Prohibited uses.

The following are the prohibited uses in the commercial neighborhood (CN) district:

- (1) Any use, accessory use or component of use, or structure not specifically, or by reasonable implication permitted herein, or permissible by special exception.
- (2) Notwithstanding the foregoing prohibitions, all shopping centers either completely developed or partially developed and having site and development plans that were approved on or before January 1, 1994 shall not be classified as prohibited uses as established herein.
- (3) Medical marijuana treatment center dispensing facilities and any general medical marijuana retailers.
 - a. Medical marijuana treatment center dispensing facilities, including medical marijuana retail centers, are prohibited, as authorized by Section 381.986(11), et seq., Florida Statutes.
 - b. In addition to the prohibition set forth in subsection a., marijuana remains a Schedule 1 drug and is illegal pursuant to federal law; therefore, any facilities related to the cultivation, processing, distribution, storage, sales, or other wholesale or retail transaction of marijuana, whether for compensation or otherwise, including medical marijuana treatment center dispensing facilities, are prohibited.

[Sections 16-451 through 16-474 to remain unchanged and are omitted for brevity]

Sec. 16-475. Prohibited uses.

The following are the prohibited uses in the commercial general (CG) district:

- (1) Any use, accessory use or component of use, or structure not specifically, or by reasonable implication permitted herein, or permissible by special exception.
- (2) Notwithstanding the foregoing prohibitions, all shopping centers either completely developed or partially developed and having site and development plans that were approved on or before January 1, 1994 shall not be classified as prohibited uses as established herein.
- (3) Medical marijuana treatment center dispensing facilities and any general medical marijuana retailers.
 - a. Medical marijuana treatment center dispensing facilities, including medical marijuana retail centers, are prohibited, as authorized by Section 381.986(11), et seq., Florida Statutes.
 - b. In addition to the prohibition set forth in subsection a., marijuana remains a Schedule 1 drug and is illegal pursuant to federal law; therefore, any facilities related to the cultivation, processing, distribution, storage, sales, or other wholesale or retail transaction of marijuana, whether for compensation or otherwise, including medical marijuana treatment center dispensing facilities, are prohibited.

[Sections 16-476 through 16-499 to remain unchanged and are omitted for brevity]

Sec. 16-500. Prohibited uses.

The following are the prohibited uses in the commercial intensive (CI) district:

- (1) Any use or structure not specifically, or by reasonable implication permitted herein or permissible by special exception.
- (2) Notwithstanding the foregoing prohibitions, all shopping centers either completely developed or partially developed and having site and development plans that were approved on or before January 1, 1994 shall not be classified as prohibited uses as established herein.
- (3) Medical marijuana treatment center dispensing facilities and any general medical marijuana retailers.
 - a. Medical marijuana treatment center dispensing facilities, including medical marijuana retail centers, are prohibited, as authorized by Section 381.986(11), et seq., Florida Statutes.
 - b. In addition to the prohibition set forth in subsection a., marijuana remains a Schedule 1 drug and is illegal pursuant to federal law; therefore, any facilities related to the cultivation, processing, distribution, storage, sales, or other wholesale or retail transaction of marijuana, whether for compensation or otherwise, including medical marijuana treatment center dispensing facilities, are prohibited.

[Sections 16-501 through 16-545 to remain unchanged and are omitted for brevity]

Sec. 16-546. Prohibited uses and structures.

The prohibited uses and structures in the mixed development districts MXD-R and MXD-C are as follows:

- (1) Any use, accessory use or component of use or structure not specifically or by reasonable implication permitted herein or permissible by special exception.
- (2) All outdoor storage and display of commercial materials.
- (3) Mobile homes.
- (4) Shopping centers.
- (5) Adult entertainment establishments.
- (6) Medical marijuana treatment center dispensing facilities and any general medical marijuana retailers.
 - a. Medical marijuana treatment center dispensing facilities, including medical marijuana retail centers, are prohibited, as authorized by Section 381.986(11), et seq., Florida Statutes.
 - b. In addition to the prohibition set forth in subsection a., marijuana remains a Schedule 1 drug and is illegal pursuant to federal law; therefore, any facilities related to the cultivation, processing, distribution, storage, sales, or other wholesale or retail transaction of marijuana, whether for compensation or otherwise, including medical marijuana treatment center dispensing facilities, are prohibited.

[Sections 16-547 through 16-561 to remain unchanged and are omitted for brevity]

Sec. 16-562. Prohibited uses and structures.

The prohibited uses and structures in the MXD-O mixed use development district are as follows:

- (1) Any use, accessory use or component of use or structure not specifically or by reasonable implication permitted herein or permissible by special exception.
- (2) All outdoor storage and display of commercial goods and materials.
- (3) Mobile homes.
- (4) Adult entertainment establishments.
- (5) Medical marijuana treatment center dispensing facilities and any general medical marijuana retailers.
 - a. Medical marijuana treatment center dispensing facilities, including medical marijuana retail centers, are prohibited, as authorized by

Section 381.986(11), et seq., Florida Statutes.

- b. In addition to the prohibition set forth in subsection a., marijuana remains a Schedule 1 drug and is illegal pursuant to federal law; therefore, any facilities related to the cultivation, processing, distribution, storage, sales, or other wholesale or retail transaction of marijuana, whether for compensation or otherwise, including medical marijuana treatment center dispensing facilities, are prohibited.

[Sections 16-563 through 16-576 to remain unchanged and are omitted for brevity]

Sec. 16-577. Prohibited uses.

The following are the prohibited uses in the mixed use development-original section (MXD-OS) district:

- (1) Any use, accessory use or component of use, or structure not specifically, or by reasonable implication, permitted herein or permissible by special exception.
- (2) All outdoor storage and outdoor display of commercial goods and materials.
- (3) Medical marijuana treatment center dispensing facilities and any general medical marijuana retailers.
 - a. Medical marijuana treatment center dispensing facilities, including medical marijuana retail centers, are prohibited, as authorized by Section 381.986(11), et seq., Florida Statutes.
 - b. In addition to the prohibition set forth in subsection a., marijuana remains a Schedule 1 drug and is illegal pursuant to federal law; therefore, any facilities related to the cultivation, processing, distribution, storage, sales, or other wholesale or retail transaction of marijuana, whether for compensation or otherwise, including medical marijuana treatment center dispensing facilities, are prohibited.

[Sections 16-578 through 16-589 to remain unchanged and are omitted for brevity]

Section 3. Chapter 9, Article I, Division 1, Section 9-10 is hereby created as follows:

Sec. 9-10. Marijuana Dispensaries.

- (a) Consistent with Section 381.986(11), Florida Statutes, it shall be unlawful to operate a medical marijuana treatment center dispensing facility within the boundaries of the city.
- (b) It shall be unlawful to operate any facility related to the cultivation.

processing, distribution, storage, sales, or other wholesale or retail transaction of marijuana, whether for compensation or otherwise, including medical marijuana treatment center dispensing facilities.

- (c) Medical marijuana treatment center dispensing facilities that are lawfully operating within the city as of November 2, 2023, shall be treated as nonconforming uses.

Section 4. Changes in the Law

To the extent the provisions of this Ordinance or § 381.986, Florida Statutes, are declared unconstitutional or are superseded, the City would adhere to its current regulations, including continuing to adhere to the federal prohibition on marijuana. Should the federal law on marijuana change, this Ordinance shall be reviewed and amended as appropriate.

Section 5. Repeal of Conflicting Ordinances

All Ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 6. Severability

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property,

kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 7. Inclusion in Code

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

Section 8. Effective Date

The provisions of this Ordinance shall become effective upon adoption in accordance with the City's Charter.

Passed on the first reading this 16th day of October 2023.

PASSED AND ADOPTED on the second reading this 6th day of November 2023.

Joel Flores, Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
Peter Noble, Deputy Mayor

Voted:
John Tharp, Council Member, *District I*

Voted:
Judith Dugo, Council Member, *District III*

Voted:
Susy Diaz, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney