

ORDINANCE NO. 23-2236

AN ORDINANCE OF THE CITY OF LONGWOOD, FLORIDA, AMENDING THE LONGWOOD DEVELOPMENT CODE ARTICLE I GENERAL PROVISIONS, ARTICLE II LAND USE DISTRICTS AND ZONING DISTRICTS, ARTICLE V SUPPLEMENTAL STANDARDS, AND ARTICLE IX HARDSHIP RELIEF AND SPECIAL EXCEPTIONS TO ADD LOCATIONAL RESTRICTIONS AND OTHER CRITERIA FOR SMOKE SHOPS, SMOKING LOUNGES, MARIJUANA DISPENSARIES, PHARMACIES, AND CBD ESTABLISHMENTS, PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, on May 6, 2002, the City Commission of the City of Longwood enacted the Longwood Development Code (Ordinance 02-1599), as was amended from time to time, pursuant to the requirements of Chapter 163.3202, and Chapter 166.041, Florida Statutes; and

WHEREAS, Chapter 163.3174 (4) (c), Florida Statutes, requires the Land Planning Agency to review proposed land development regulations, or amendments thereto, for consistency with the adopted Plan, as may be amended; and

WHEREAS, the Land Planning Agency (LPA) held a public hearing on February 8, 2023 to consider the amendment of the Longwood Development Code; made certain findings of fact regarding said amendments, determined the proposed changes are consistent and recommended the proposed ordinance be enacted by the City Commission; and

WHEREAS, The City Commission has a reasonable basis to believe that there are land use issues relating to the siting and proliferation of smoke shops, marijuana dispensaries, smoking lounges, and CBD establishments when located adjacent or in close proximity to other such uses; and

WHEREAS, The City Commission notes that CBD oil is a federally and state regulated product whose effects are the subject of limited research but ongoing study; although legally available under federal and state regulation; and

WHEREAS, Florida Statutes dictate that a 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, Through its zoning code provisions, the City of Longwood seeks to maintain property values, protect tax revenues, provide neighborhoods and corridors social and economic stability, attract business and industry, and encourage conditions that make the City of Longwood a thriving and welcoming place to invest; and

WHEREAS, The City Commission also desires to avoid the clustering of smoke shops, smoking lounges, and CBD oil establishments so that the City does not continue to experience a

significant change in the character of the commercial and retail areas of the City that crowds out other uses that the City has made it a priority to attract and retain; and

WHEREAS, the City Commission determines that this Ordinance is consistent with the Comprehensive Plan and in the best interest of the public health, safety and welfare.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LONGWOOD, FLORIDA, AS FOLLOWS:

SECTION 1. The Longwood Development Code shall be Amended as follows (Words that are ~~stricken out~~ are deletions; words that are underlined are additions; Articles, Sections, Subsections and Provisions not referenced in this ordinance are not modified):

ARTICLE I: GENERAL PROVISIONS

CBD Establishment. CBD establishments are those that dedicate more than 20% of their tenant floor space square footage to the sale, offering, and/or furnishing of cannabidiol products including Delta-8. The use of "CBD" in the business tax receipt application, business registration, sign permit application, or any other official document shall be prima facie evidence that the business is a primary use CBD oil establishment.

Drugstore. A retail establishment of more than 10,000 square feet where the majority of the floor space is dedicated to the sale of groceries, cosmetics, and related items, and also includes an accessory pharmacy owned and operated by the primary user for which the operations take up no more than 35% of the total floor area. A drugstore may also have a drive-thru window and an accessory medical clinic.

Marijuana Dispensary. A medical marijuana treatment center dispensing facility as defined in Florida Statutes. This definition shall also cover such dispensaries as may be permitted by state law should recreational marijuana be legalized.

Pharmacy. A pharmacy is an establishment where drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists, prescribing psychologists, or veterinarians are compounded and sold by a registered pharmacist. The term pharmacy includes a "community pharmacy" as defined by F.S. section 465.003, provided such is not an accessory use to drugstore as defined in this article. The term pharmacy does not include an "institutional pharmacy" as defined by F.S. section 465.003.

Smoke shop. Smoke shops are retail sales or wholesale establishments primarily engaged in selling tobacco and/or tobacco products, where 20% or more of the tenant floor space of the business is dedicated to any combination of the following activities, or related activities:

- 1) Retail sale, offering, and/or furnishing of cigarettes, cigars, pipes, and/or electronic cigarette devices and/or the retail sale of related paraphernalia including but not limited to pipes, punctured metal bowls, bongs, water bongs, electric pipes, e-cigarettes, e-

cigarette juice, vaporizers, hookahs, and devices for holding burning material. Lighters and matches shall be excluded from the definition of tobacco paraphernalia; Or

- 2) Storage, mixing, rolling, display of tobacco products including nicotine-enriched solutions or other liquid products that are manufactured for use with e-cigarettes.

Smoking Lounge: An establishment that is dedicated primarily to the on-premises consumption of tobacco products, electronic cigarettes, or other smoked or vaporized substances, and/or the use of hookahs. Smoking lounge includes but is not limited to establishments known, advertised, or represented as cigar lounges, hookah lounges, vape lounges, tobacco clubs, tobacco bars, and similar terminology.

ARTICLE II: LAND USE DISTRICTS AND ZONING DISTRICTS

2.3.0. Allowable uses.

2.3.1. *Table of allowable uses.* The following uses are allowable, subject to the standards, regulations, and criteria of this Code and the Longwood Comprehensive Plan. All uses, unless exempted specifically or by supplemental standards or definition, must be contained within a principal structure. A principal structure may not be a tent, trailer, canopy, shed, tent, or similar structure. The use table is intended to apply to new development or changes of use that create impacts that are not supported by the site:

A = allowable, subject to the standards, regulations and criteria of this Code, including relevant parenthetical references in the table of allowable uses.

S = allowable, subject to the standards, regulations, and criteria of this Code and supplemental standards of section 5.4.0, pertaining to the specific use. Where a use is subject to additional use-specific standards, the relevant section is included in parentheses.

C = subject to a Conditional Use Permit

PD = subject to planned development approval

MX = allowed as mixed-use development, subject to planned development approval

* = Uses allowed only as an accessory use

o = Allowed only in multi-unit centers

Future Land Use Category	CON	LDR		MDR		DH		COM				STA		IMU	IND		P/I
	Conservation	Country Home	Low Density Residential	Medium Density Residential	Medium Density Residential 15	Downtown Neighborhood	Downtown Storefront	Neighborhood Commercial	Gateway	General Commercial	17-92	Transit Village Neighborhood	Station Workshop	Infill and Mixed-Use	Light Industrial	Industrial Core	Public/Institutional
<u>CBD Oil Establishments (5.4.23)</u>										<u>S</u>	<u>S</u>						
<u>Drugstore</u>								<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Marijuana Dispensaries (5.4.25)</u>										<u>S</u>	<u>S</u>						
<u>Pharmacy, Standalone (5.4.25)</u>										<u>A S</u>	<u>A S</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Pharmacy (over 10,000 sq. ft. with drive thru)</u>								<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Smoke Shops (5.4.24)</u>										<u>S</u>	<u>S</u>						
<u>Smoking Lounges (5.4.24)</u>										<u>S</u>	<u>S</u>						

ARTICLE V. SUPPLEMENTAL STANDARDS

5.4.23. CBD establishments. CBD establishments are subject to the following supplemental standards and requirements:

- A. CBD establishments as a primary use shall be located no closer than 1 mile from another such use as measured from property line to property line in a straight line from the nearest point of the subject property to the nearest point of the existing CBD oil establishment, smoke shop, or smoking lounge, inclusive of such locations that may be outside of the City limits.

- B. As part of the submittal for zoning approval related to a Business Tax Receipt application for a CBD establishment as a primary use, the applicant shall provide an accurate legal affidavit indicating the amount of floor area that will be dedicated to sale of the products specified in this section, and that the location is consistent with the locational requirements of subsection (A).
- C. CBD sales shall be permitted as an accessory use without distance restriction when housed entirely within Grocery Stores, Convenience Stores, Retail, Medical Offices, and Pharmacies, or similar uses, and where the area dedicated to the sale of CBD oil and related products is 20% of the overall tenant space of the principal use, but not to exceed 200 total square feet.
- D. Where a primary use desires to have CBD sales and tobacco sales as accessory uses, the total combined floor space dedicated to both CBD products and tobacco products cannot exceed 20% or 200 total square feet, whichever is less.

...

5.4.24. Smoke shops and smoking lounges. Smoke shops and smoking lounges are subject to the following supplemental standards and requirements:

- A. Smoke shops and smoking lounges as a primary use shall be located no closer than 1 mile from another such use as measured from property line to property line in a straight line from the nearest point of the subject property to the nearest point of the existing smoke shop, smoking lounge, or CBD establishment, inclusive of such locations that may be outside of the City limits.
- B. As part of the submittal for zoning approval related to a Business Tax Receipt application for a smoke shop or smoking lounge as a primary use, the applicant shall provide an accurate legal affidavit indicating the amount of floor area that will be dedicated to sale of the products specified in this section, and that the location is consistent with the locational requirements of subsection (A).
- C. The sale, offering, and/or furnishing of tobacco products as defined in the LDC shall be permitted as an accessory use without distance restriction when housed entirely within Grocery Stores, Convenience Stores, Retail, and Pharmacies, or similar uses, and where the area dedicated to the sale of tobacco and tobacco-related products is 20% of the overall tenant space of the principal use, but not to exceed 200 total square feet.
- D. Where a primary use desires to have CBD sales and tobacco sales as accessory uses, the total combined floor space dedicated to both CBD products and tobacco products cannot exceed 20% or 200 total square feet, whichever is less.

5.4.25. Pharmacies and marijuana dispensaries. Pharmacies and marijuana dispensaries are subject to the following supplemental standards and requirements:

- A. Pharmacies and marijuana dispensaries as a primary use shall be located no closer than 1 mile from another such use as measured from property line to property line

in a straight line from the nearest point of the subject property to the nearest point of the existing pharmacy or marijuana dispensary, inclusive of such locations that may be outside of the City limits.

- B. A pharmacy or marijuana dispensary may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location through a formal proceeding open to the public at which the county or municipality determines that the location promotes the public health, safety, and general welfare of the community.
- C. As part of the submittal for zoning approval related to a Business Tax Receipt application for a marijuana dispensary as a primary use, the applicant shall provide an accurate legal affidavit indicating that the location is consistent with the locational requirements of subsection (A).
- D. Pharmacies and marijuana dispensaries as defined in the LDC shall be permitted as an accessory use without distance restriction when housed entirely within and owned and operated by the primary user of Grocery Stores, Drugstores, and Retail establishments that exceed 10,000 square feet, and where the area dedicated to the pharmacy function is no more than 35% of the total floor area of the primary use. Pharmacies and marijuana dispensaries may be an accessory to a hospital without a square footage restriction, pursuant to state law.

ARTICLE IX: HARDSHIP RELIEF AND SPECIAL EXCEPTIONS

9.1.0. Nonconforming uses/structures.

9.1.1. Nonconforming uses. Non-conforming uses shall mean and refer to those uses of real property and the characteristics of such uses that were lawful prior to the adoption of the Longwood Development Code or any subsequent amendments thereto, but are, at present, prohibited or otherwise further restricted under the current Longwood Development Code. The intent of this section is to permit, but not encourage, such non-conforming uses to continue until such uses are removed as required by this section. A nonconforming use may continue so long as such use remains lawful outside the context of the Longwood Development Code and compliance with the following provisions is maintained:

1. *Enlargement increase, intensification, alteration.* A nonconforming use shall not be enlarged, intensified, increased, or extended to occupy a greater area of land or water than was occupied at the time of the city's adoption or amendment of the applicable Longwood Development Code prohibition, regulation, or restriction, unless approved by the city commission through a conditional use permit. This section shall not be interpreted to prohibit a nonconforming use from being reduced in intensity, size or scope; however, once such nonconforming use is reduced, intensification or reexpansion beyond such reduced scope shall not be permitted beyond what is currently provided for in the Longwood Development

Code, the ultimate goal of this section being to phase out nonconforming uses over time.

2. *Relocation.* A nonconforming use shall not be moved or otherwise relocated, in whole or in part, to any portion of a lot or parcel other than that which was occupied by such use at the time of the city's adoption or amendment of the applicable Longwood Development Code prohibition, regulation, or restriction unless approved at a new location by the City Commission through a Conditional Use Permit.
3. *Discontinuance.* A non-conforming use shall be deemed abandoned and become an illegal use subject to all extant provisions of the Longwood Development Code if such use is discontinued or otherwise lapses for a period of 365 days or more, unless approved by the city commission through a conditional use permit. Discontinuance shall be determined by any of the following: if the business relocates, if there is an interruption in utility service, a failure to pay applicable business taxes or the expiration of a business tax receipt, the absence of signage indicating the existence of the nonconforming use on the property, or any other relevant evidence indicating discontinuation of the nonconforming use for the requisite time period. In determining the date of discontinuance, the date of the first indication of abandonment shall be relied upon. The discontinuance period will continue until such time a business tax receipt is issued. A nonconforming use shall also be considered to be abandoned if a legal use moves in. For the following uses, the time period for which discontinuance is determined is 90 days:
 - a. Pawn shops.
 - b. Tattoo parlors.
 - c. Massage therapy establishments.
 - d. Vehicle sales facilities (LDC 5.4.3)
 - e. Marijuana Dispensaries
 - f. Smoke Shops
 - g. Smoking Lounges
 - h. CBD Establishments
4. *Subdivision and additional structures.* No real property upon which a nonconforming use currently exists shall be subdivided, nor shall any structures be added to such property, except for those purposes and in a manner conforming to all provisions of the Longwood Development Code for the district in which the property is located.
5. *Change in tenancy or ownership.* There may be a change in tenancy, ownership or management of a nonconforming use, provided there is no change in the nature, character, or intensity of the nonconforming use.

SECTION 2. CONFLICTS. If any ordinance or part thereof is in conflict herewith, this Ordinance shall control to the extent of the conflict.

SECTION 3: CODIFICATION. Section 1 of this Ordinance shall be codified; that such sections may be renumbered or relettered to accomplish the intent of this Ordinance. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 4: SEVERABILITY. The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

LAND PLANNING AGENCY HEARING: February 8, 2023

FIRST READING: March 6, 2023

SECOND READING AND ADOPTION: March 20, 2023

PASSED AND ADOPTED THIS 20th DAY OF March, 2023

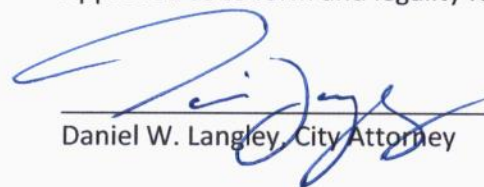
CITY OF LONGWOOD, FLORIDA


Matt Morgan, Mayor

ATTEST:


Michelle Longo, MMC, FCRM, City Clerk

Approved as to form and legality for the use and reliance of the City of Longwood, Florida, only.


Daniel W. Langley, City Attorney