

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 118, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," BY AMENDING ARTICLE IX, ENTITLED "NONCONFORMANCES," AT SECTION 118-393, ENTITLED "NONCONFORMING USE OF BUILDINGS," TO PERMIT A NONCONFORMING PHARMACY STORE OR NONCONFORMING MEDICAL CANNABIS TREATMENT CENTER TO RELOCATE WITHIN THE SAME BUILDING, PROVIDED THAT THE RELOCATED PHARMACY STORE OR MEDICAL CANNABIS TREATMENT CENTER IS NO LARGER THAN 2,000 SQUARE FEET, AND TO PROVIDE THAT A NONCONFORMING PHARMACY STORE OR MEDICAL CANNABIS TREATMENT CENTER THAT IS RELOCATED PURSUANT TO THIS SECTION SHALL BE EXEMPT FROM THE MINIMUM DISTANCE SEPARATION REQUIREMENTS SET FORTH IN SECTION 142-1502(b)(4) and (5); AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, Chapter 118 of the City Code, at Article IX, regulates nonconforming uses and nonconforming structures; and

WHEREAS, as a general rule, the expansion or reestablishment of a nonconforming use is prohibited; however, existing pharmacies or medical cannabis treatment centers may, from time to time, need to expand or relocate within the same building; and

WHEREAS, consistent with this general principle, the Mayor and City Commission now desire to provide the ability to relocate a nonconforming pharmacy store or nonconforming medical cannabis treatment center to another location within the same building, provided that the relocated pharmacy store or medical cannabis treatment center is no larger than 2,000 square feet in size; and

WHEREAS, pursuant to Section 381.986(11)(b)(2), Florida Statutes, "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, the amendment set forth below is necessary to accomplish all of the above objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. Subpart B of the City Code, entitled "Land Development Regulations," Chapter 118, entitled "Administration And Review Procedures," Article IX, entitled "Nonconformances," is hereby amended as follows:

**CHAPTER 118
ADMINISTRATION AND REVIEW PROCEDURES**

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ARTICLE IX. – NONCONFORMANCES

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Sec. 118-393. - Nonconforming use of buildings.

(a) Except as otherwise provided in these land development regulations, the lawful use of a building existing at the effective date of these land development regulations may be continued, although such use does not conform to the provisions hereof. Whenever a nonconforming use has been changed to a conforming use, the former nonconforming use shall not be permitted at a later date. A nonconforming use shall not be permitted to change to any use other than one permitted in the zoning district in which the use is located.

(b) A nonconforming use of a building shall not be permitted to extend throughout other parts of that building.

(c) For specific regulations for nonconforming uses related to medical cannabis treatment centers and pharmacy stores, see section 142-1502(d).

(d) Notwithstanding the provisions of this article, and notwithstanding the provisions of section 142-1502, a nonconforming pharmacy store or medical cannabis treatment center may be relocated within the same building, provided that the relocated pharmacy store or medical cannabis treatment center does not exceed 2,000 square feet in size. Such relocated pharmacy store or medical cannabis treatment center shall be exempt from the minimum distance separation requirements of section 142-1502(b)(4) or (5), respectively, of these land development regulations.

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes removed language