Zoning Districts Allowing Medical Cannabis Treatment Centers and Pharmacy Stores

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, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142 OF THE CITY CODE ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE V, ENTITLED "SPECIALIZED USE REGULATIONS," DIVISION 10, ENTITLED "PS CONTROLLED SUBSTANCES REGULATIONS AND USE," BY AMENDING SECTION 142-1502, ENTITLED "ZONING DISTRICTS ALLOWING MEDICAL CANNABIS TREATEMENT CENTERS, PHARMACY STORES, AND RELATED USES, PROHIBITED LOCATIONS, AND NONCONFORMING USES," TO CREATE A NEW AREA WHERE SUCH USES MAY BE PERMITTED, PROVIDED THAT THE PROPOSED USE MEETS CERTAIN ELIGIBILITY CRITERIA, AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, 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, the City seeks to facilitate the mission of non-profits that serve the underprivileged and vulnerable members of the community; and

WHEREAS, the price of pharmaceuticals is often a barrier for underprivileged, uninsured, or otherwise vulnerable individuals to obtain the medicine and care they need; and

WHEREAS, United States Federal Government has recognized the need for underprivileged individuals to have access to affordable healthcare and pharmaceuticals by adopting the 340B Drug Pricing Program ("340B Program"), under which manufacturers of pharmaceuticals provide lifesaving medications at substantially discounted rates to eligible healthcare organizations/covered entities; and

WHEREAS, Care Resource Community Health Centers, Inc. ("Care Resource"), is a Florida Not for Profit Corporation and federal 501(c)(3) non-profit that is eligible for to receive discounted medications from pharmaceutical manufacturers under the 340B Program; and

WHEREAS, Care Resource has provided healthcare services to underprivileged and vulnerable populations, as well as insured individuals, in the South Florida community since its predecessor was formed in 1983 in response to the HIV/AIDS epidemic; and

WHEREAS, Care Resource currently operates four (4) federally qualified health centers that are eligible to receive discounted pharmaceuticals under the 340B Program, one of which is located at 1680 Michigan Avenue and serves both traditionally insured and uninsured/underinsured populations in the City; and

WHEREAS, certain pharmaceutical manufacturers that provide discounted medications under the 340B Program have indicated that they will only continue providing discounted medications to organization/covered entities who dispense discounted medications from their own independent pharmacies;

WHEREAS, the revenues from the 340B Program represents a substantial source of funding that allows Care Resource to provide services to vulnerable and underprivileged populations; and

WHEREAS, certain non-profits, such as Care Resource, seek to continue meeting the needs of underprivileged and vulnerable members of the community by establishing pharmacies associated with their existing eligible healthcare organizations/covered entities that will serve as the primary sources of funding needed to continue providing services to the underprivileged and vulnerable; and

WHEREAS, it is beneficial to the City for underprivileged and vulnerable members of the community to have continued access to life-saving discounted pharmaceuticals from the medical providers they are accustomed to receiving treatment from; and

WHEREAS, the amendments set forth below are 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. Chapter 142, "Zoning Districts and Regulations," at Article V, entitled "Specialized Use Regulations," at Division 10, entitled "Controlled Substances Regulations and Use" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

CHAPTER 142

ZONING DISTRICTS AND REGULATIONS

ARTICLE V. SPECIALIZED USE REGULATIONS

DIVISION 10. CONTROLLED SUBSTANCES REGULATIONS AND USE

Sec. 142-1502. - Zoning districts allowing medical cannabis treatment centers, pharmacy stores, and related uses, prohibited locations, and nonconforming uses.

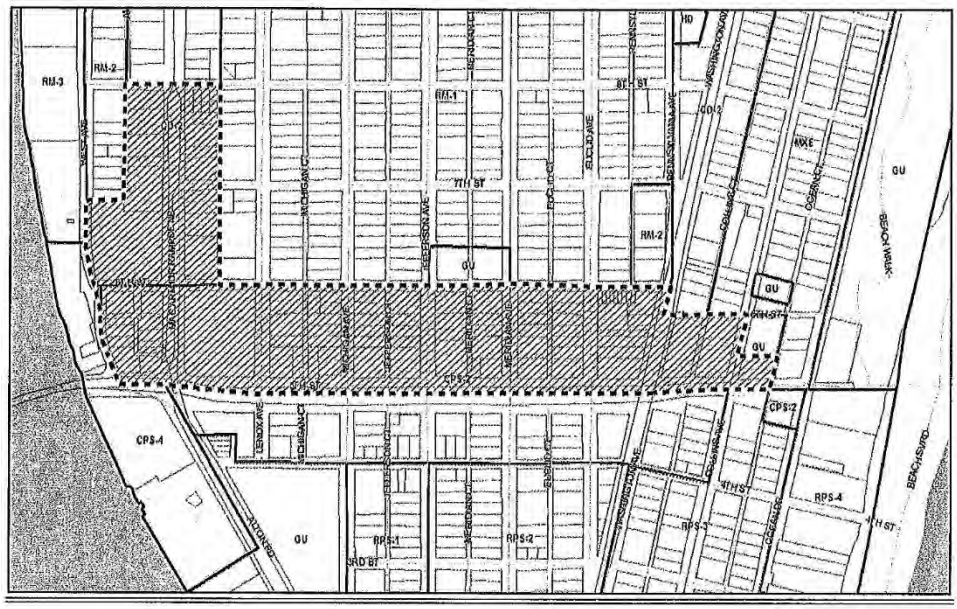
Any term not specifically defined in these land development regulations shall maintain the meaning provided for in F.S. ch. 381, medical cannabis treatment centers and pharmacy stores shall comply with the following regulations:

(a) *Permitted areas.* Only in accordance with the requirements of this division and the applicable zoning district, medical cannabis treatment centers and pharmacy stores shall be permitted only in the areas listed below:

(1) Area 1 shall in include the following subareas:

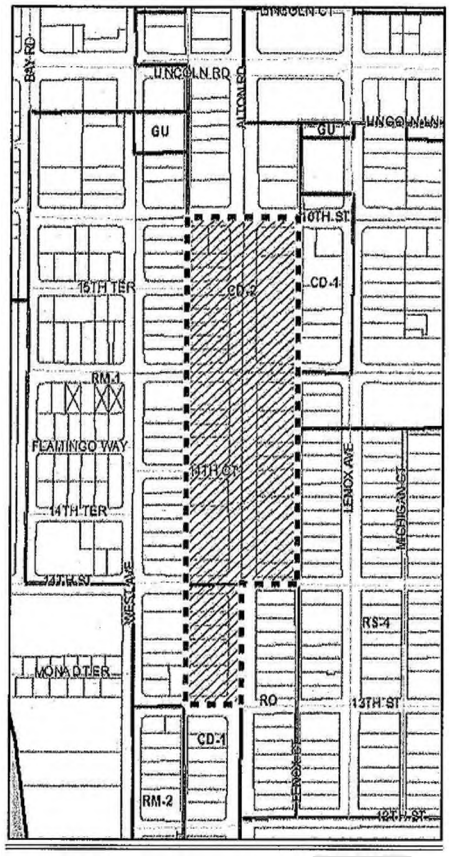
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a. Lots zoned CD-2, generally located along Alton Road between 6th Street and 8th Street: lots zoned C-PS2 located north of 5 th Street between Ocean Court on the east and West Avenue on the west; as depicted in the map below:

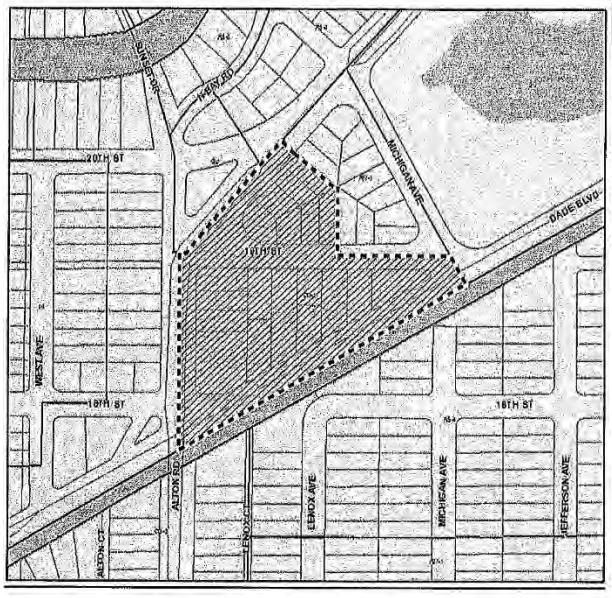


b. Lots zoned CD-1 and CD-2 fronting Alton Road between 13th Street and 16th Street, as depicted in the map below:

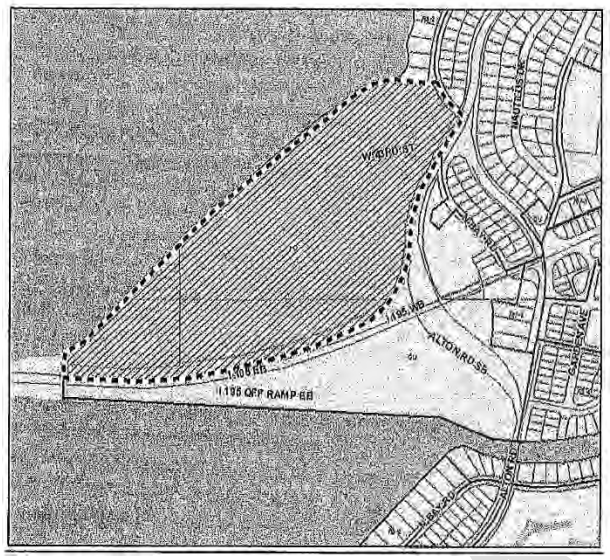
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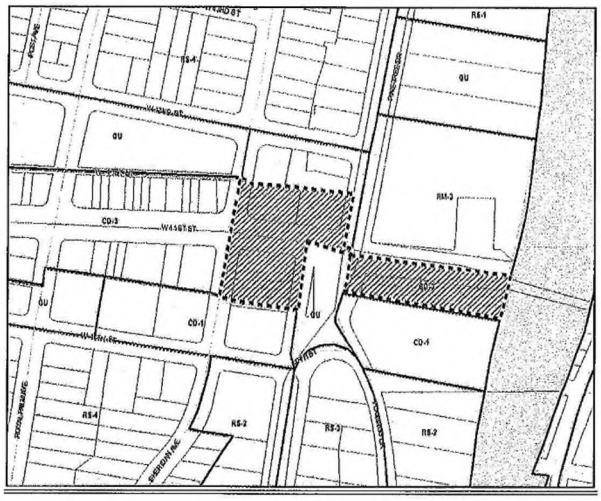
c. Lots zoned CD-1, generally located between Alton Road on the east and north, Dade Boulevard on the south, Michigan Avenue on the west, as depicted in the map below:



(2) Area 2 shall include the lots zoned HP located north of the Julia Tuttle Causeway - Interstate 195, as depicted in the map below:

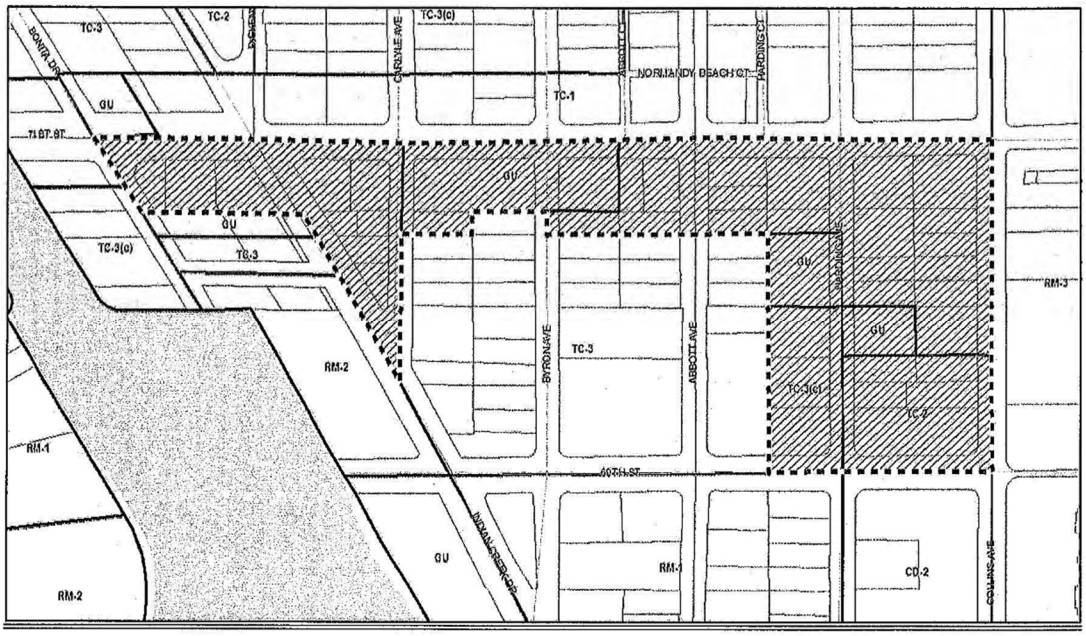


(3) Area 3 shall include [lots] zoned CD-3 and fronting 41st Street between Sheridan Avenue and the Indian Creek Waterway, as depicted in the map below:

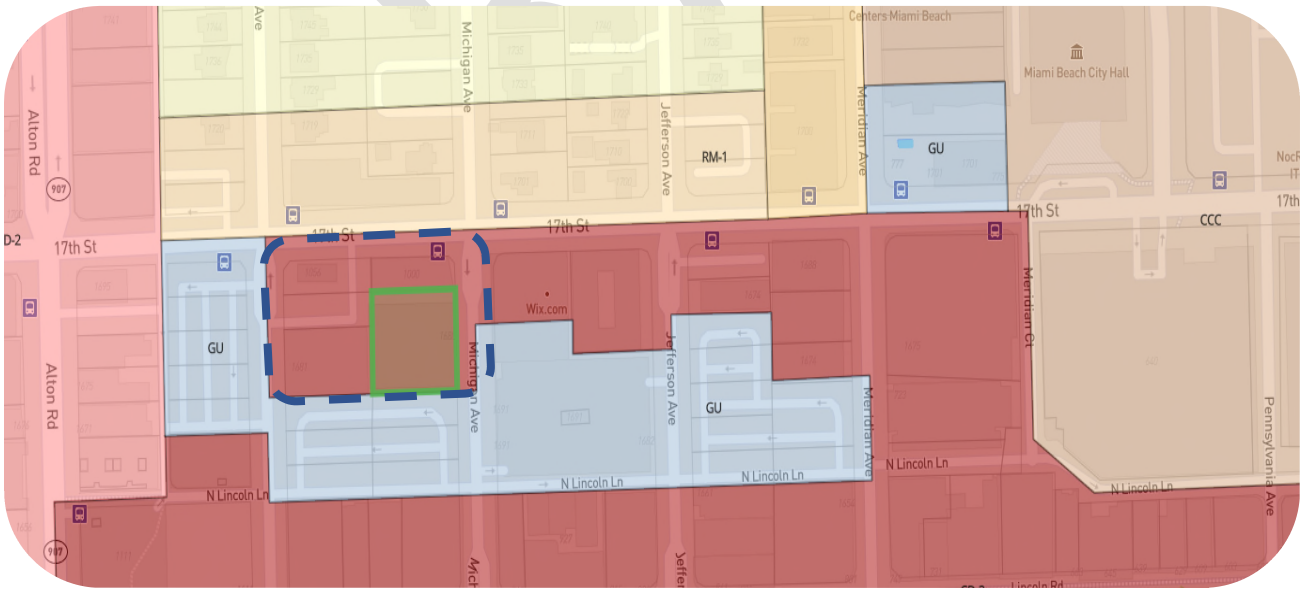


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(4) Area 4 shall include lots zoned TC-1 and TCC south of 71st Street, generally located between Collins Avenue on the east, 71st Street on the north, the west lot line of lots fronting Bonita Avenue on the west, and 69 th Street on south, as depicted in the map below:



(5) Area 5 shall include lots zoned CD-3 south of 17th Street, generally located between Michigan Avenue on the east, 17th Street on the north, Lenox Avenue on the west, and the north lot line of City parking lot number P25, as depicted on the map below:



[PLACEHOLDER MAP FOR ILLUSTRATIVE PURPOSES ONLY]

a. Medical cannabis treatment centers and pharmacy stores in Area 5 shall satisfy the following conditions:

i. Only medical cannabis treatment centers or pharmacy stores that are accessory to a medical office, clinic, or health center, shall be permitted in Area 5. The hours of operation of the pharmacy store or medical cannabis treatment center shall match the hours of the principal medical office, clinic, or health center, but in no event shall an accessory pharmacy store or medical cannabis treatment center operate past 7:00 PM. As used in the subsection, the term "medical office, clinic, or health center" requires a minimum of two (2) full-time physicians or physician extenders (physician's assistants or nurse practitioners), and a minimum of five (5) patient examination rooms.

ii. The building in which the medical cannabis treatment center or pharmacy store is located shall be an existing office building that is a minimum of 25,000 square feet in size on of the effective date of this ordinance.

iii. A medical cannabis treatment center or pharmacy store shall not be located on the ground floor.

iv. The area dedicated for use as a pharmacy store or medical cannabis treatment center shall not exceed 1000 square feet. For the purpose of calculating the area of the accessory pharmacy store or medical cannabis treatment center, only the portion of the building that is being used as a pharmacy store or medical cannabis treatment center shall be considered, and the portion of the building that serves as the principal medical office, clinic, or health center shall not be considered in the maximum area calculation.

v. Accessory pharmacy stores and medical cannabis treatment centers in Area 5 are exempt from the wall separation requirement of Section 142-1503(e).

vi. Pharmacy stores in Area 5 are prohibited from distributing cannabis or cannabis products.

vii. Exterior signage is prohibited for pharmacy stores located in Area 5.

b. There shall be no variances from the requirements of this section.

(b) *Location of uses.*

(1) Medical cannabis treatment centers or pharmacy stores shall be prohibited in all zoning districts and areas not described in subsection (a), above.

(2) Medical cannabis treatment centers and pharmacy stores shall be considered prohibited uses on all GU sites.

(3) No medical cannabis treatment center shall be located within 500 feet of a public or private elementary, middle or secondary school. The minimum distance separation requirement shall be determined by measuring a straight line from the entrance and exit of the medical cannabis treatment center to the nearest point of the property line of the school.

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(4) No medical cannabis treatment canter shall be located within 1,200 feet of another medical cannabis treatment center.

(5) No pharmacy store shall be located within 1,200 feet of another pharmacy.

(6) The minimum distance separation requirements set forth in subsections (4) and (5) shall be determined by measuring a straight line from the entrance and exit of each business.

(c) *Prohibited cannabis related uses.* The following cannabis related uses and activities shall be prohibited anywhere within the city:

(1) Cultivation, production, processing, storage, distribution or possession of marijuana plants or cannabis plants.

(2) Sale of cannabis from any motor vehicle.

(3) Medical cannabis product and cannabis derivative product manufacturing.

(4) Medical cannabis testing.

(5) Storage of cannabis or cannabis-related products off the site of the medical cannabis treatment center.

(6) Marijuana membership clubs.

(7) Vapor lounges.

(d) *Prohibited accessory uses within medical cannabis treatment centers and pharmacy stores.*

(1) Entertainment is prohibited within a medical cannabis treatment center or pharmacy store.

(2) Any medical cannabis treatment center or pharmacy store shall be prohibited from obtaining a special events permit.

(e) *Nonconforming uses.*

(1) Any pharmacy store (authorized prior to the adoption of this division), any pharmacy store approved after adoption of this division, or a medical cannabis treatment center use, created and established under the land development regulations in a legal manner, which may thereafter become legally nonconforming, may continue until there is an abandonment of said use. Once the legally nonconforming pharmacy store or medical cannabis treatment center use is abandoned, it shall not be re-established unless it conforms to the requirements of this division. Abandonment shall consist of: a change of use or suspension of active business with the public for a period of at least six months: or a lesser time if a written declaration of abandonment is provided by the owner of the premises or, if the property is subject to a lease, by the owner and tenant thereof.

(2) A lawfully authorized medical cannabis treatment center cannot apply for a change of use or a business tax receipt to become a pharmacy store. A lawfully authorized pharmacy store cannot apply for a change of use or a business tax receipt to become a medical

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cannabis treatment center without meeting the requirements of this division as if it were a new establishment.

SECTION 2. REPEALER.

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

SECTION 3. SEVERABILITY.

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

SECTION 4. 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 Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the _____day of_____2021.

PASSED and **ADOPTED** this ___ day of____ 2021.

Dan Gelber

Mayor

ATTEST:

Rafael E. Granado

City Clerk

First Reading:

Second Reading:

Verified By:

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6/14/21 Version

Thomas R. Mooney, AICP

Planning Director

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

City Attorney Date

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