

New Overlay - 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 "CONTROLLED SUBSTANCES REGULATIONS AND USE," BY AMENDING SECTION 142-1502, ENTITLED "ZONING DISTRICTS ALLOWING MEDICAL CANNABIS TREATMENT CENTERS, PHARMACY STORES, AND RELATED USES, PROHIBITED LOCATIONS, AND NONCONFORMING USES," TO CREATE A NEW AREA WHERE SUCH USES MAY BE PERMITTED, SUBJECT TO 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's Land Development Regulations establish certain limited areas of the City where pharmacy stores and medical cannabis treatment centers are permitted; and

WHEREAS, the Mayor and City Commission now desire to create a new area where pharmacy stores and medical cannabis treatment centers are permitted, subject to certain conditions intended to mitigate the impacts of these uses on the surrounding neighborhood; and

WHEREAS, Section 381.986(11)(b)(2), Florida Statutes, provides that "a county or municipality may not enact ordinances for permitting or for determining the location of [medical marijuana] dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under chapter 465"; and

WHEREAS, accordingly, the regulations herein that are applicable to medical cannabis treatment centers are no more restrictive than the regulations on pharmacies; 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

* * *

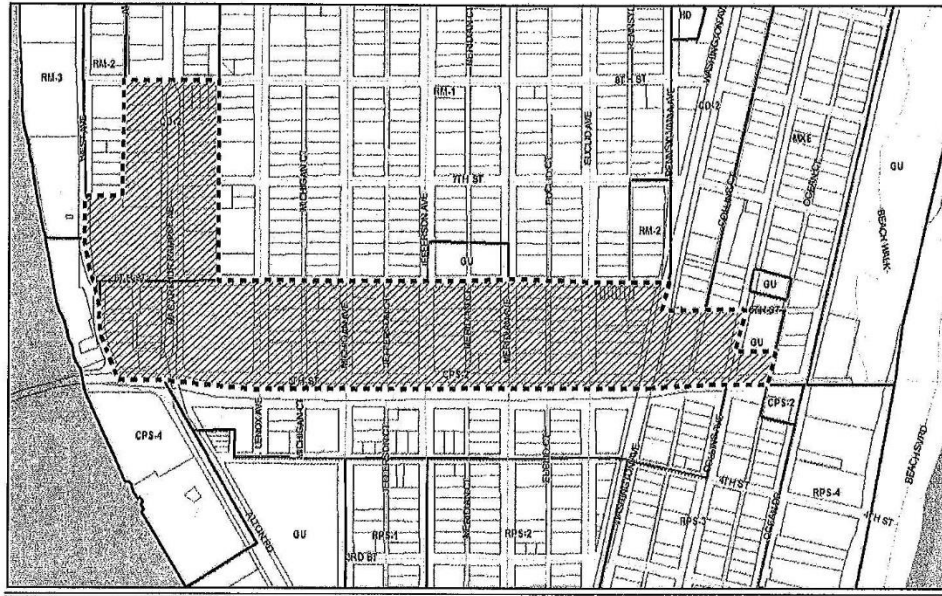
Sec. 142-1502. - Zoning districts allowing medical cannabis treatment centers, pharmacy stores, and related uses, prohibited locations, and nonconforming uses.

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:

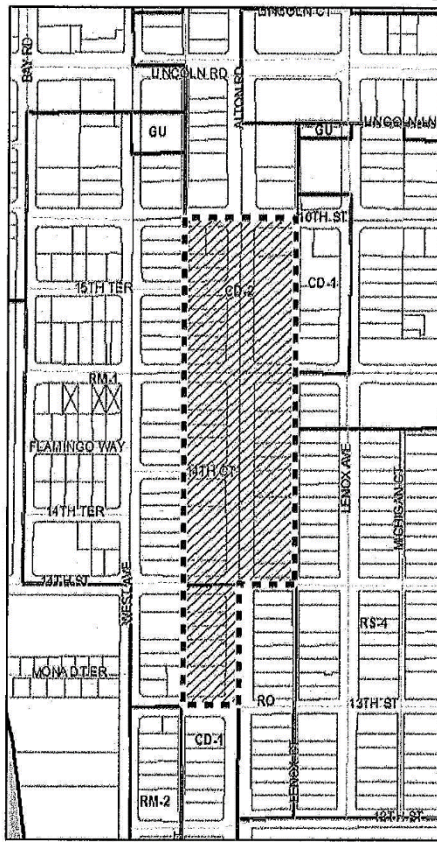
(a) *Permitted areas.* Only in accordance with the requirements of this division and the applicable zoning district, medical cannabis treatment centers and pharmacy stores shall be permitted only in the areas listed below:

(1) Area 1 shall include the following subareas:

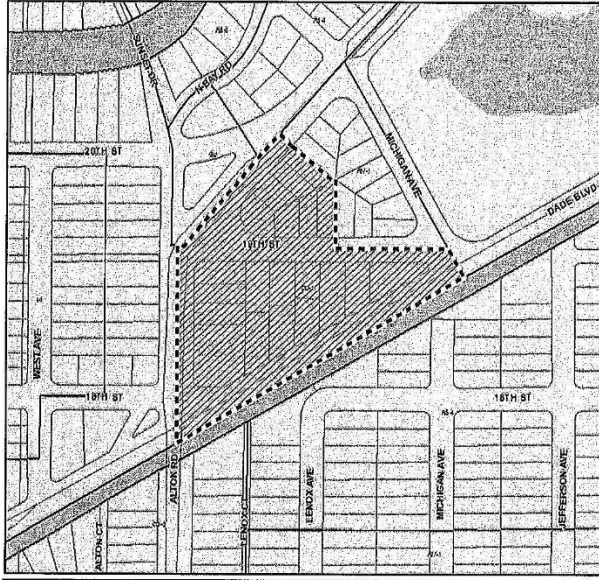
a. Lots zoned CD-2, generally located along Alton Road between 6th Street and 8th Street: lots zoned C-PS2 located north of 5th Street between Ocean Court on the east and West Avenue on the west; as depicted in the map below:



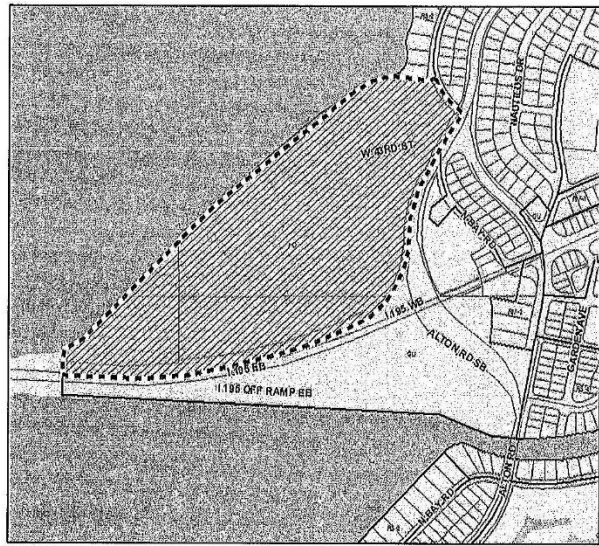
b. Lots zoned CD-1 and CD-2 fronting Alton Road between 13th Street and 16th Street as depicted in the map below:



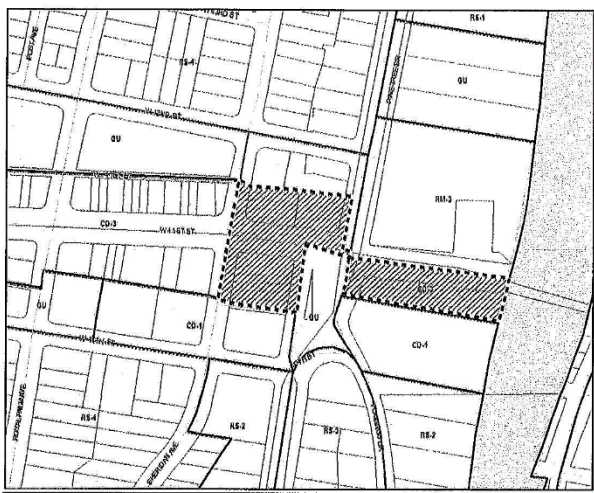
c. Lots zoned CD-1, generally located between Alton Road on the east and north, Dade Boulevard on the south, Michigan Avenue on the west, as depicted in the map below:



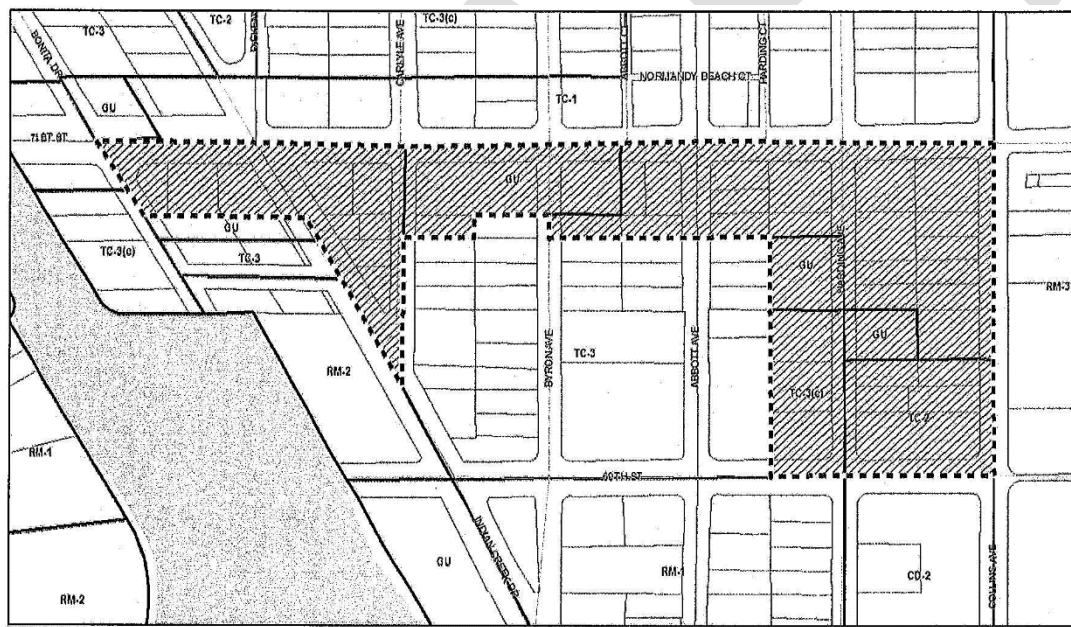
(2) Area 2 shall include the lots zoned HP located north of the Julia Tuttle Causeway - Interstate 195, as depicted in the map below:



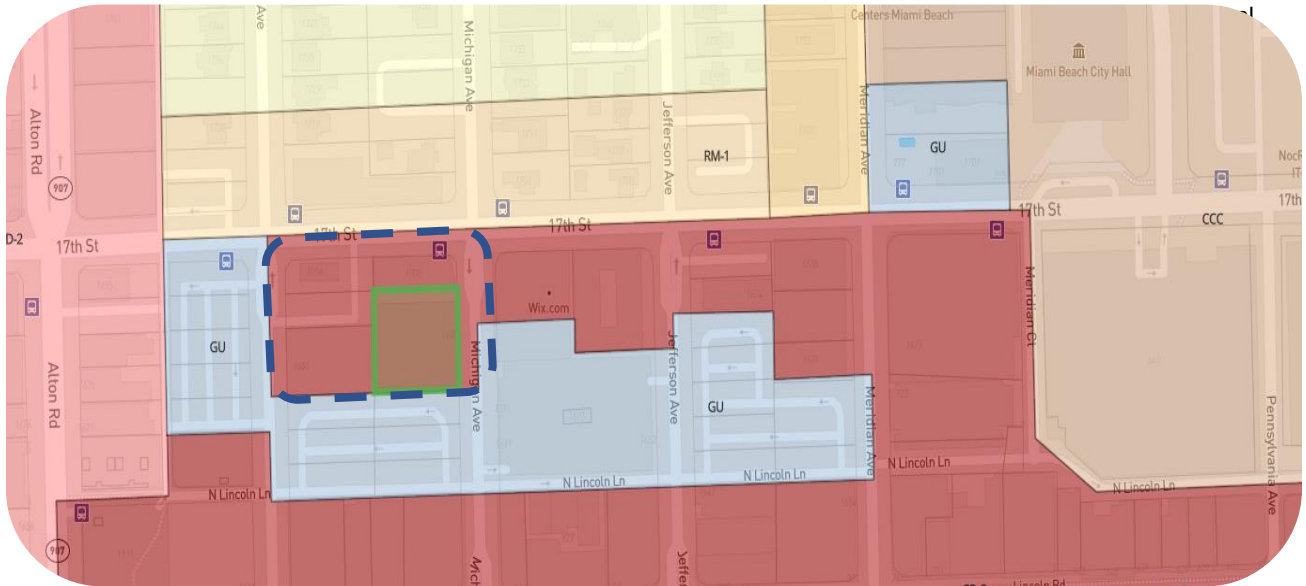
(3) Area 3 shall include [lots] zoned CD-3 and fronting 41st Street between Sheridan Avenue and the Indian Creek Waterway, as depicted in the map below:



(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 69th Street on south, as depicted in the map below:



(5) Area 5 shall include lots zoned CD-3 south of 17th Street, in the area 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 on the south, as depicted on the map below:



(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.
 - (4) No medical cannabis treatment center 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) Notwithstanding any other provision in this section, medical cannabis treatment centers and pharmacy stores in Area 5 shall be required to comply with the following additional regulations:

(1) 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 later than 7:00 PM each night. For purposes of this subsection (e), the term "medical office, clinic, or health center" shall mean a use with 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.

(2) A medical cannabis treatment center or pharmacy store may only be permitted in an existing office building that is a minimum of 25,000 square feet in size on the effective date of this ordinance.

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

(4) The area dedicated for use as a pharmacy store or medical cannabis treatment center shall not exceed 1,000 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.

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

(6) Pharmacy stores in Area 5 are prohibited from distributing cannabis or cannabis products.

(7) Exterior signage is prohibited for pharmacy stores located in Area 5.

(8) No pharmacy store in Area 5 shall be located within 600 feet of another pharmacy store.

(9) No medical cannabis treatment center in Area 5 shall be located within 600 feet of another medical cannabis treatment center.

(10) The minimum distance separation requirement shall be measured in accordance with Section 142-1502(b)(6).

(11) There shall be no variances from the requirements of this section.

(f) 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 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 ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2021.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: October ____, 2021

Second Reading: December ____, 2021

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