

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

**WHEREAS**, the Mayor and City Commission desire to create a limited area where pharmacy stores and medical cannabis treatment centers are permitted, subject to strict regulations and safeguards; and

**WHEREAS**, it is in the best interest of the City to minimize and control the adverse effects of pharmacy stores and medical cannabis treatment centers by adopting appropriate land development regulations; 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**

\* \* \*

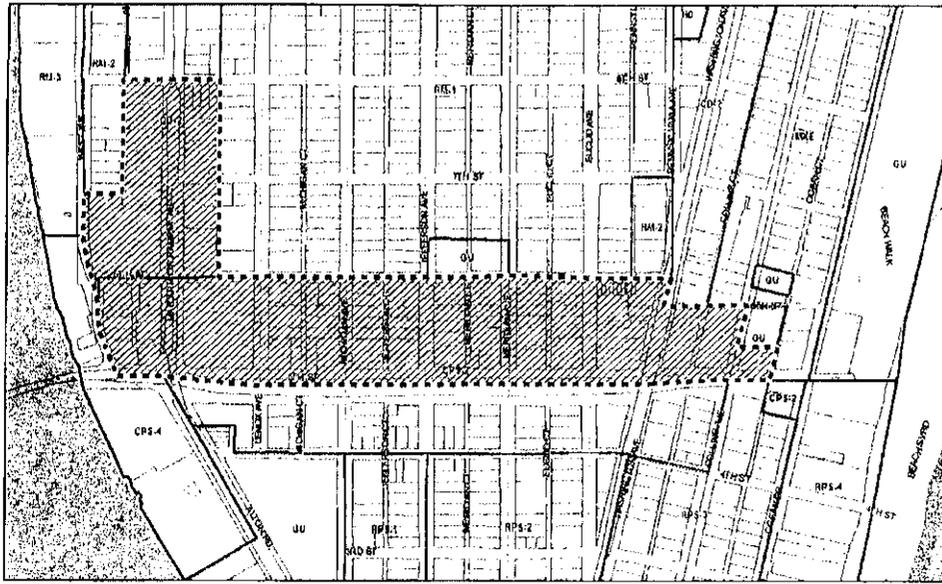
**Sec. 142-1502. Zoning districts allowing medical cannabis treatment centers, pharmacy stores, and related uses, prohibited locations, and nonconforming uses.**

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

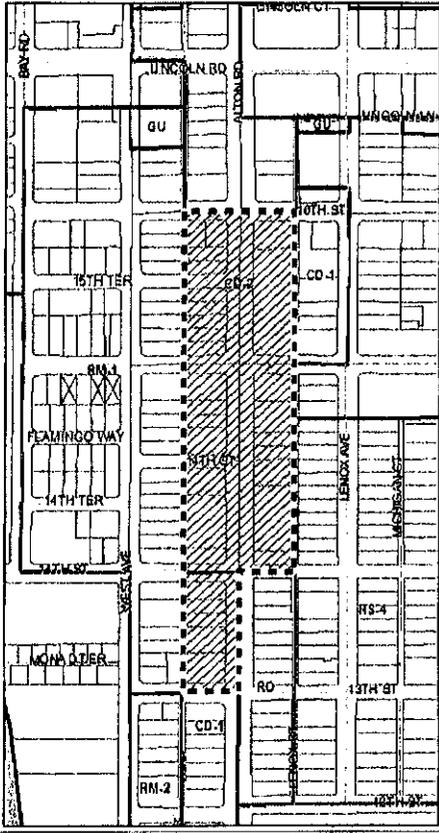
(a) *Permitted areas.* Only in accordance with the requirements of this division and the applicable zoning district, medical cannabis treatment centers and pharmacy stores shall be permitted only in the areas listed below:

(1) Area 1 shall include the following subareas:

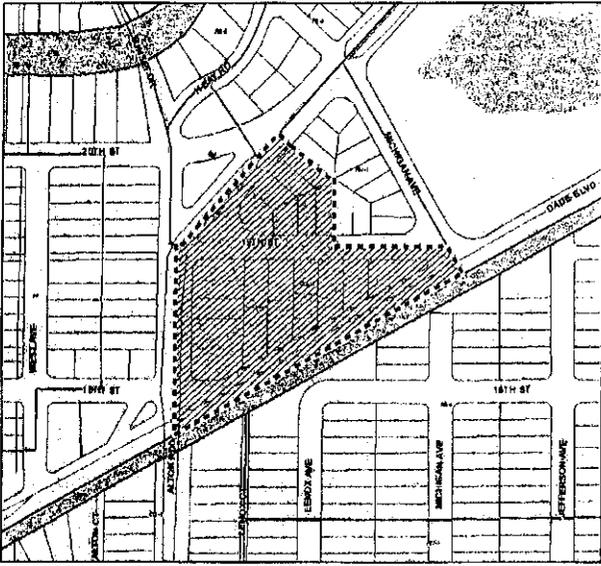
a. Lots zoned CD-2, generally located along Alton Road between 6th Street and 8th Street; lots zoned C-PS2 located north of 5<sup>th</sup> Street between Ocean Court on the east and West Avenue on the west; as depicted in the map below:



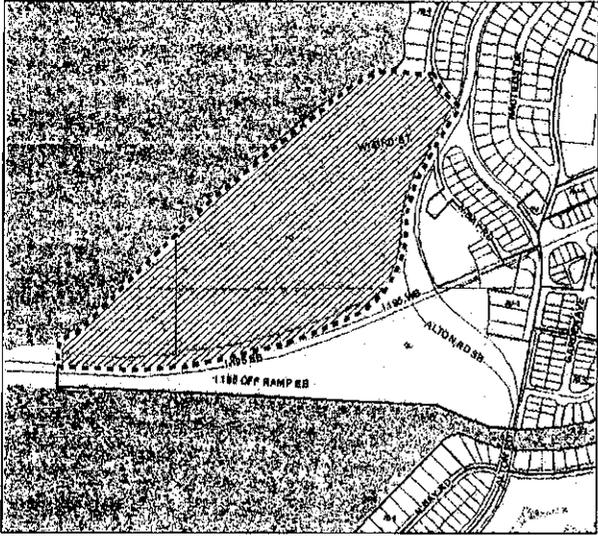
b. Lots zoned CD-1 and CD-2 fronting Alton Road between 13th Street and 16th Street as depicted in the map below:



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~~ HD 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:





(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 the foregoing, medical cannabis treatment centers and pharmacy stores in Area 5 shall comply with the following additional regulations, which shall control in the event of a conflict with subsections (b), (c) or (d) above:

- (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 be consistent with the hours of operation 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 6:00 PM, except for one (1) night per week during which the pharmacy or medical cannabis treatment center may operate until 7:00 PM. As used in the subsection (e), the term "medical office, clinic, or health center" requires a minimum of two (2) full-time physicians or physician extenders (which shall be defined as physician's assistants or nurse practitioners), and a minimum of five (5) patient examination rooms.
- (2) 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 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 included, and the portion of the building that serves as the principal medical office, clinic, or health center shall not be included in the maximum area calculation. The pharmacy store or medical cannabis treatment center will use its best efforts to serve only patients of the medical office, clinic, or health center and not the general public.
- (5) Pharmacy stores and medical cannabis treatment centers in Area 5 shall only serve patients from private waiting rooms. Queueing of patients in hallways or common areas of the building in which the use is located is prohibited. Any violation of this subsection shall be subject to the penalties set forth in Section 142-1512.
- (6) Accessory pharmacy stores and medical cannabis treatment centers in Area 5 are exempt from the wall separation requirement of Section 142-1503(e).
- (7) Pharmacy stores in Area 5 are prohibited from distributing cannabis or cannabis products.
- (8) Exterior signage is prohibited for pharmacy stores and medical cannabis treatment centers located in Area 5.
- (9) No pharmacy store in Area 5 shall be located within 600 feet of another pharmacy store.
- (10) No medical cannabis treatment center in Area 5 shall be located within 600 feet of another medical cannabis treatment center.
- (11) The minimum distance separation requirements in this subsection (e) shall be measured in accordance with Section 142-1502(b)(6).
- (12) There shall be no variances from the requirements of this subsection (e).

**(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 NK      10-1-21  
Date

First Reading: October 13, 2021  
Second Reading: October 27, 2021

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director