Vitamin Shop Regulations – LDR Amendment

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 114, ENTITLED "GENERAL PROVISION," AT SECTION 114-1, ENTITLED "DEFINITIONS," TO ESTABLISH A DEFINITION FOR "VITAMIN SHOP" AND RELATED DEFINITIONS; AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II ENTITLED "DISTRICT REGULATIONS," DIVISION 6, ENTITLED "CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT," AT SECTION 142-335, ENTITLED "PROHIBITED USES," TO PROHIBIT VITAMIN SHOPS IN THE CD-3 DISTRICT LOCATED ALONG LINCOLN ROAD; AND AMENDING ARTICLE V ENTITLED "SPECIALIZED USE REGULATIONS", TO ESTABLISH DIVISION 12 ENTITLED "VITAMIN SHOPS," TO ESTABLISH REGULATIONS TO LIMIT THE PROLIFERATION OF VITAMIN SHOPS AS A PRIMARY USE AND MINIMIZE THE IMPACT OF VITAMIN SHOPS AS AN ACCESSORY USE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, vitamin shops are uses which may negatively affect surrounding areas; and

WHEREAS, the City Commission finds that it is in the best interest of residents to limit the exposure of certain vitamin shop products to children and adolescents; and

WHEREAS, Lincoln Road is an iconic shopping area in the City of Miami Beach (the "City"); and

WHEREAS, the Lincoln Road corridor has historically been composed of low intensity retail, service and retail establishments, which primarily serve City residents; and

WHEREAS, Lincoln Road is a premier street in Miami Beach that provides residents and visitors with a unique cultural, retail, and dining experience, which is vital to Miami Beach's economy, especially the tourism industry; and

WHEREAS, in order to ensure consistency with the recently-adopted Lincoln Road Master Plan, and to ensure the integrity of the Lincoln Road experience, the City Commission recommends revising the list of prohibited uses for the subject area; and

WHEREAS, it is the intent of the City to limit the proliferation of establishments which may negatively affect the subject areas; and

WHEREAS, the City Commission finds that it is in the best interest of its residents, businesses, and visitors to adopt regulations to protect the public health, safety, welfare, and morals; 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. That Chapter 114, entitled "General Provisions", at Section 114-1, entitled "Definitions" is hereby amended as follows:

Vitamin shop means any commercial establishment where the primary use is selling one or more of the following products: health supplements, including vitamins, nutritional supplements, dietary supplements, consumable hemp products, or performance enhancers. This definition excludes medical cannabis treatment centers.

SECTION 2. That Chapter 142, entitled "Zoning Districts and Regulations," Article II entitled "District Regulations," Division 6, entitled "CD-3 Commercial, High Intensity District," at section 142-335, entitled "Prohibited Uses," is hereby amended as follows:

Sec. 142-335. Prohibited uses.

* * *

(b) For properties with a lot line on Lincoln Road, between Alton Road and Collins Avenue, the following additional uses are prohibited:

(1) Check cashing stores;

(2) Medical cannabis dispensaries (medical marijuana dispensaries);

(3) Convenience stores;

(4) Grocery stores;

(5) Occult science establishments;

(6) Pharmacy stores;

(7) Souvenir and t-shirt shops;

(8) Tattoo studios;

(9) Retail establishments larger than 45,000 square feet (except as otherwise provided in section 142-332 and 142-333) (note: no variances shall be granted from the regulations in this subsection (b)(9)); ~~and~~

(10) Offices on the ground floor on that portion of Lincoln Road which is closed to traffic; notwithstanding the foregoing, this prohibition does not include office uses located in a mezzanine, or set back at least 75 feet back from the storefront~~.~~; and

(11) Vitamin Shops.

SECTION 3. That Chapter 142, entitled "Zoning Districts and Regulations," Article V entitled "Specialized Use Regulations", Division 12 entitled "Vitamin Shops" is hereby created as follows:

DIVISION 12. VITAMIN SHOPS

Sec. 142-1515. Intent.

It is the intent of this division to limit access and exposure of vitamin shop products to children and adolescents due to the potential effects on health of certain products. It is also the

intent to limit the proliferation of vitamin shops in areas where the city encourages tourism, and to minimize the negative implications that these types of businesses may portray to the city's visitors seeking a unique vacation destination.

Sec. 142-1516. Compliance with regulations.

(a) Vitamin Shops as a Primary Use. Where Vitamin Shops are the primary use of a site (vitamin shop goods occupy 50 percent or more of the establishment's floor area) the following shall apply:

(1) *Prohibited locations.* Such establishments are prohibited in the following locations:

i. Within 500 feet of any property used as a public or private, elementary, middle, or secondary school. The minimum distance separation requirement shall be determined by measuring a straight line from the main entrance or exit of the establishment which contains the Vitamin Shop to the nearest point of the property line of the school.

ii. In those specific areas that have been identified within the underlying zoning district regulations in chapter 142, article II or overlay district regulations in chapter 142, article III of the City Code.

(2) *Distance separation from Vitamin Shops.* Vitamin Shops shall not be located within 1,200 feet of another Vitamin Shop. The minimum distance separation requirement shall be determined by measuring a straight line from the main entrance or exit of the establishment which contains the Vitamin Shop to the nearest point of the property line of the other Vitamin Shop.

(3) *Determination of minimum distance separation.* When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning director or designee that the minimum distance separation has been properly satisfied.

(b) Vitamin Shops as an Accessory Use. Where Vitamin Shops are an accessory use to another type of commercial establishment (vitamin shop goods occupy less than 50 percent of the establishment's floor area) the following shall apply:

(1) No more than 10 percent of the floor area may be used for vitamin shop goods.

(2) Exterior signage is prohibited related to the vitamin shop use and related products.

(3) Vitamin shop merchandise shall not be visible from public rights-of-way.

(c) *[Variances.]* Variances from the requirements of this section shall be prohibited.

SECTION 4. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 5. CODIFICATION.

It is the intention of the City Commission, 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 as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 6. SEVERABILITY.

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

SECTION 7. EFFECTIVE DATE,

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2022.

_____
Dan Gelber
Mayor

ATTEST:

_____
Rafael E. Granado
City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

_____
City Attorney Date

First Reading: November 16, 2022
Second Reading: December 7, 2022

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

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