

**Assisted Living Facility and Medical  
Use Zoning Regulations**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 130, "OFF-STREET PARKING," ARTICLE II, "DISTRICT; REQUIREMENTS," TO ESTABLISH PARKING REQUIREMENTS FOR ASSISTED LIVING FACILITY, ADULT DAY CARE CENTER, MEDICAL OFFICE, AND RELATED USES; AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE V, "SPECIALIZED USE REGULATIONS," TO CREATE DIVISION 2, "ASSISTED LIVING AND MEDICAL USES", SECTIONS 142-1252 TO CREATE MEDICAL RELATED USE DEFINITIONS, INCLUDING BUT NOT LIMITED TO DEFINING ASSISTED LIVING FACILITIES, COMMUNITY RESIDENTIAL HOMES, COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY, CRISIS STABILIZATION UNIT; INTENSIVE INPATIENT AND OUTPATIENT TREATMENT, AND RESIDENTIAL TREATMENT CENTERS AND FACILITIES; PROVIDING FOR CLASSES OF MEDICAL USES; AND PROVIDING FOR A ZONING USE SCHEDULE WITHIN THE VARIOUS ZONING DISTRICTS OF THE CITY WHICH DELINEATES WHERE SAID MEDICAL RELATED USES ARE CONSIDERED PERMITTED, CONDITIONAL OR PROHIBITED USES; PROVIDING FOR MINIMUM ZONING STANDARDS, DISTANCE SEPARATIONS, HOURS OF OPERATION, AND SUPPLEMENTAL CONDITIONAL USE CRITERIA; AMENDING CHAPTER 102, "TAXATION," ARTICLE V, "LOCAL BUSINESS TAX" AT SECTION 102-379, "SCHEDULE OF TAXES, EFFECTIVE OCTOBER 1, 2016" TO PROVIDE NEW BUSINESS TAX RECEIPT FOR SAID USES; PROVIDING FOR PENALTIES, VIOLATIONS, AND APPEALS OF CITATIONS; AMENDING CHAPTER 130, RELATING TO OFF-STREET PARKING REQUIREMENTS FOR ALF AND MEDICAL USES; AMENDING CHAPTER 102, "TAXATION," ARTICLE V, "LOCAL BUSINESS TAX" AT SECTION 102-379 "SCHEDULE OF TAXES, EFFECTIVE OCTOBER 1, 2016," AS TO A CERTAIN BUSINESS TAX RECEIPT VALUATIONS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

**WHEREAS**, on March 1, 2017, the Mayor and City Commission enacted Ordinance 2017-4073, which initiated a six (6) month moratorium relating to the following types of uses: adult congregate living facilities, assisted living facilities, crisis stabilization units, residential detoxification centers, community residential homes, and residential medical rehabilitation centers, and any similar or derivative uses associated with such uses, within the jurisdictional boundaries of the City; and

**WHEREAS**, the moratorium was extended through December 31, 2017; and

**WHEREAS**, due to an advertising error by the Miami Herald, second reading of the ordinance could not be held on December 13, 2017, and as a result, a new one month moratorium was implement, to expire January 31, 2018; and

**WHEREAS**, the City's planning department hired a medical use planning consultant to advise on the drafting of the ordinance, and as the City is also obtaining input from the City's medical advisory committee, and the community at large additional time is needed to finalize the proposed land use ordinances; and

**WHEREAS**, the Mayor and City Commission desire to encourage compatible uses within the various zoning districts in order to provide for the needs of the community; and

**WHEREAS**, the Comprehensive Plan may require amendment to ensure the proper location for said uses, and the list of permitted, conditional, and prohibited uses, must be amended in the City's land development regulations; and

**WHEREAS**, siting of said uses must take into consideration the existing and proposed infrastructure, accessibility to emergency and public service vehicles, and proximity to public safety and public facilities; these considerations are critical for the City to ensure the health, safety and welfare of the City's residents and visitors; and

**WHEREAS**, the City Commission realizes that all these changes may have a consequence of increasing demand for City services; and

**WHEREAS**, the City requires time to review, consider, modify, process for adoption, and implement regulations pertaining to the referenced zoning districts, and to evaluate the extent that the existing zoning/land development regulation are effectively implementing the various uses; and

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

**WHEREAS**, the City has not updated its code relating to medical uses in over 25 years; and

**WHEREAS**, the City utilizes the term "adult congregate living facility" (ACLF), which term has been obsolete at the state level for many years, and the State does not license ACLF's, but rather licenses Assisted Living Facilities (ALFs), and the City desires to ensure that the City's zoning regulations are consistent with state law; and

**WHEREAS**, over the past 25 years, other medical terms and uses have come into existence and are being licensed on a state level, but, have not been incorporated into the City Land Development Regulations; and

**WHEREAS**, the City has not defined crisis stabilization units, residential detoxification centers, community residential homes, and residential medical rehabilitation centers, and any similar or derivative uses associated with such uses; and

**WHEREAS**, the term adult congregate living facility is obsolete and should be updated to conform to state law, by replacing the obsolete term with "assisted living facility," and the City Code should be updated to include proper licensure requirements and to comply with state law requirements; and

**WHEREAS**, the City desires to provide for such uses, in appropriate locations, but the City must first complete a zoning and planning analysis to determine the locations best suited for such uses; and

**WHEREAS**, as these uses are authorized under state law, and as the City may be facing applications for such uses in the City, it is appropriate for the City to determine the best locations for said uses within the City's zoning districts; and

**WHEREAS**, the Centers for Disease Control and Prevention (CDC) declaring a national opioid epidemic has been occurring in the United States, which has been an epidemic plague to the nation since February 2011 and as such, the need for facilities to detoxify, and later rehabilitate users may be needed; and

**WHEREAS**, Governor Rick Scott on May 3, 2017, declared the opioid epidemic a public health emergency as Florida has been hit especially hard by the deadly opioid overdose epidemic; and

**WHEREAS**, in 2015, heroin, fentanyl and oxycodone were directly responsible for the deaths of 3,896 Floridians, according to the most recent Florida Department of Law Enforcement statistics, which is about 12 percent of all the 33,000 people nationwide who died that year of opioid overdoses; and

**WHEREAS**, Last year in South Florida, the morgues in Palm Beach County were strained to capacity by 525 fatal opioid overdoses, the Sun Sentinel newspaper reported in March 2017; and

**WHEREAS**, the deadly cocktail of heroin mixed with fentanyl or carfentanil figured in 220 deaths in Miami-Dade County last year, the paper reported. And 90 percent of the fatal drug overdoses in Broward County involved heroin, fentanyl or other opioids; and

**WHEREAS**, the declaration allows the state to tap more than \$54 million in U.S. Department of Health and Human Services grant money to pay for prevention, treatment and recovery services; and

**WHEREAS**, based upon the foregoing, it is vital to protect the residents and visitors of the City of Miami Beach and to ensure the proper location for medical uses, including facilities that address detoxification, rehabilitation, and other medical uses; 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 130 of the Land Development Regulations, entitled "Off-street Parking," Article II "Districts; requirements," is hereby amended as follows:

**Sec. 130-32. - Off-street parking requirements for parking district no. 1.**

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 1, accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows:

\* \* \*

- (2) ~~Adult congregate~~ Assisted living facility, adult family care home, birth center, community residential home, day/night treatment community housing, homes for special services, hospice facility, intermediate care facility for the developmentally disabled, residential treatment facility, residential treatment center, transitional living facility: One (1) space per two (2) beds.

(2A) Adult day care center: One (1) space per 300 square feet of floor area.

- (2AB) Alcoholic beverage establishment: One (1) space per four seats and one (1) space per 60 square feet of area not utilized for seating.

\* \* \*

- (24) HD hospital districts: The following parking regulations shall apply to structures situated in the HD hospital district. The number of off-street parking spaces required for any structure shall be determined by the primary use of the structure in accordance with the requirements as follows:

- a. Hospital: 1½ spaces per hospital bed.
- b. Educational facility: One space per five seats in the main auditorium or one space per three seats per classroom, whichever is greater.
- c. Offices and clinics as identified in subsections 142-452(2)g and h: One (1) space per 400 square feet of floor area.
- d. Hospital staff offices as identified in subsection 142-452(2)i: One (1) space per 350 square feet of floor area.
- e. Research facility: One (1) space per 1,000 square feet of floor area.
- f. When not listed above, the parking requirement for uses listed in this section shall apply.

\* \* \*

- (32) ~~Reserved~~ Medical office, optician, retail clinic, electrology facility, ambulatory surgical center, laboratory, comprehensive outpatient rehabilitation facility, end-stage renal disease center, health care clinic, intensive outpatient treatment facility, prescribed pediatric extended care center, urgent care center, women's health clinic, pathologist, rehabilitation agency: One (1) space per 300 square feet of floor area.

(33) Nursing homes: One (1) space for each two (2) beds.

(34) Office or office building: One (1) space per 400 square feet of floor area; however, medical offices and clinics or offices located on the ground floor shall provide one (1) space per 300 square feet.

\* \* \*

**Sec. 130-33. - Off-street parking requirements for parking districts nos. 2, 3, 4, 5, 6, and 7.**

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking districts nos. 2, 3, 4 and 5 accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows. There shall be no off-street parking requirement for uses in this parking district except for those listed below:

\* \* \*

(2) Adult congregate Assisted living facility, adult family care home, birth center, community residential home, day/night treatment community housing, homes for special services, hospice facility, intermediate care facility for the developmentally disabled, residential treatment facility, residential treatment center, transitional living facility: One (1) space per two (2) beds.

(2A) Adult day care center: One (1) space per 300 square feet of floor area.

\* \* \*

(4A) Medical office, optician, retail clinic, electrology facility, ambulatory surgical center, laboratory, comprehensive outpatient rehabilitation facility, end-stage renal disease center, health care clinic, intensive outpatient treatment facility, prescribed pediatric extended care center, urgent care center, women's health clinic, pathologist, rehabilitation agency: One (1) space per 300 square feet of floor area.

(5) Offices: One (1) space per 400 square feet of floor area, provided, however, -However, medical offices and clinics or offices located on the ground floor shall provide one (1) space per 300 square feet of floor area.

**SECTION 2.** Chapter 142 of the Land Development Regulations, entitled "Zoning Districts Regulations," Article V "Specialized Use Regulations," at Division 2, "Assisted Living and Medical Uses," is hereby amended as follows:

**CHAPTER 142  
ZONING DISTRICTS AND REGULATIONS**

**ARTICLE V  
SPECIALIZED USE REGULATIONS**

**DIVISION 2**

## **ASSISTED LIVING AND MEDICAL USES** **ADULT CONGREGATE LIVING FACILITIES**

### **Sec. 142-1251. - Purpose.**

The purpose of this division is to provide mandatory requirements and review criteria to be used in reviewing requests for assisted living facilities (ALFs) and other medical uses, a conditional use permit for adult congregate living facilities (ACLF). — On October 1, 1989, the City adopted Ordinance No. 89-2665, which created this Division, and was devoted exclusively to Adult Congregate Living Facilities (ACLFs). The City Code had not been amended in 27 years, and the term ACLF is no longer utilized by the State of Florida for licensure purposes. The City desires to encourage compatible uses within the various zoning districts in order to provide for the needs of the community, and to take into consideration the existing and proposed infrastructure, accessibility to emergency and public service vehicles, and proximity to public safety and public facilities in relation to various medical uses. Therefore, the City, which previously had not defined crisis stabilization units, residential detoxification centers, community residential homes, and residential medical rehabilitation centers, and any similar or derivative uses associated with such uses, desires to define said uses, consistent with state law and state licensure requirements, and to determine the compatibility of those uses within the various zoning districts. This division shall delineate the locations for the various types of medical uses and where they are permitted, conditional or prohibited within the various zoning districts.

### **Sec. 142-1252. – Definitions.**

Addictions Receiving Facility means a secure, acute-care, facility operated 24 hours-per-day, seven (7) days-per-week, designated by the department of children and families, or applicable agency to serve persons found to be substance abuse impaired as described in Section 397.675, Florida Statutes, as may be amended.

Adult Day Care Center means a facility that provides programs and services for adults who need a protective setting during the day. An adult day care center can be a freestanding program or services can be offered through a nursing home, assisted living facility, or hospital. The basic services include, but are not limited to: social activities, self-care training, nutritional meals, a place to rest, and respite care. Adult day care centers are licensed and surveyed by the State of Florida.

Adult Family Care Home means a dwelling unit that provides full-time, family-type living in a private home for up to five elderly persons or adults with a disability, who are not related to the owner. The owner lives in the same house as the residents. The basic services include, but are not limited to: housing and nutritional meals; help with the activities of daily living, like bathing, dressing, eating, walking, physical transfer, giving medications or helping residents give themselves medications; supervision of residents; arrange for health care services; provide or arrange for transportation to health care services; health monitoring; and social activities. Adult family care homes are licensed and surveyed by the State of Florida.

Ambulatory Surgical Center (ASC) means a facility that is not part of a hospital and provides elective surgical care where the patient is admitted to and discharged from the facility within the same working day. The patient does not stay overnight. Hospitals can have outpatient surgical

units, but these units would be a part of the hospital license and would not require a separate ASC license. Ambulatory surgical centers are licensed and surveyed by the State of Florida.

Assisted Living Facility means a facility that provides full-time living arrangements in the least restrictive and most home-like setting where personal services are provided. Intense medical services are to be obtained off-site. The basic services include, but are not limited to: housing and nutritional meals; help with the activities of daily living, like bathing, dressing, eating, walking, physical transfer, giving medications or helping residents give themselves medications; arrange for health care services; provide or arrange for transportation to health care services; health monitoring; respite care; and social activities. Assisted living facilities are licensed and surveyed by the State of Florida. These facilities are intended for residency of six (6) months and a day or more.

Beds means one resident or patient, as applicable.

Birth Center means a facility in which births are planned to occur away from the mother's place of residence following a normal, uncomplicated, low-risk pregnancy. It is not an ambulatory surgery center, a hospital, or located within a hospital. Birth centers are licensed and surveyed by the State of Florida.

Brain and Spinal Cord Injury. (See Transitional Living Facility.)

Chiropractor's Office. (See Medical Office.)

Laboratory means a facility that performs one or more of the following services to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or the identification or assessment of a medical or physical condition. Services include examination of fluids, tissue, cells, or other materials taken from the human body.

Community Residential Home as defined by Section 419.001, Florida Statutes, as may be amended. These facilities are intended for residency of six (6) months and a day or more.

Comprehensive Outpatient Rehabilitation Facility means a non-residential facility that provides diagnostic, therapeutic, and restorative services for the rehabilitation of injured, disabled, or sick persons, by or under the supervision of a physician.

Crisis Stabilization Unit means a facility where the purpose is to examine, stabilize, and redirect people to the most appropriate and least restrictive treatment settings for their psychiatric needs. Crisis stabilization units include:

Crisis stabilization units (adult and children) provide brief psychiatric intervention, primarily for low-income individuals with acute psychiatric conditions. Inpatient stays average three (3) to 14 days, resulting in return to the patient's own home or placement in a long-term mental health facility or other living arrangements. Intervention means activities and strategies that are used to prevent or impede the development or progression of substance abuse problems.

Short-term residential treatment facilities provide a step-down service for adult residents (ages 18 and over) of crisis stabilization units needing a more extended, but less intensive level of active treatment for psychiatric conditions, usually with a stay of 90 days or less.

Both of these facility types are licensed by the State of Florida. It is not intended to be a residential use (not intended as a dwelling unit).

Day/Night Treatment means treatment provided on a nonresidential basis at least three (3) hours per day and at least 12 hours each week and is intended for clients who meet the placement criteria for this component.

Day/Night Treatment with Community Housing means treatment that is provided on a nonresidential basis at least five (5) hours each day and at least 25 hours each week and is intended for clients who can benefit from living independently in peer community housing while undergoing treatment.

Day/Night Treatment with Host Home means treatment that is provided on a nonresidential basis at least three (3) hours per day and at least 12 hours each week and is intended for clients who meet the placement criteria for this level of care. This component also requires that each client reside with a host family as part of the treatment protocol.

Dentist's Office (See Medical Office.)

Detoxification means is a process involving sub-acute care that is provided to assist clients who meet the placement criteria for this component to withdraw from the physiological and psychological effects of substance abuse. The use is short term, four (4) to 14 days and is not residential in nature. 24 hour medical supervision is required.

Dietician. (See Medical Office.)

Doctor's Office (See Medical Office.)

Electrology Facility means a facility where electrologists are allowed to perform laser and light-based hair removal.

End-Stage Renal Disease Center means is a facility programs that that offer dialysis services. When patients are diagnosed with End-Stage Renal Disease, they may receive dialysis which replaces kidney function by filtering blood to remove waste and extra fluids. The program can either be a freestanding facility or offered as an outpatient service through a hospital.

Health Care Clinic means a facility that provides health care services to individuals for a fee. Such facilities do not allow for overnight stays. Health care clinics are licensed and surveyed by the State of Florida.

Health Care Clinic Exemption means businesses that have gotten an exemption to the health care clinic license requirement. However, businesses that meet the exemption criteria are not required to have an official exemption, so there may be clinics that are exempt that are not listed here. The exemption criteria are listed in section 400.9905(4), Florida Statutes, as may be amended.

Health Care Services Pool means a health care services pool provides temporary employment of licensed, certified, or trained health care personnel to health care facilities, residential facilities, and agencies. Health care services pools are registered by the State of Florida.



Home Health Agency means an agency that provides services to patients in private homes, assisted living facilities, and adult family care homes. Some of the services include nursing care; physical, occupational, respiratory, and speech therapy; home health aides; homemaker and companions; and medical equipment and supplies. Along with services in the home, an agency can also provide staffing services in nursing homes and hospitals. Home health agencies are licensed and surveyed by the State of Florida.

Home Medical Equipment Provider means a service that sells or rents medical equipment and services for use in the home. Home medical equipment includes any product as defined by the Federal Drug Administration's Drugs, Devices and Cosmetics Act; any products reimbursed under the Medicare Part B Durable Medical Equipment benefits; or any products reimbursed under the Florida Medicaid durable medical equipment program. Service includes managing the equipment and teaching consumers in its use. Home medical equipment providers are licensed and surveyed by the State of Florida.

Homemaker and Companion Services means a company that provides housekeeping, prepare and serve meals, help with shopping, routine household chores, companionship in the client's home, and can take the client to appointments and other outings. By law, homemakers and companions may not provide hands-on personal care, such as help with bathing, and cannot give medications. Homemaker and companion agencies are registered by the State of Florida. However, individuals who work on their own, with no other workers helping them are not required to be registered.

Homeopathic Physician's Office. (See Medical Office.)

Homes for Special Services means a residential facility where specialized health care services are provided, including personal and custodial care, but not full-time nursing services. Home for special services are licensed by the State of Florida.

Home Hospice Service means services provided in a patient's residence for patients with a diagnosis of a terminal illness. They provide a coordinated program of professional services, including pain management and counseling for patients; nursing, physician, therapy, and social work services; counseling and support for family members and friends of the patient; and other support services. Hospices are licensed and surveyed by the State of Florida.

Hospice Facility means a facility that provides services in a facility for patients with a diagnosis of a terminal illness. They provide a coordinated program of professional services, including pain management and counseling for patients; nursing, physician, therapy, and social work services; counseling and support for family members and friends of the patient; and other support services. Hospices are licensed and surveyed by the State of Florida.

Hospital means a facility that provides range of health care services more extensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring medical, surgical, psychiatric, testing, and diagnostic services; and treatment for illness, injury, disease, pregnancy, etc. Also available are laboratory and X-ray services, and treatment facilities for surgery or obstetrical care, or special services like burn treatment centers. Hospitals are licensed and surveyed by the State of Florida. Hospitals include any medical sub-use identified within this Division.

Intensive Inpatient Treatment means includes a planned regimen of evaluation, observation, medical monitoring, and clinical protocols delivered through an interdisciplinary team approach provided 24 hours-per-day, seven (7) days per week in a highly structured, live-in environment.

Intensive Outpatient Treatment means a facility that provides services on a nonresidential basis and is intended for clients who meet the placement criteria for this component. This component provides structured services each day that may include ancillary psychiatric and medical services.

Intermediate Care facility for the Developmentally Disabled means a residential facility that provides services by an interdisciplinary team to increase a client's independence and prevent loss of abilities. They are licensed and surveyed by the State of Florida.

Medical Cannabis Dispensary (See Chapter 142, Division 10 and Chapter 6, Division 3).

Medical Office means a small-scale office providing medical or dental treatment. This includes chiropractor's office, dentist's office, dietician, doctor's office, homeopathic physician's office, pathologist, physiotherapist's office, phlebotomist's office, podiatrist's office, optometrist's office, ophthalmologist's office, psychiatrist's office. A small-scale office shall mean a maximum floor area of 5,000 square feet. This shall not include Class III to X medical sub-uses.

Medication and Methadone Maintenance Treatment Facility means a facility that provides outpatient treatment on a nonresidential basis which utilizes methadone or other approved medication in combination with clinical services to treat persons who are dependent upon opioid drugs.

Nursing Home means a facility that provides nursing, personal, custodial, and rehabilitative care. Nursing homes, sometimes called skilled nursing facilities, are freestanding, which means they are not part of a hospital. They provide long-term care of the chronically ill, the physically disabled, and the aged who are unable to move about without the aid of another person or device. Nursing homes are licensed and surveyed by the State of Florida.

Optical Establishment means the retail sale of glasses and contact lenses.

Optician means a professional that provides eye exams for the purposes of the retail sale of glasses or contact lenses.

Optometrist's office. (See Medical Office.)

Organ and Tissue Procurement Facility means one of three types of organ and tissue procurement organizations: Organ Procurement Organizations (OPOs), Eye Banks and Tissue Banks. OPOs must also be federally designated by the Secretary of the United States Department of Health and Human Services and are responsible for using the national United Network of Organ Sharing's (UNOS) registry to medically and physically match organs, such as the heart, lungs, kidneys, or liver, from a patient who has died with an individual awaiting a life-saving transplant. An eye bank is an entity involved in the recovery, processing, storage or distribution of eye tissue that will be used for transplantation. A Tissue Bank is an entity that is involved in the recovery, processing, storage, or distribution of human tissue, such as bone, skin, or cartilage, which will be used for transplantation. Organ and tissue procurement organizations, including those located outside of Florida that provide eye and other tissue types to Florida's transplanting physicians, are certified by the State of Florida.

Outpatient Treatment means a facility that provides services on a nonresidential basis and is intended for clients who meet the placement criteria for this component.

Pain Management Clinics means the definition provided in Florida Statutes Section 458.3265, as may be amended.

Pharmacy means a store where solely medicinal drugs are dispensed and sold. Medical cannabis cannot be sold from such stores.

Portable X-Ray Provider means a provider that gives diagnostic x-ray tests in a patient's own home, a nursing home, or a hospital that does not provide x-ray services for its patients directly but arranges for services with a portable x-ray provider. Some portable x-ray providers may need a health care clinic license.

Prescribed Pediatric Extended Care Center means a facility that provides a basic nonresidential services to three (3) or more medically dependent or technologically dependent children with complex medical conditions that require continual care. The comprehensive care includes medical, nursing, psychosocial, and developmental therapies. These centers are licensed and surveyed by the State of Florida.

Rehabilitation Agency means a facility that provides a multidisciplinary program to help improve the physical function of disabled individuals by creating a team of specialized rehabilitation staff. The rehabilitation agency provides at least physical therapy or speech-language pathology services and social or vocational adjustment services. Rehabilitation agencies are not required to be licensed by the state if they are Medicare certified. Rehabilitation agencies that are not certified under the Medicare program may require licensure as a health care clinic.

Residence means a dwelling unit utilized for at least six (6) months and a day. Residential. The term "residential" or "residence" is applied herein to any lot, plot, parcel, tract, area or piece of land or any building used exclusively for family dwelling purposes or intended to be used, including concomitant uses specified herein.

Residential Treatment Center for Children and Adolescents means a facility with 24-hour residential programs, including therapeutic group homes that provide mental health treatment and services to children under the age of 18 who have been diagnosed as having mental, emotional, or behavioral disorders. Residential treatment centers are licensed by the State of Florida. This facility is also a Level II, facility.

Residential Treatment Facility means a facility that provides long-term residential care with coordinated mental health services for adults (18 years or older) diagnosed with a serious and persistent major mental illness. A state license covers five (5) levels of care that range from having full-time nurses on staff to independent apartments that receive only weekly staff contact. Residential treatment facilities are licensed and surveyed by the State of Florida.

Level I facilities provide the highest level of care with a structured group treatment setting with 24 hours per day, seven (7) days per week supervision for residents who have major skill deficits in activities of daily living and independent living, and need intensive staff supervision, support and assistance. Nursing supervision is provided 24 hours per day, seven (7) days per week, however, nursing services are limited to medication administration, monitoring vital signs,

first aid and individual assistance with ambulation, bathing, dressing, eating and grooming. The minimum staffing is 1:10 staff to resident ratio with never less than two (2) staff on site at all times. This is a residential use intended for stays of over six (6) months and a day.

Level II facilities provide a structured group treatment setting with 24 hour per day, seven (7) days per week supervision for seven (7) or more residents who range from those who have significant deficits in independent living skills and need extensive supervision, support, and assistance, to those who have achieved a limited capacity for independent living, but who require frequent supervision, support and assistance. Level II facilities maintain a minimum of 1:15 staff to resident ratio with never less than one (1) staff person on site when residents are present during normal waking hours. During sleeping hours, a minimum of 1:22 staff to resident ratio is required. This is a residential use intended for stays of over six (6) months and a day.

Level III facilities consist of colocated apartment units with an apartment or office for staff who provided on-site assistance 24 hours per day, seven (7) days per week. The residents have a moderate capacity for independent living. Level III facilities maintain a minimum 1:20 staff to resident ratio with never less than one staff on site when residents are present during normal waking hours. During normal sleeping hours, a minimum of 1:40 staff to resident ratio is required. This is a residential use intended for stays of over six (6) months and a day.

Level IV facilities provide a semi-independent, minimally structured group setting for four (4) or more residents who have most of the skills required for independent living and require minimal staff support. Level IV facilities may have less than 24 hours per day, seven (7) days per week on site supervision; however, on-call staff must be available at all times. Staff is required to have a minimum of weekly on site contact with residents. This is a residential use intended for stays of over six (6) months and a day.

Level V facilities provide the least amount of care and supervision. Level V facilities provide a semi-independent, minimally structured apartment setting for up to six (6) residents who have adequate independent living skills and require minimal staff support. Level V facilities may have less than 24 hours per day, seven (7) days per week on site supervision; however, on-call staff must be available at all times. Staff is required to have a minimum of weekly on site contact with residents. This is a residential use intended for stays of over six (6) months and a day.

Skilled Nursing Unit means skilled nursing units are based in hospitals, either housed inside the hospital or in a separate building. They typically provide only short term care and rehabilitation services. The skilled nursing unit does not have a separate license because it is part of the hospital license. See the hospital definition for further information.

Social Worker (See Medical Office.)

Sociologist (See Medical Office.)

Therapist (See Medical Office.)

Transitional Living Facility means a facility that provides services to persons with a spinal-cord-injury or head-injury. Specialized health care services include rehabilitative services, community reentry training, aids for independent living, counseling, and other services. This term does not include a hospital licensed under chapter 395, Florida Statutes, or any federally operated hospital or facility. A transitional living facility is licensed by the State of Florida.

Urgent Care Center means a facility which holds itself out to the general public as a walk-in facility, where immediate, but not emergent, care is provided. Patients shall be served solely on an outpatient basis and such services shall not include overnight stays.

Women's Health Clinic means a facility that primarily provides obstetrics and gynecology service or other services related to women's healthcare. This definition includes Abortion Clinics, which are licensed and surveyed by the State of Florida, but does not include a hospital or a doctor's office where abortions might be performed, but where this is not the primary purpose.

#### **Sec. 142-1253. – Medical use classifications.**

Medical uses shall be organized into classes for the purpose of determining allowable locations, process of approval, and other zoning regulations. Generally, as the potential for impacts to surrounding areas increase as the class increases. None of the, distance separation, size, or length of stay requirements under the various classes of medical uses may be varied, or increased in scope (whether by variance request or conditional use approval), unless specifically authorized in Division. The classes and medical sub-uses within each class are as follows:

##### **(a) Class I Medical Uses.**

Class I Medical Uses generally have an impact similar to, and often incorporate retail uses. These uses are often seen as a small accessory use to large-scale residential and hotel uses as well. Class I medical sub-uses include the following:

- (1) Optician
- (2) Retail Clinic
- (3) Adult Day Care Center
- (4) Electrology Facility
- (5) Medical Office

##### **(b) Class II Medical Uses.**

Class II Medical Uses generally provide medical care throughout extended working hours, along with diagnostic and testing services. These may involve the generation of higher levels of medical waste than Class I, and generate higher levels of traffic. Class II medical sub-uses include the following:

- (1) Ambulatory Surgical Center (ASC)
- (2) Laboratory

- (3) Comprehensive Outpatient Rehabilitation Facility
- (4) End-Stage Renal Disease Center
- (5) Health Care Clinic
- (6) Prescribed Pediatric Extended Care Center
- (7) Urgent Care Center
- (8) Women's Health Clinic
- (9) Pathologist
- (10) Rehabilitation Agency

(c) Class III Medical Uses.

Class III Medical Uses generally dispense pharmaceuticals as part of their treatment plan. These may involve frequent visits from patients who may require services from the facility on a daily basis and limited overnight stays. Class III medical sub-uses include the following:

- (1) Detoxification Center
- (2) Intensive Outpatient Treatment Facility
- (3) Pain Management Clinic

(d) Class IV Medical Uses.

Class IV Medical Uses generally are those in which assistance is given to permanent residents in daily personal activities including but not limited to, bathing, dressing, eating, grooming, and dispensing of medicine in a residential setting. Such a facility may have no more than six (6) residents. Class IV medical sub-uses include the following:

- (1) Adult Family Care Home
- (2) Assisted Living Facility
- (3) Community Residential Home
- (4) Homes for Special Services
- (5) Hospice Facility
- (6) Intermediate Care Facility Developmentally Disabled

(e) Class V Medical Uses.

Class V Medical Uses generally are those in which assistance is given to permanent residents with assistance in daily personal activities including but not limited to, bathing, dressing, eating, grooming, and dispensing of medicine in a residential setting. Such a facility may have no more than 14 residents. Class V medical sub-uses include the following:

- (1) Adult Family Care Home
- (2) Assisted Living Facility
- (3) Community Residential Home
- (4) Homes for Special Services
- (5) Hospice Facility
- (6) Intermediate Care Facility Developmentally Disabled
- (7) Residential Treatment Facility (Level V)

(f) Class VI Medical Uses.

Class VI Medical Uses generally provide 24-hour medical supervision and may implement medication management and other medical care for its residents. However, the patients do not pose a physical danger to themselves or others. They are typically in a residential setting; however, they may have some institutional components. They may contain recreational amenities to improve the quality of life of patients. Such a facility may have no more than 80 residents and patients. Such facilities are generally intended to assist permanent residents. Class VI medical sub-uses include the following:

- (1) Adult Family Care Home
- (2) Assisted Living Facility
- (3) Birth Center
- (4) Community Residential Home
- (5) Day/Night Treatment Community Housing
- (6) Homes for Special Services
- (7) Hospice Facility
- (8) Intermediate Care Facility Developmentally Disabled
- (9) Nursing Home
- (10) Residential Treatment Facility (Level IV and V)
- (11) Transitional Living Facility

(g) Class VII Medical Uses.

Class VII Medical Uses generally provide 24-hour medical supervision and may implement medication management for its residents or patients; however, they treat residents or patients who may pose a physical danger to themselves or others and security is required. They are typically of an institutional nature, though they may take place in a more residential setting. Such a facility may contain recreational amenities to improve the quality of life of patients. Class VIII medical sub-uses include the following:

- (1) Adult Family Care Home
- (2) Assisted Living Facility
- (3) Birth Center
- (4) Community Residential Home
- (5) Day/Night Treatment Community Housing
- (6) Homes for Special Services
- (7) Hospice Facility
- (8) Prescribed Pediatric Extended Care
- (9) Intensive Inpatient Treatment Facility
- (10) Intermediate Care facility for the Developmentally Disabled
- (11) Nursing Home
- (12) Residential Treatment Facility (Level I, II, III, IV and V)
- (13) Residential Treatment Facility for Children
- (14) Residential Treatment Center for Children and Adolescents
- (15) Transitional Living Facility

(h) Class VIII Medical Uses.

A medical use that treats a full range of medical related issues. This is the most intense medical use. Class VIII medical sub-uses include the following:

- (1) Hospital

- (2) Trauma Systems
- (3) Crisis Stabilization Unit
- (4) Addiction Receiving Facility
- (5) Medication and Methadone Maintenance Treatment Facility
- (6) Detoxification Center
- (7) Organ and Tissue Procurement Facility
- (8) Intensive Inpatient Treatment Center
- (9) Prescribed Pediatric Extended Care
- (10) Other medical uses

(i) Medical sub-uses not identified in subsections (a) through (j) above or in section 142-1254 shall be considered Class VIII Medical Uses. If an applicant feels that the proposed medical sub-use is of a similar nature or impact as the uses in a differing class, the applicant may provide a description of the proposed medical sub-use and expected impacts from the use to the Planning Department for a determination of equivalent impact. The Planning Department may request additional information, as necessary, in order to make a determination. The Planning Department may require a study to support the descriptions and impacts in the study to support the descriptions and impacts and that the study be peer reviewed at the expense of the applicant. The study must consider the supplemental conditional use criteria in section 142-1257, as applicable, in addition to any other information deemed necessary.

**Sec. 142-1254. – Exempt uses.**

The following medical sub-uses, which service individuals in their place of residence, shall be exempt from the regulations of this division:

- (a) Health Care Services Pool
- (b) Home Health Agency
- (c) Home Medical Equipment Provider
- (d) Homemaker and Companion Services
- (e) Home Hospice Service
- (f) Massage Therapist
- (g) Portable X-Ray Provider
- (h) Pharmacies
- (i) Medical Cannabis Treatment Centers



## **Sec. 142-1255. – Zoning District Regulations.**

The following table identifies the zoning districts in which each medical use class is allowed and if conditional use approval is required.

<b><u>Zoning District</u></b>	<b><u>Class I</u></b>	<b><u>Class II</u></b>	<b><u>Class III</u></b>	<b><u>Class IV</u></b>	<b><u>Class V</u></b>	<b><u>Class VI</u></b>	<b><u>Class VII</u></b>	<b><u>Class VIII</u></b>
<b><u>RS-1,2,3,4</u></b>				<u>P</u>				
<b><u>TH</u></b>				<u>P</u>				
<b><u>RM-1</u></b>				<u>P</u>	<u>C</u>			
<b><u>RM-PRD</u></b>				<u>P</u>				
<b><u>RM-2</u></b>	<u>A</u>			<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<b><u>RM-PRD-2</u></b>	<u>A</u>			<u>P</u>				
<b><u>RM-3</u></b>	<u>A</u>			<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<b><u>CD-1</u></b>	<u>P</u>			<u>P</u>	<u>C</u>	<u>C</u>		
<b><u>CD-2</u></b>	<u>P</u>	<u>P</u>		<u>P</u>	<u>C</u>	<u>C</u>		
<b><u>CD-3</u></b>	<u>P</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<b><u>I-1</u></b>	<u>P</u>	<u>P</u>	<u>C</u>					
<b><u>MXE</u></b>	<u>P</u>			<u>P</u>				
<b><u>GU</u></b>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			
<b><u>HD</u></b>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<b><u>RO</u></b>	<u>P</u>			<u>P</u>	<u>C</u>	<u>C</u>		
<b><u>RMPS-1</u></b>				<u>P</u>	<u>C</u>			
<b><u>RPS-1</u></b>				<u>P</u>				
<b><u>RPS-2</u></b>				<u>P</u>				
<b><u>RPS-3</u></b>	<u>A</u>			<u>P</u>				
<b><u>RPS-4</u></b>	<u>A</u>			<u>P</u>				
<b><u>C-PS1*</u></b>	<u>P</u>			<u>P</u>	<u>C</u>	<u>C</u>		
<b><u>C-PS2</u></b>	<u>P</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>C</u>		
<b><u>C-PS3</u></b>	<u>P</u>	<u>P</u>		<u>P</u>	<u>C</u>	<u>C</u>		
<b><u>C-PS4</u></b>	<u>P</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<b><u>TC-1</u></b>	<u>P</u>	<u>P</u>		<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<b><u>TC-2</u></b>	<u>P</u>	<u>P</u>		<u>P</u>	<u>C</u>	<u>C</u>		
<b><u>TC-3</u></b>	<u>C</u>			<u>P</u>	<u>C</u>			

P—Main permitted use

C—Conditional use

A—Permitted as an accessory use

Boxes with no designation signify that the use is NOT permitted

## **Sec. 142-1256. – Minimum zoning standards.**

In addition to the regulations in the underlying zoning district and overlays (as applicable) and other regulations in this division, medical uses shall comply with the following minimum standards:

(a) Standards for all medical use classes:

- (1) Medical uses that allow for overnight stays shall not exceed the maximum density limits, when such limits are established by the underlying future land use designation in the Miami Beach Comprehensive Plan. For the purposes of determining residential density, a medical use in single family districts containing up to six (6) residents shall be deemed one dwelling unit. In other districts, every two (2) beds shall count as one (1) dwelling unit.
- (2) For the determination of minimum distance separation requirements when established in subsection (b) below:
  - A. The minimum distance separation, the requirement shall be determined by measuring a straight line between the property lines of each use.
  - B. 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.

(b) Standards for specific medical use classes:

(1) Class I Medical Uses:

- A. Access to Class I medical uses where permitted as an accessory use shall be limited to guest of a hotel or residents and their guests of a residential use.
- B. Class I medical uses shall not operate between the hours of 10:00 p.m. and 7:00 a.m. Such hours may be modified with conditional use approval.
- C. Overnight stays are prohibited.

(2) Class II Medical Uses:

- A. Class II medical uses shall not operate between the hours of 10:00 p.m. and 7:00 a.m. Such hours may be modified with conditional use approval.
- B. Overnight stays are prohibited.

(3) Class III Medical Uses:

- A. Class III medical uses shall have a minimum distance separation of 1,500 feet from other Class II, III, IV, V, VI, VII, or VIII medical use.
- B. Class III medical shall have a minimum distance separation of ~~600~~ 375 feet from religious institutions, schools, or parks.
- C. ~~Hotel or~~ residential, or other commercial uses shall be prohibited on lots with Class III medical uses.
- D. Overnight stays are prohibited in I-1 districts.

E. Class III medical uses shall not be open to walk-in patients between the hours of 9:00 p.m. and 7:00 a.m.; notwithstanding the foregoing, if such facility is located within 375 feet of a residential district, such facility shall not be open to walk-in patients between the hours of 7:00 pm and 7:00 am. Such hours may be modified with conditional use approval.

F. The entire building shall conform with the Florida Building Code, fire prevention and safety code, and with the City property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as amended.

G. Participation in the fee in lieu of parking program for Class III medical uses shall be prohibited.

(4) Class IV Medical Uses:

A. Class IV medical uses shall have a minimum distance separation of 1,000 feet from other Class IV medical uses.

B. Class IV medical uses shall be the primary place of residence for patients or residents.

C. The entire building shall conform with the Florida Building Code, fire prevention and safety code, and with the City property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as amended.

D. Participation in the fee in lieu of parking program for Class IV medical uses located in residential districts shall be prohibited.

(5) Class V Medical Uses:

A. Class V medical uses shall have a minimum distance separation of 1,200 feet from other Class V medical uses.

B. Class V medical uses shall be the primary place of residence for patients or residents.

C. The entire building shall conform with the Florida Building Code, fire prevention and safety code, and with the City property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as amended.

D. Participation in the fee in lieu of parking program for Class IV medical uses located in residential districts shall be prohibited.

(6) Class VI Medical Uses:

- A. Class VI medical uses shall have a minimum distance separation of 1,500 feet from other Class VI medical uses.
- B. The entire building shall conform with the Florida Building Code, fire prevention and safety code, and with the City property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as amended.
- C. Participation in the fee in lieu of parking program for Class IV medical uses located in residential districts shall be prohibited.

(7) Class VII Medical Uses:

- A. Class VII medical uses shall have a minimum distance separation of 1,500 feet from other Class III, VI, or VII medical uses. Notwithstanding the foregoing, a class VIII Medical Use may incorporate Class VIII medical sub-uses on the same site; however, the stricter zoning standards shall apply to the combined uses.
- B. Class VII medical uses shall have a minimum distance separation of 375 feet from parks or schools.
- C. Other hotel or residential uses shall be prohibited on sites with Class VII medical uses.
- D. The entire building shall conform with the Florida Building Code, fire prevention and safety code, and with the City property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as amended.
- E. Participation in the fee in lieu of parking program for Class VII medical uses located in residential districts shall be prohibited.

(8) Class VIII Medical Uses:

- A. Class VIII medical uses shall comply with the requirements of the HD district.
- (9) Notwithstanding the foregoing, medical uses located in an HD district shall be exempt from distance separation and hours of operation requirements identified in this section. However, said facilities shall be utilized for determining distance separation requirements for facilities in other zoning districts.
- (10) Notwithstanding the foregoing, medical uses located in an HD district shall be exempt from limitations on hours of operation and uses.

**Sec. 142-1257. – Supplemental Conditional Use Review Criteria.**

In reviewing an application for a conditional use under this division 2, the planning board shall apply the following supplemental review guidelines criteria in addition to the review guidelines listed in section 118-192, as applicable:

- (a) For medical uses not allowing overnight stays or residence, whether hours of operation are identified in order to limit potential impacts to surrounding properties.
- (b) Whether patients and residents served will pose a danger to themselves or others, and what measures are being taken to ensure their safety and the safety of others in surrounding areas.
- (c) Whether a security plan for the establishment and supporting parking facility has been provided that addresses the safety of the medical use, its users, and surrounding areas, and minimizes impacts on the neighborhood.
- (d) Whether a noise attenuation plan has been provided that addresses how noise will be controlled from emergency vehicles, in the drop off areas, loading zone, parking structures, and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.
- (e) Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the medical use.
- (f) Smaller scale facilities are encouraged in order to provide a non-institutional environment.
- (g) Where overnight stays or permanent residency is allowed, if the facility is design to minimize its institutional nature.
- (h) Whether the facility will serve various income groups.
- (i) Facilities located in newly constructed buildings are encouraged.
- (j) Whether a plan for the delivery of goods for the medical use has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhood.
- (k) Whether the proximity of the proposed medical uses to residential uses creates adverse impacts and how such impacts are mitigated.
- (l) Whether the scale of the proposed medical use is compatible with the urban character of the surrounding area and create adverse impacts on the surrounding area, and how the adverse impacts are proposed to be addressed.

#### **Sec. 142-1258. Penalties, Enforcement and Appeals.**

##### **(a) Penalties and enforcement.**

(1) The City manager has the authority to suspend or revoke a business tax receipt following notice and hearing, or to summarily suspend a business tax receipt pending a hearing pursuant to section 102-385 of the City Code.

(2) A violation of this division 2 shall be subject to the following fines:

A. If the violation is the first offense, a person or business shall receive a civil fine of \$5,000.00;

B. If the violation is the second violation within the preceding six (6) months, a person or business shall receive a civil fine of \$10,000.00;

C. If the violation is the third violation within the preceding six (6) months, a person or business shall receive a civil fine of \$20,000.00; and

D. If the violation is the fourth or subsequent violation within the preceding six (6) months, a person or business shall receive a civil fine of \$30,000.00 and the business tax receipt shall be revoked.

(3) Enforcement. The code compliance department shall enforce this division 2. This shall not preclude other law enforcement agencies from any action to assure compliance with this division 2 and all applicable laws. If a violation of this division 2 is observed, the enforcement officer will be authorized to issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten (10) days after service of the notice of violation, and that the failure to appeal the violation within ten (10) days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

(4) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master.

(A.) A violator who has been served with a notice of violation must elect to either:

i. pay the civil fine in the manner indicated on the notice of violation;

or

ii. request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten (10) days of the service of the notice of violation.

(B.) The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this City Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the City commission, which shall be refunded if the named violator prevails in the appeal.

(C.) If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special master, the special master may be informed of such failure by report from the police officer or code compliance officer. The failure of the named violator to appeal the decision of the police officer or code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.

(D.) A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the 61st day following the recording of any such lien that remains unpaid, the City may foreclose or otherwise execute upon the lien.

(E.) Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

(F.) The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within 10 days of the service of the notice of violation.

(G.) The special master shall not have discretion to alter the penalties prescribed in subsection (a)(2).

#### **Sec. 142-1259. Reasonable accommodation.**

The City may receive an application for a reasonable accommodation to accommodate persons with disabilities consistent with federal law (Reasonable Accommodation/ Modification, Section 504 of the Rehabilitation Act of 1973). No application to allow a use within a zoning category where a use is not permitted shall be authorized as a reasonable accommodation. Nor shall the occupancy requirements or hours of operation requirements be varied if it causes undue financial and administrative burdens or requires a fundamental alteration in the nature of the services offered by the City.

#### **Sec. 142-1252. -- Mandatory requirements.**

Adult congregate living facilities shall be subject to the following mandatory requirements:

- ~~(1) The total number of adult congregate living facility beds in the City of shall not exceed 2,000 per 100,000 permanent residents or fraction thereof. The population as determined by the U.S. Census Bureau shall be the official figure in determining the number of persons residing in the City.~~
- ~~(2) Facilities shall not be located in any designated redevelopment area or MXE mixed use entertainment district.~~
- ~~(3) The design of the building shall be reviewed under the design review process pursuant to chapter 118, article VI.~~
- ~~(4) The entire building shall conform with the South Florida Building Code, fire prevention and safety code, and with the City property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior (revised 1983), as amended.~~

**~~Sec. 142-1253. -- Review criteria.~~**

~~Adult congregate living facilities shall be in substantial compliance with the following review criteria as determined by the planning board and when applicable by the City commission:~~

- ~~(1) Smaller scale (six to 16 residents) facilities are encouraged in order to provide a noninstitutional environment.~~
- ~~(2) The City should encourage equal distribution of facilities serving various income groups.~~
- ~~(3) Facilities located in newly constructed buildings should be encouraged.~~
- ~~(4) The location of facilities should be compatible with the City's comprehensive plan and all other adopted neighborhood plans.~~
- ~~(5) In order to encourage geographic distribution, facilities should not be located within 1,500 feet from another facility.~~

**~~Secs. 142-1254 -- 142-1270. -- Reserved.~~**

**Secs. 142-1258-70. -- Reserved.**

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**Section 3.** Chapter 102, "Taxation," Article V, "Local Business Tax" at Section 102-379 "Schedule of taxes, effective October 1, 2016," is hereby amended as to a certain business tax receipt, as follows:

**CHAPTER 102  
TAXATION  
ARTICLE V -  
LOCAL BUSINESS TAX**

\*

\*

\*

**Sec. 102-379. - Schedule of taxes, effective October 1, 2016.**

(a) Business taxes for the following businesses, occupations or professions are hereby levied and imposed as follows:

(b) Effective on October 1, 2005 (fiscal year 2005-2006), the following business taxes will be increased by five percent rounded to the nearest dollar, and further increased by five percent every other year on October 1, until such taxes/fees have caught up with the cumulative percentage change in the Consumer Price Index (CPI) measure between June 1994 through March 2003, which is 24.5 percent; further providing for another change equal to the cumulative percentage change in the CPI from March 2003 to September 2011.



(c) As provided in Resolution No. 2003-25299, a review of the annual permit fee/business tax will be required whenever the change in the Consumer Price Index (CPI), between the latest CPI and the date of the CPI used for the last tax/fee adjustment, is five percent or greater.

(d) Effective on October 1, 2009 (fiscal year 2009—2010), business tax receipt applications shall be charged a \$45.00 fee for the processing of new applications.

<b>Occupation Code</b>	<b>Business Tax Category</b>	<b>Amount</b>
	* * *	
	<u>Addictions Receiving Facility</u>	<u>1,104.00</u>
	<u>Adult Day Care Center</u>	<u>331.00</u>
	<u>Adult Family Care Home</u> 1) <u>First 10 beds</u> 2) <u>Each additional bed</u>	<u>1) 212.00</u> <u>2) 6.00</u>
	<u>Ambulatory Surgical Center (ASC)</u>	<u>353.00</u>
	<u>Assisted Living Facility (ALF)</u> 1) <u>First 10 beds</u> 2) <u>Each additional bed</u>	<u>1) 212.00</u> <u>2) 6.00</u>
	<u>Birth Center</u> 1) <u>First 10 beds</u> 2) <u>Each additional bed</u>	<u>1) 212.00</u> <u>2) 6.00</u>
	<u>Transitional Living Facility</u>	<u>1,104.00</u>
	<u>Community Residential Home</u> 1) <u>First 10 beds</u> 2) <u>Each additional bed</u>	<u>1) 212.00</u> <u>2) 6.00</u>
	<u>Comprehensive Outpatient Rehabilitation Facility</u>	<u>353.00</u>
	<u>Comprehensive Inpatient Rehabilitation Facility</u>	<u>1,104.00</u>
	<u>Day/Night Treatment with Community Housing</u>	<u>1,104.00</u>
	<u>Medical Office</u>	<u>353.00</u>
	<u>End-Stage Renal Disease Center</u>	<u>1,104.00</u>

	<u>Health Care Clinic</u>	<u>353.00</u>
	<u>Homes for Special Services</u>	<u>1,104.00</u>
	<u>Hospice Facility</u>	<u>1,104.00</u>
	<u>Intensive Inpatient Treatment Center/Facility</u>	<u>1,104.00</u>
	<u>Intensive Outpatient Treatment Center/Facility</u>	<u>353.00</u>
	<u>Intermediate Care Facility for the Developmentally Disabled</u>	<u>1,104.00</u>
	<u>Medication and Methadone Maintenance Treatment Facility</u> 1) First \$1,000 of value or less 2) Each additional \$1,000.00 - \$199,000.00 3) From \$100,000 - \$199,000.00 4) From \$200,000 - \$499,000.00 5) From \$500,000 and over	<u>1) 274.00</u> <u>2) 27.00</u> <u>3) 2,815.00</u> <u>4) 4,221.00</u> <u>5) 5,629.00</u>
	<u>Nursing Home</u>	<u>1,104.00</u>
	<u>Organ and Tissue Procurement Facility</u>	<u>353.00</u>
	<u>Outpatient Treatment Facility</u>	<u>353.00</u>
	<u>Pain Management Clinics</u> 1) First \$1,000 of value or less 2) Each additional \$1,000.00 - \$199,000.00 3) From \$100,000 - \$199,000.00 4) From \$200,000 - \$499,000.00 5) From \$500,000 and over	<u>1) 274.00</u> <u>2) 27.00</u> <u>3) 2,815.00</u> <u>4) 4,221.00</u> <u>5) 5,629.00</u>
	<u>Prescribed Pediatric Extended Care Center</u>	<u>1,104.00</u>
	<u>Rehabilitation Agency</u>	<u>353.00</u>
	<u>Residential Treatment Center for Children and Adolescents</u>	<u>1,104.00</u>
	<u>Residential Treatment Facility</u>	<u>1,104.00</u>
	<u>Transitional Living Facility</u>	<u>1,104.00</u>
	<u>Urgent Care Center/Facility</u>	<u>353.00</u>
	<u>Women's Health Clinic</u>	<u>353.00</u>

\* \* \*

**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 17<sup>th</sup> day of January, 2018.

**ATTEST:**


\_\_\_\_\_  
Mayor Dan Gelber

\_\_\_\_\_  
Rafael E. Granado, City Clerk

First Reading: October 31, 2017  
Second Reading: January 17, 2018  
(Sponsor: Vice Mayor John Aleman)

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

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

12-18-17  
\_\_\_\_\_  
Date