

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Planning Board

TO: Chairperson and Members  
Planning Board

DATE: February 28, 2017

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB 17-0097. Medical Cannabis – Land Use Regulations**

#### **REQUESTS**

**PB 17-0097. MEDICAL CANNABIS – LAND USE REGULATIONS. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 114 OF THE CITY CODE, ENTITLED “GENERAL PROVISIONS,” TO DEFINE THE FOLLOWING DEFINITIONS: CANNABIS, MEDICAL CANNABIS DISPENSARY, DERIVATE PRODUCT, LOW-THC CANNABIS, AND RELATED DEFINITIONS; AMENDING CHAPTER 130, ENTITLED “OFF-STREET PARKING,” ESTABLISHING MINIMUM PARKING REQUIREMENTS FOR “MEDICAL CANNABIS DISPENSARIES” AND PROHIBITING PARTICIPATION IN THE FEE IN LIEU OF PARKING PROGRAM; AMENDING CHAPTER 142, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” BY CREATING DIVISION 10, ENTITLED “CANNABIS REGULATIONS AND USE,” AND AMENDING SECTIONS 142-1501 TO 142-1504, RELATING TO APPLICABILITY, DEFINING MEDICAL USE OF CANNABIS, DESIGNATING AREAS FOR THE USE, ZONING REQUIREMENTS RELATING TO THE USE, AND PROHIBITING CULTIVATION, PRODUCTION OR POSSESSION OF CANNABIS PLANTS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

#### **RECOMMENDATION:**

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

#### **HISTORY**

On February 10, 2016, at the request of Commissioner Michael Grieco, the City Commission referred this item to the Land Use and Development Committee (Item R9F).

On November 9, 2016, the City Commission adopted a 5 month moratorium on medical marijuana dispensaries (Ordinance 2016-4051 / Item R5A), retroactive to October 19, 2016. Additionally, the City Commission referred the draft legislation pending in the Land Use & Development Committee to Planning Board.

On November 16, 2016, the Land Use and Development Committee (LUDC) discussed the item and continued it to a date certain of December 12, 2016. The Committee also directed the Administration to prepare a draft ordinance, taking into consideration the following:

1. A planning / map study with safe, convenient location options, as well as distances from parks, schools and houses of worship;
2. Zoning district options, including parking requirements;
3. Security and proximity to schools, residential uses and houses of worship;
4. A limit on the use to North, Middle and South Beach zones, and include no residential zones.

On December 12, 2016 the LUDC discussed the item and recommended that the City Commission extend the current moratorium on medical marijuana facilities for three months and continued the item to January 18, 2017. The Committee also requested that staff analyze additional areas for the location of medical marijuana facilities, and bring these findings back on January 18, 2017.

The moratorium extension was approved by the City Commission at First Reading on January 25, 2017. However, the extension failed at Second Reading on February 8, 2017 and was NOT extended. The current moratorium that was adopted on November 9, 2016 expires on March 18, 2017.

On January 18, 2017, the LUDC discussed the item and continued it to a date certain of February 15, 2017, to allow for the review of related proposed amendments regarding the issuance of Business Tax Receipts for medical cannabis facilities. On February 15, 2017, the LUDC recommended that the Planning Board transmit the proposed Ordinance to the City Commission with a favorable recommendation, with the following modifications, which are included in the attached ordinance:

1. That the three South Beach areas exclude areas with RO zoning.
2. That the three individual South Beach areas be considered a single area.
3. That the Mid Beach area include CD-3 properties along 41<sup>st</sup> Street east of Sheridan Avenue.
4. That the North Beach area be expanded to include commercial (TC-1) properties south of 71<sup>st</sup> Street.
5. That Section 142-1502 (j) be modified to apply to “ceilings” rather than “roofs.”

### **REVIEW CRITERIA**

In accordance with Section 118-163 (3), when reviewing a request for an amendment to these land development regulations, the Board shall consider the following where applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

**Consistent** – The proposed LDR change is consistent with the Comprehensive Plan.

There is no applicable neighborhood or redevelopment plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

**Consistent** – The proposed amendment does not create an isolated district.

**3. Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

**Consistent** – The proposed change does not modify the scale of development and has safeguards to ensure that it is in line with the needs of affected neighborhoods.

**4. Whether the proposed change would tax the existing load on public facilities and infrastructure.**

**Consistent** – The proposed amendment will not increase in the intensity of what would otherwise be permitted in the area. However, any impacts to adopted levels of service will be determined and mitigated prior to any development obtaining a building permit.

**5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

**Consistent** – The proposal does not modify existing boundaries.

**6. Whether changed or changing conditions make the passage of the proposed change necessary.**

**Consistent** – A recently approved amendment which legalizes medical cannabis within the State, and the need to ensure that the distribution medical cannabis does not negatively impact the quality of life of surrounding neighborhoods makes passage of the proposed ordinance necessary.

**7. Whether the proposed change will adversely influence living conditions in the neighborhood.**

**Consistent** – The proposed amendments are intended to ensure that potential medical cannabis dispensaries do not adversely influence living conditions in surrounding neighborhoods.

**8. Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

**Consistent** –The proposed changes should not create or excessively increase traffic congestion beyond the levels of service as set forth in the Comprehensive Plan or otherwise affect public safety. However, a concurrency analysis and mitigation shall be required prior to the issuance of a building permit.

**9. Whether the proposed change will seriously reduce light and air to adjacent areas.**

**Consistent** – The proposed changes do not modify the scale of development and will not seriously reduce light and air to adjacent areas.

**10. Whether the proposed change will adversely affect property values in the adjacent area.**

**Consistent** – The proposed ordinance contains safeguards to ensure that property values in the adjacent areas should not be negatively impacted.

**11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

**Consistent** – The proposed change would not be a deterrent to the redevelopment or improvement of any adjacent property.

**12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

**Not Applicable.**

**13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

**Not Applicable.**

**ANALYSIS**

On November 8, 2016, Florida voters approved Amendment 2 to the Florida Constitution, entitled “Use of Marijuana for Debilitating Medical Conditions.” Amendment 2 generally provides for the following in the Florida Constitution:

*“Allows medical use of marijuana for individuals with debilitating medical conditions as determined by a licensed Florida physician. Allows caregivers to assist patients’ medical use of marijuana. The Department of Health shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers. Applies only to Florida law. Does not immunize violations of federal law or any non-medical use, possession or production of marijuana.”*

The amendment requires that the Florida Department of Health provide rules for the implementation of the Amendment within six (6) months of the effective date of the amendment, which is January 6, 2017. Due to the potential for impacts to surrounding areas, the City is considering regulations regarding the location and requirements for medical marijuana dispensaries, in advance of any potential state regulations taking effect, to ensure that potential impacts are minimized and mitigated.

At the direction of the LUDC, the Administration undertook an analysis of uses that may generate conflicts with a medical marijuana dispensary. Initially, the Administration looked at provided buffers around educational facilities, religious institutions, and parks and this effectively zoned the use out of the City (See the “Facilities for Analysis” map and “1,000 Foot Buffers Analysis” map at the end of the report). As a result, a different methodology was utilized that looked at concentrations of educational facilities, religious institutions, parks, single family residences, and multifamily apartments. Additionally, healthcare facilities were utilized as a use that was compatible with a potential dispensary. This information was then utilized to generate a Geographic Information Systems (GIS) Spatial Analysis Suitability Study to determine the most appropriate locations within the City for a dispensary.

On December 12, 2016, the LUDC then requested that staff analyze additional areas for the location of medical marijuana facilities to ensure that the use is not effectively zoned-out and that the potential financial benefits are not limited to a select number of property owners. To this end, staff identified additional areas that were suitable or moderately suitable within the Suitability Study that was performed.

On January 18, 2017, it was then determined that some of the areas did not provide for sufficient opportunities, and the LUDC requested that a revised Suitability Study be provided that removed 'Religious Institutions' as one of the factors to be considered. On February 15, 2017, the revised suitability study was presented to the LUDC and the committee recommended that the Mid Beach and North Beach districts be expanded slightly. (See the "Medical Cannabis Suitability Study" at the end of the report.)

The proposed ordinance identifies the following three (3) areas where one (1) medical cannabis dispensary would be allowed in each area:

- (1) Area one (1) shall include the following subareas:
  - a. Lots zoned CD-2, generally located along Alton Road between 6<sup>th</sup> Street and 8<sup>th</sup> 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; and lots zoned C-PS2 between 5<sup>th</sup> Street on the north and 4<sup>th</sup> Street on the south between Washington Avenue on the east and Meridian Avenue on the west; and lots zoned C-PS2 fronting the south side of 5<sup>th</sup> Street between Lenox Avenue on the east and Alton Road on the west.
  - b. Lots zoned CD-1 and CD-2 fronting Alton Road between 13<sup>th</sup> Street and 16<sup>th</sup> Street.
  - 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.
- (2) Area two (2) shall include lots zoned TC-1 south of 71<sup>st</sup> Street and lots zoned TC-2 and TC-3(C), generally located between Collins Avenue on the east, 71<sup>st</sup> Street on the north, the west lot line of lots fronting Harding Avenue on the west, and 69<sup>th</sup> Street on south.
- (3) Area three (3) shall include the following subareas:
  - a. Lots zoned HD located north of the Julia Tuttle Causeway / Interstate 195, as depicted in the map below:
  - b. Lots zoned CD-3 and fronting 41<sup>st</sup> Street between Sheridan Avenue and the Indian Creek Waterway.

The proposed ordinance is based on the Miami-Dade County draft with input from the Miami Beach Police Department. It also recommends requiring Conditional Use approval from the Planning Board, and that the following documentation be required as part of the application:

- A General Security Plan that incorporates enhanced security measures and natural

disaster security measures, with Police Department review and approval.

- A Business Plan that demonstrates the ability to operate.
- An Operating Plan that indicates how compliance with City and State regulatory requirements will be achieved.
- An Odor Management Plan that will ensure that odors are not perceptible in the exterior of the building or adjoining properties.

The proposed ordinance also includes the following general requirements:

- A prohibition on dispensing outside of the facility, with the exception of deliveries permissible by state law.
- A limitation on hours of operation from 7:00 am to 9:00 pm.
- A prohibition of other uses and the sale of unrelated goods within the facility.
- That required off-street parking be located on the same site as the facility and prohibiting participation in the fee-in-lieu of parking program.
- Limitations on signage and advertisement.
- A prohibition on merchandise being displayed to the public.
- A prohibition on activities being visible from the exterior of the business.
- A requirement for separate ventilation, security, and fire suppression systems.
- A limitation of 7,500 square feet for each establishment.
- A parking requirement of one (1) space per 250 square feet.
- A prohibition on obtaining special events permits.

The proposed ordinance would also prohibit the following marijuana related activities:

- Cultivation, production or possession of cannabis plants or cannabis plants.
- Sale of cannabis from any motor vehicle.
- Medical cannabis product and derivative manufacturing.
- Medical cannabis testing.
- Storage of marijuana or marijuana-related products off the site of the medical cannabis dispensary.
- Marijuana membership clubs.
- Vapor lounges.

There is also a proposed companion ordinance, which is a non-LDR amendment, and creates a process for the issuance of Business Tax Receipts (BTR's) for medical cannabis facilities. The ordinance is attached for informational purposes.

There is currently a Medical Cannabis Moratorium which will expire on March 18, 2017. However, if the Planning Board transmits the ordinance to the City Commission with a favorable recommendation, Zoning in Progress would take effect, requiring any potential medical cannabis dispensaries to comply with the proposed regulations.

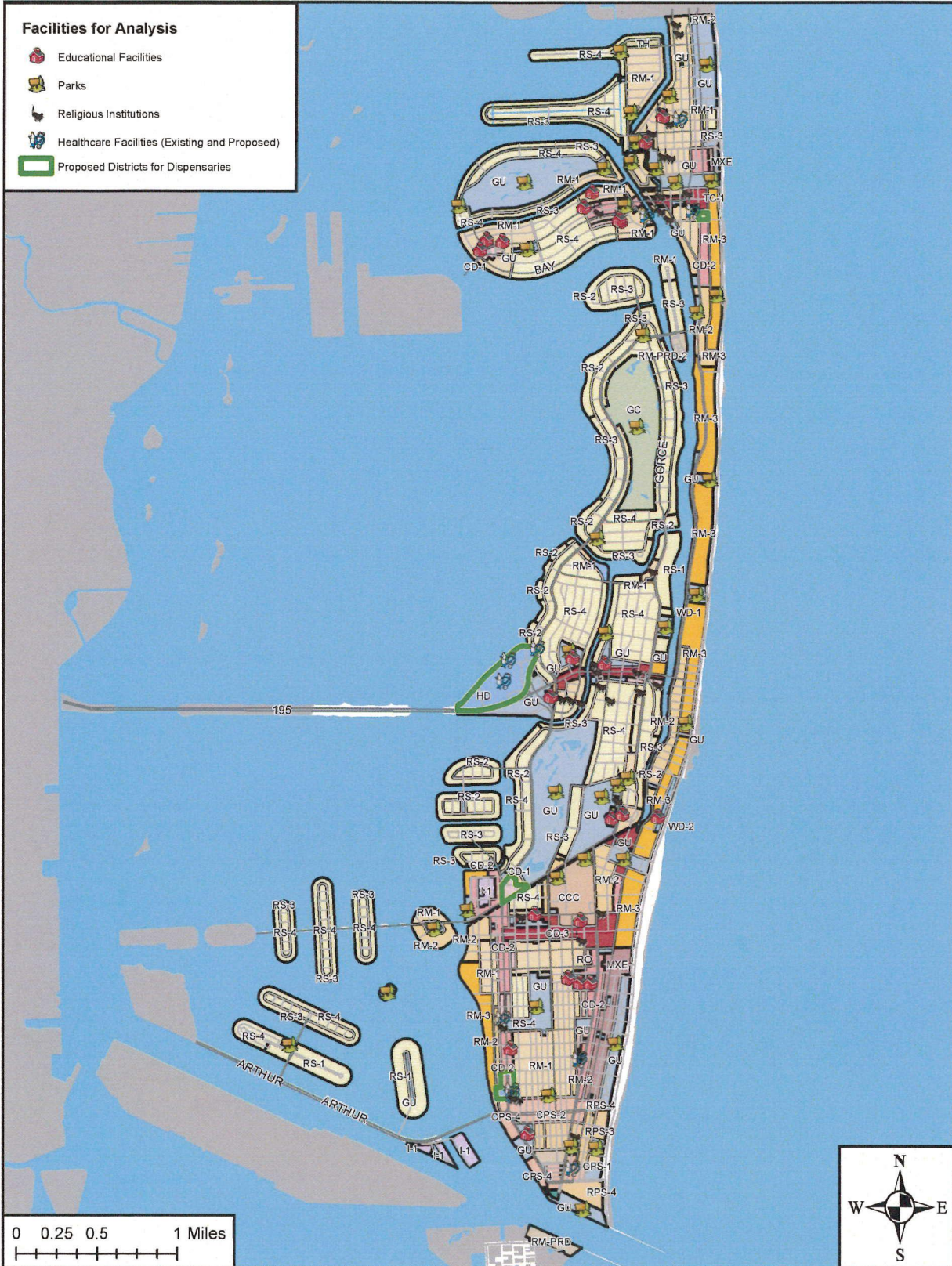
**RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

TRM/MAB/RAM

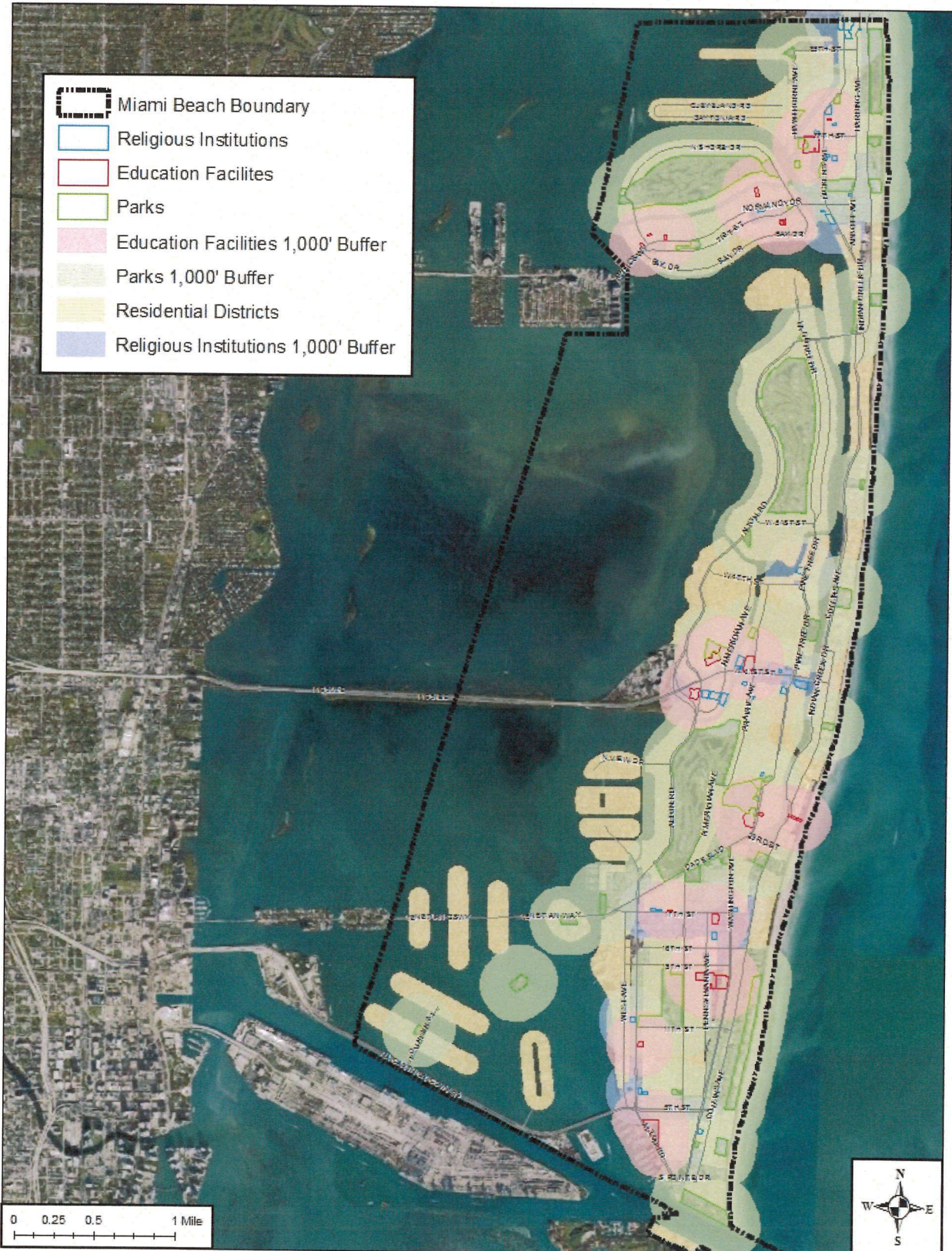
F:\PLAN\PLB\2017\2-28-17\PB17-0097 - ORD - Medical Cannabis\PB17-0097 - Medical Cannabis Ordinance - PB Staff Report 2-28-17.docx

### Facilities for Analysis

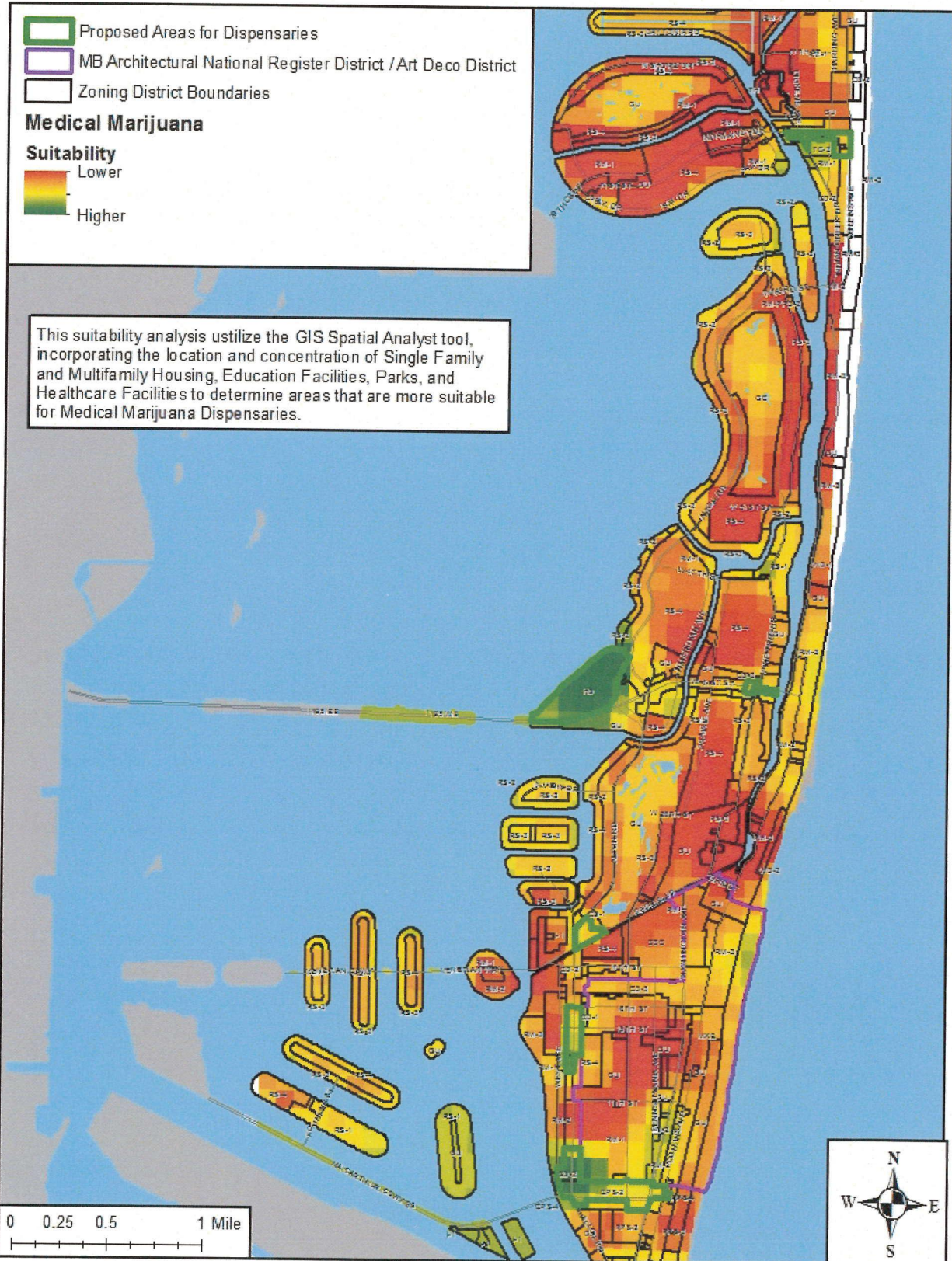




### 1,000 Foot Buffers Analysis



### Medical Cannabis Suitability Study



Medical Cannabis Ordinance – Land Use Regulations

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

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 114 OF THE CITY CODE, ENTITLED "GENERAL PROVISIONS," TO DEFINE THE FOLLOWING DEFINITIONS: CANNABIS, MEDICAL CANNABIS DISPENSARY, DERIVATE PRODUCT, LOW-THC CANNABIS, AND RELATED DEFINITIONS; AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ESTABLISHING MINIMUM PARKING REQUIREMENTS FOR "MEDICAL CANNABIS DISPENSARIES" AND PROHIBITING PARTICIPATION IN THE FEE IN LIEU OF PARKING PROGRAM; AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY CREATING DIVISION 10, ENTITLED "CANNABIS REGULATIONS AND USE," AND AMENDING SECTIONS 142-1501 TO 142-1504, RELATING TO APPLICABILITY, DEFINING MEDICAL USE OF CANNABIS, DESIGNATING AREAS FOR THE USE, ZONING REQUIREMENTS RELATING TO THE USE, AND PROHIBITING CULTIVATION, PRODUCTION OR POSSESSION OF CANNABIS PLANTS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

**WHEREAS**, pursuant to the Compassionate Medical Cannabis Act of 2014, the Florida Legislature authorized a very limited number of large nurseries to cultivate, process, and dispense non-euphoric, low-THC cannabis and operate dispensing organizations, as of January 1, 2015; and

**WHEREAS**, in 2016, the Florida Legislature amended Section 381.986 of the Florida Statutes to include medical cannabis, revise the requirements for physicians ordering low-THC cannabis, medical cannabis, or cannabis delivery devices, amend the requirements for the cultivation, processing, transportation, and dispensing of low-THC cannabis or medical cannabis, revise the Florida Department of Health's authority and responsibility and provide for penalties; and

**WHEREAS**, pursuant to Section 381.986(8) of the Florida Statutes, a municipality may determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with state law for dispensing facilities of dispensing organizations located within its municipal boundaries; and

**WHEREAS**, due to the historical prohibition of cannabis, the City of Miami Beach does not currently have any land development regulations governing the use of real property for the purpose of on-site distribution, sale, delivery or retail of low-THC cannabis, medical cannabis or cannabis delivery devices as provided by Florida Statutes Sections 381.986 and 499.0295; and

**WHEREAS**, On November 8, 2016, Florida voters approved Amendment 2 to the Florida Constitution, entitled "Use of Marijuana for Debilitating Medical Conditions;" and

**WHEREAS**, Amendment 2 *"Allows medical use of marijuana for individuals with debilitating medical conditions as determined by a licensed Florida physician. Allows caregivers to assist patients' medical use of marijuana. The Department of Health shall*

register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers. Applies only to Florida law. Does not immunize violations of federal law or any non-medical use, possession or production of marijuana," and

**WHEREAS**, the City Commission finds it is in the best interest of the citizens of the City to minimize and control the adverse effects of dispensing facilities by adopting appropriate land development and licensing 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 114 of the City Code, entitled "General Provisions," is hereby amended as follows:

**CHAPTER 114  
GENERAL PROVISIONS**

**Sec. 114-1. Definitions.**

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

Cannabis or marijuana means all parts of any plant of the genus *cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, *cannabis* derivative product, mixture or preparation of the plant of its seeds or resin.

Cannabis delivery devices means a device utilized for the consumption of prescribed medical cannabis or low-THC *cannabis*. Such devices can only be sold to a qualified patient that has been prescribed medical *cannabis* or low-THC *cannabis* or someone authorized by the qualified patient or the qualified patient's legal representative authorized to receive the device on the qualified patient's behalf.

Cannabis derivative product means any form of medical cannabis or low-THC cannabis that is suitable for routes of administration.

\* \* \*

Dispensing organization means an organization approved by the state to cultivate, process, transport, and dispense low-THC *cannabis* or medical *cannabis*.

\* \* \*

Low-tetrahydrocannabinol cannabis or low-THC cannabis means a plant of the genus Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, cannabis derivative product, mixture, or preparation of such plant or its seed or resin that is dispensed only from a dispensing organization approved by the Florida Department of Health pursuant to Section 381.986, Florida Statutes.

Low-THC cannabis dispensary means an establishment where low-THC cannabis is dispensed at retail.

\* \* \*

May means permissive, not required.

\* \* \*

Medical cannabis or medical marijuana means all parts of any plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, cannabis derivative product, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient.

Medical cannabis dispensary or dispensing facility means an establishment where medical cannabis, low-THC cannabis, as well as cannabis delivery devices, is dispensed at retail that is operated by a dispensing organization.

Medical use of cannabis means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:

- (a) Possession, use, or administration of low-THC cannabis or medical cannabis by or for smoking; or
- (b) Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient's legal representative authorized to receive it on the qualified patient's behalf.
- (c) Use or administration of low-THC cannabis or medical cannabis:
  - i. On any form of public transportation.
  - ii. In any public place.
  - iii. In a qualified patient's place of employment, if restricted by their employer.
  - iv. In a correctional institution.
  - v. On the grounds of any child care facility, preschool, or school.
  - vi. On or in any vehicle, aircraft, or motorboat.

\* \* \*

Must means a mandatory and not merely directory action or requirement. The term is interchangeable with the word "shall."

\* \* \*

Shall means a mandatory and not merely directory action or requirement. The term is used interchangeable with the word "must."

\* \* \*

Vapor lounge shall mean a commercial establishment at which individuals consume cannabis, medical cannabis, or low-THC cannabis.

**Section 2.** Chapter 130 of the City Code, entitled "Off-Street Parking," is hereby amended as follows:

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

\* \* \*

(32) Reserved Medical cannabis dispensary: 1 space per 250 square feet of floor area.

\* \* \*

**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:

\* \* \*

(4A) Medical cannabis dispensary: 1 space per 250 square feet of floor area.

\* \* \*

**Sec. 130-131. - Generally.**

A fee in lieu of providing parking may be paid to the city in lieu of providing required parking on-site, or within 1,200 feet of the site in the architectural district or otherwise within 500 feet of the site, only in the following instances, except that parking requirements for accessory commercial uses in newly constructed buildings within the Collins Waterfront Historic District in an area in the RM-2 zoning district that is bounded by 41st Street on the south and

44th Street on the north, and for medical *cannabis* dispensaries shall be satisfied by providing the required parking spaces, and may not be satisfied by paying a fee in lieu of providing parking:

**Section 3.** Chapter 142 of the City Code, entitled "District Regulations," is hereby amended as follows:

**DIVISION 10**  
**CANNABIS REGULATIONS AND USE**

**Sec. 142-1500 – Intent.**

Section 381.986, Florida Statutes, and Florida Administrative Code Chapter 64-4 authorize a limited number of dispensing organizations throughout the State of Florida to cultivate, process, and dispense low-tetrahydrocannabinol (low-THC) *cannabis* and medical *cannabis* for use by qualified patients suffering from cancer, terminal conditions, and certain chronic conditions. The dispensing organizations must be approved by the Florida Department of Health and, once approved, are subject to state regulation and oversight.

The intent of this division is to establish the criteria for the location and permitting of establishments that dispense low-THC *cannabis* or medical *cannabis* in accordance with Section 381.986, Florida Statutes, and Florida Administrative Code Chapter 64-4.

**Sec. 142-1501 – Applicability.**

This division shall only be construed to allow the dispensing of low-THC *cannabis* or medical *cannabis* by a state-approved dispensing organization for medical use of *cannabis*. The sale of *cannabis* or marijuana is prohibited the City of Miami Beach except in a medical *cannabis* dispensary approved in accordance with this Division.

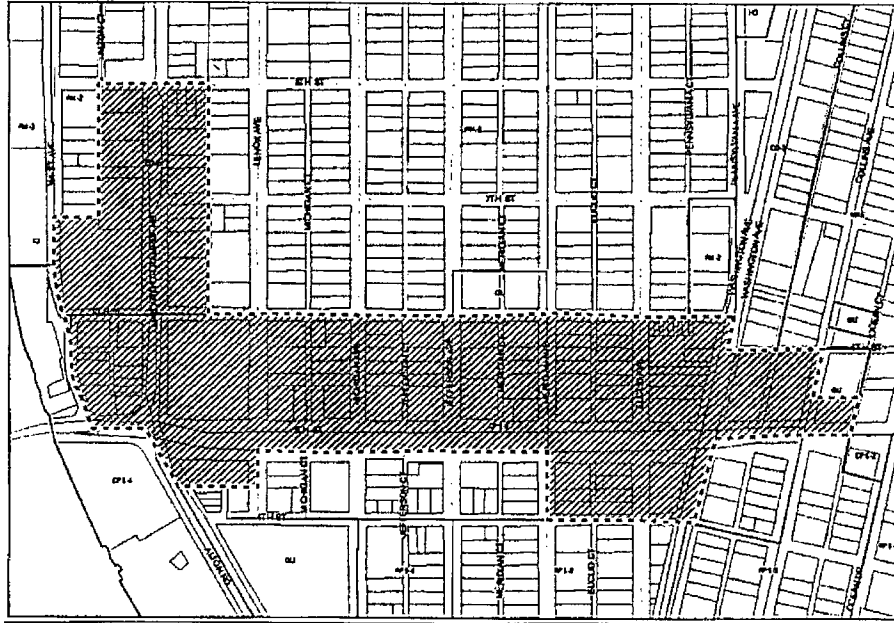
**Sec. 142-1502. - Requirements for medical *cannabis* dispensing facilities.**

Medical *cannabis* dispensaries shall comply with the following regulations:

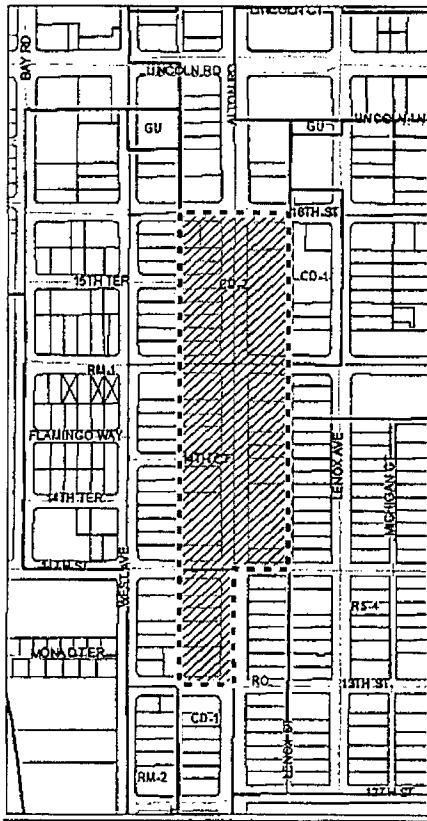
(a) Only in accordance with the requirements of this division and the applicable zoning district, one (1) medical *cannabis* dispensary shall be permitted in each of the areas listed below:

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

a. Lots zoned CD-2, generally located along Alton Road between 6<sup>th</sup> Street and 8<sup>th</sup> 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; and lots zoned C-PS2 between 5<sup>th</sup> Street on the north and 4<sup>th</sup> Street on the south between Washington Avenue on the east and Meridian Avenue on the west; and lots zoned C-PS2 fronting the south side of 5<sup>th</sup> Street between Lenox Avenue on the east and Alton Road on the west; as depicted in the map below:

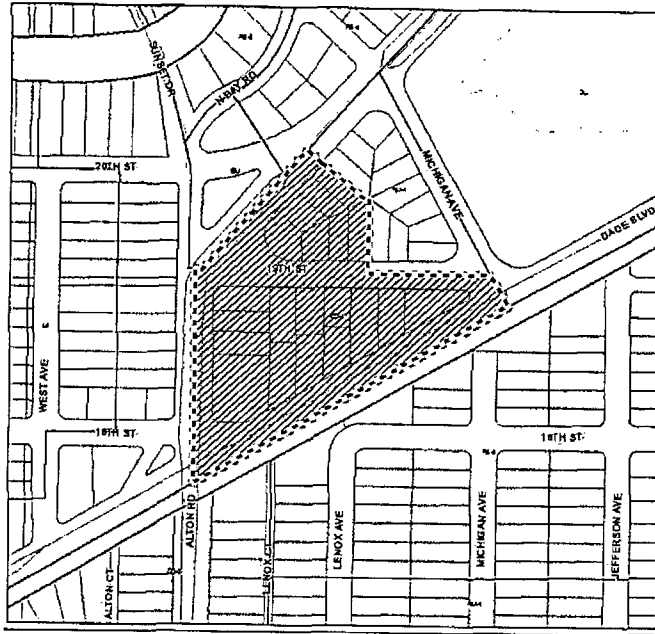


b. Lots zoned CD-1 and CD-2 fronting Alton Road between 13th Street and 16th Street; as depicted in the map below:

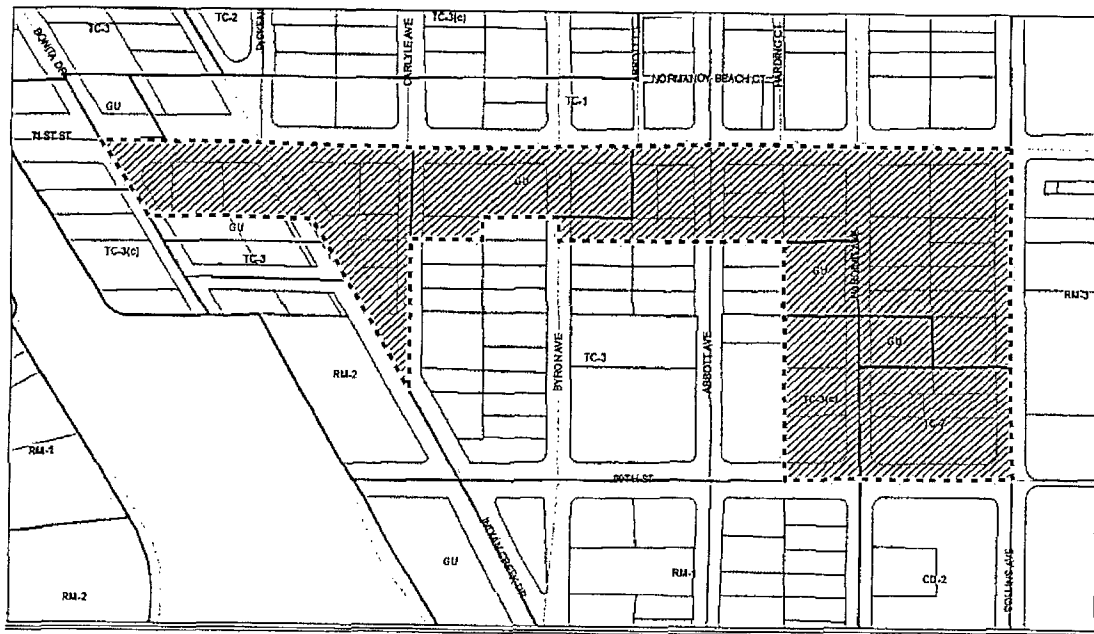




c. Lots zoned CD-1, generally located between Alton Road on the east and north, Dade Boulevard on the south, Michigan Avenue on the west, as depicted in the map below:

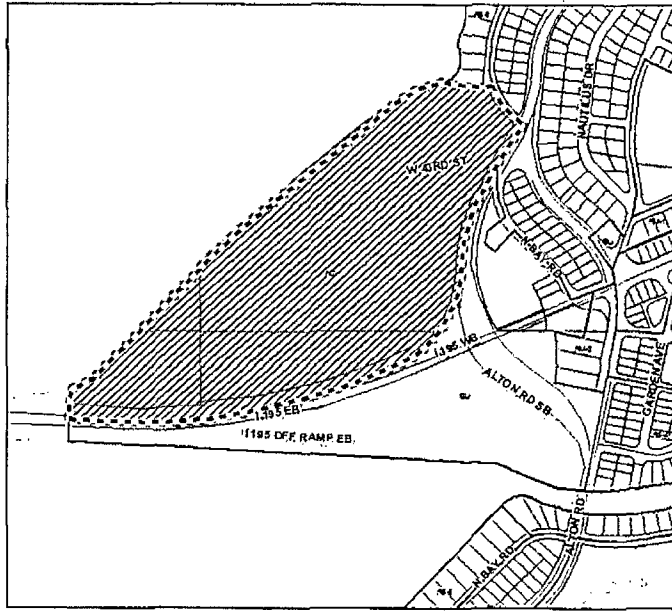


(2) Area two (2) shall include lots zoned TC-1 south of 71<sup>st</sup> Street and lots zoned TC-2 and TC-3(C), generally located between Collins Avenue on the east, 71<sup>st</sup> Street on the north, the west lot line of lots fronting Harding Avenue on the west, and 69<sup>th</sup> Street on south, as depicted in the map below:

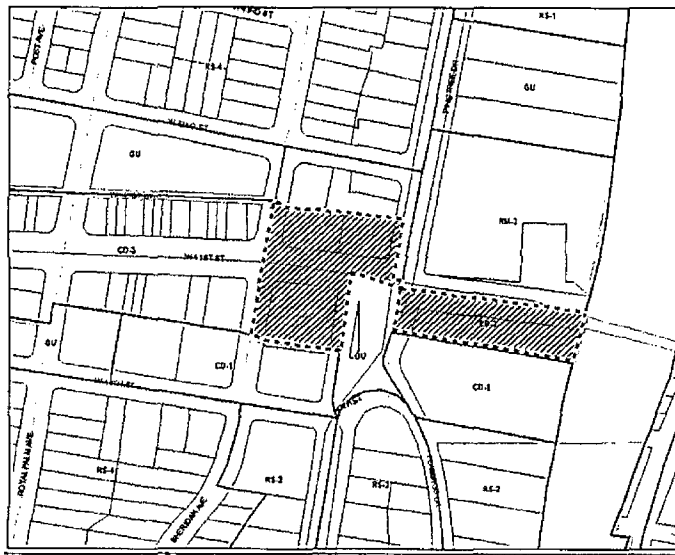


(3) Area three (3) shall include the following subareas:

- a. Lots zoned HD located north of the Julia Tuttle Causeway / Interstate 195, as depicted in the map below:



- b. Lots zoned CD-3 and fronting 41<sup>st</sup> Street between Sheridan Avenue and the Indian Creek Waterway as depicted in the map below:



- (b) Conditional use approval from the Planning Board is required prior to applying for a certificate of use, license, business tax receipt, building permit or other permit for a medical *cannabis* dispensary. In addition to the standard conditional use criteria set forth in section 118-192 of this code, the Planning Board shall consider the criteria in section 142-1504 prior to making its determination on the Conditional Use Permit.

- (c) Dispensing of, payment for, and receipt of low-THC or medical *cannabis* is prohibited anywhere outside of the dispensing facility, including, but not limited to, on sidewalks, in parking areas, drive-thrus, or in the rights-of-way surrounding the dispensing facility; provided, however, this provision shall not be construed to prohibit delivery of low-THC or medical *cannabis* to an eligible patient, as permitted by state law or rule.
- (d) Medical *cannabis* dispensaries shall only be allowed to operate between the hours of 7:00 a.m. and 9:00 p.m. daily.
- (e) No other uses are allowed within the dispensing facility. The sale of any products other than *medical cannabis*, *low-THC cannabis*, *cannabis* derivative products, or *cannabis* delivery devices is prohibited within the facility.
- (f) Entertainment is prohibited within a medical *cannabis* dispensary.
- (g) Required parking shall be located on the same parcel or unified development site as the medical *cannabis* dispensary. Participation in the fee-in-lieu of parking program is prohibited.
- (h) The facility shall comply with the following regulations related to signage, advertisement, and display of merchandise:
- (1) Signage visible from public rights-of-way and adjacent establishments and parcels shall be limited to the name of the establishment and signs necessary to comply with the requirements of the State of Florida, Miami-Dade County, and the City of Miami Beach. Depictions of *cannabis* and *cannabis* products shall not be visible from public rights-of-way and adjacent establishments and parcels.
  - (2) No advertisement for the establishment, *cannabis*, *cannabis* derivative product, *cannabis* delivery devices or *cannabis* related products is permitted on signs mounted on vehicles, temporary signs, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property without consent of the property owner. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the city or on the Internet; and (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth.
  - (3) No merchandise being dispensed or sold within the dispensing facility may be visible within areas of the facility accessible to the public unless it is being shown by an employee of the facility to a client.
  - (4) Under no circumstances shall activities related to the cultivation, production, processing, distribution, storage, display, or sales of *cannabis*, *cannabis* derivatives, *cannabis* delivery devices, and *cannabis*-infused products be visible from the exterior of the business.
- (i) Each establishment shall have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.

- (j) Each establishment shall be divided within a building from floor to ceiling. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a medical *cannabis* dispensary and any adjacent business.
- (k) Each establishment shall not exceed 7,500 square feet, exclusive of required parking.
- (l) Building permit plans shall be consistent with the security plan required by section 6-54 (g) of the City Code.
- (m) Consumption of low-THC or medical *cannabis* or alcoholic beverages is prohibited onsite at the dispensing facility, including, but not limited to, in the parking areas, sidewalks, or rights-of-way surrounding the dispensing facility; provided, however, this provision shall not be construed to prohibit consumption associated with a dispensing facility employee, trained by a medical professional such as a doctor, nurse, pharmacist, or medical or physician's assistant, instructing an eligible patient on the mechanism of consumption of low-THC or medical *cannabis*, as permitted by state law or rule.
- (n) A certificate of use shall be obtained for the low-THC or medical *cannabis* dispensing facility on an annual basis. The application for the certificate of use shall be made on a form prescribed by the City:
- (1) The medical *cannabis* dispensing facility must be established on the premises by a state-approved dispensing organization within 180 days of the date the certificate of use is issued; after 180 days, unless the time period is extended by the Director for good cause shown, the certificate of use shall be null and void and the applicant must re-apply.
  - (2) The City shall have the right to periodically inspect the premises of the dispensing facility at any reasonable time to ensure that the facility has a current and valid certificate of use, and to ensure compliance with the terms and conditions under which it was issued. Violators will be subject to all appropriate penalties, including revocation of the certificate of use.
  - (3) Where, a civil violation notice relating to the dispensing of low-THC or medical *cannabis* has been issued and appealed by the alleged violator, the certificate of use shall not be renewed where the appeal has been pending for 180 days or more and the delay is attributable to the alleged violator. Where, determinations of guilt for three or more violations have been made, or the Special Master has determined that a nuisance exists at the dispensing facility, the certificate of use shall be revoked immediately, and a new application may not be made within a period of 12 months.
- (o) Any use, created and established under this division in a legal manner, which may thereafter become legally nonconforming, may continue until there is an abandonment of said use. Once a legally nonconforming 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 three (3) 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.

(p) No certificate of use, business tax receipt, license, or building or other permit shall be issued for a medical *cannabis* dispensing facility where the proposed place of business does not conform to the requirements of this subsection.

(q) Any medical *cannabis* dispensary shall be prohibited from obtaining a special events permit.

**Sec. 142-1503. Prohibited *cannabis*-related uses.**

The following *cannabis* related uses and activities shall be prohibited anywhere within the City:

- (a) Cultivation, production or possession of marijuana plants or *cannabis* plants.
- (b) Sale of *cannabis* from any motor vehicle.
- (c) Medical *cannabis* product and *cannabis* derivative product manufacturing.
- (d) Medical *cannabis* testing.
- (e) Storage of *cannabis* or *cannabis*-related products off the site of the medical *cannabis* dispensary.
- (f) Marijuana membership clubs.
- (g) Vapor lounges.

**Sec. 142-1504. Conditional review criteria.**

In addition to the conditional use review criteria in Section 118-192, the Planning Board shall consider the criteria below when making its determination. Prior to applying for the conditional use permit, all owners shall be required to undergo a City of Miami Beach background check pursuant to section 6-53 of the City Code:

- (a) A general security plan shall be provided. The plan must sufficiently demonstrate enhanced security measures in excess of the minimum requirements set forth in State regulations. The enhanced security measures include, but are not limited to, steel security doors, improved video surveillance system capability, advanced alarm systems, improved fire safety systems, natural disaster security, packaging of dispensed products, procedures for waste removal, and other measures, such as the use of hurricane impact windows. If the facility is located below the base flood elevation plus City of Miami Beach Freeboard, the plan should incorporate flood proofing measures to ensure the continued functioning of security devices in the event of a natural disaster and sea level rise. The plan must be reviewed and approved by the City of Miami Beach Police Department before it can be considered by the Planning Board.
- (b) A business plan shall be provided. The plan is to demonstrate the applicant's ability to successfully operate in a highly regulated industry over an extended period of time. The plan may include, but is not limited to the following: scope of work for the planning and development; scope of work for capital improvements; an estimate of first-year revenues; an estimate of first-year operating expenses and evidence that the applicant

will have the resources necessary to pay for those expenses; and a description of the applicant's history of compliance in a highly regulated industry.

- (c) An operating plan shall be provided. The operating plan is to enumerate the specific means through which the applicant intends to achieve the business goals and comply with the city and state regulatory requirements. The operating plans may include, but is not limited to the following: staffing schedules to ensure adequate coverage and experience during all business hours; employee training programs for security, product knowledge and safety; proactive consumer education and community outreach practices; an operations manual demonstrating compliance with state and city retail marijuana laws; and disposal of waste.
- (d) An odor management plan shall be provided. It shall be required that the odor of marijuana must not be perceptible at the exterior of the building or at any adjoining use of the property. Facilities shall adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers, charcoal filtration systems, and sealed walls. The plan must include maintenance of systems, including preventing the buildup of mold.

#### **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 \_\_\_\_\_, 2017.

\_\_\_\_\_  
Philip Levine  
Mayor

**ATTEST:**

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

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

*R. E. C. H.* 2-17-17  
\_\_\_\_\_  
City Attorney Date

First Reading: \_\_\_\_\_, 2017  
Second Reading: \_\_\_\_\_, 2017

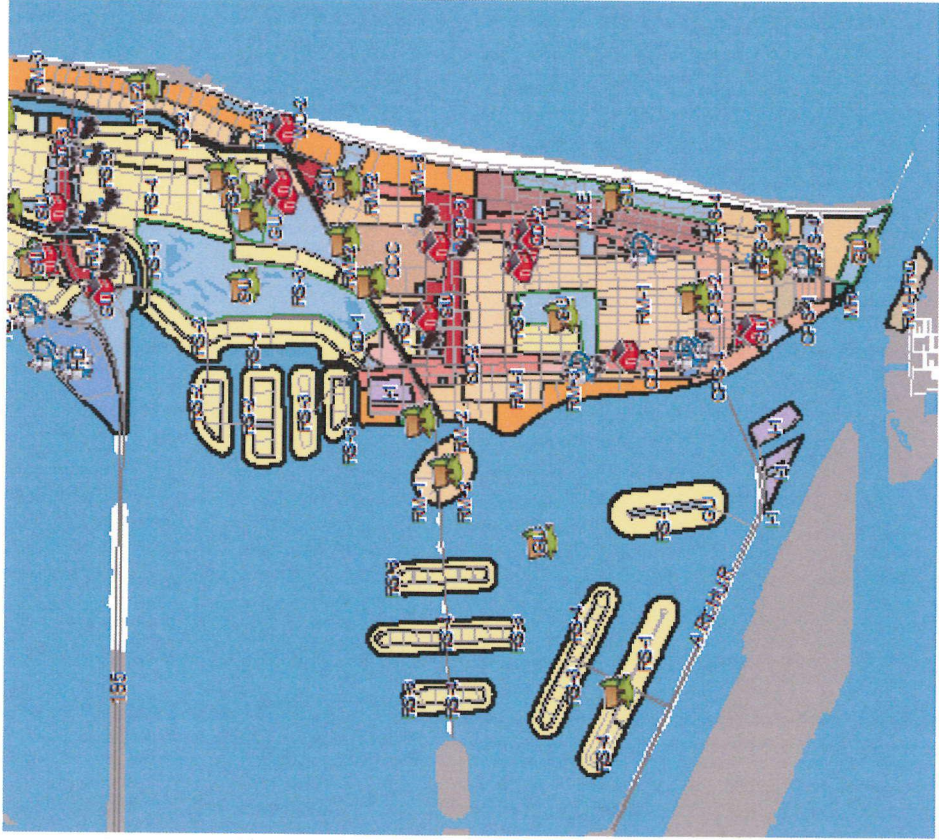
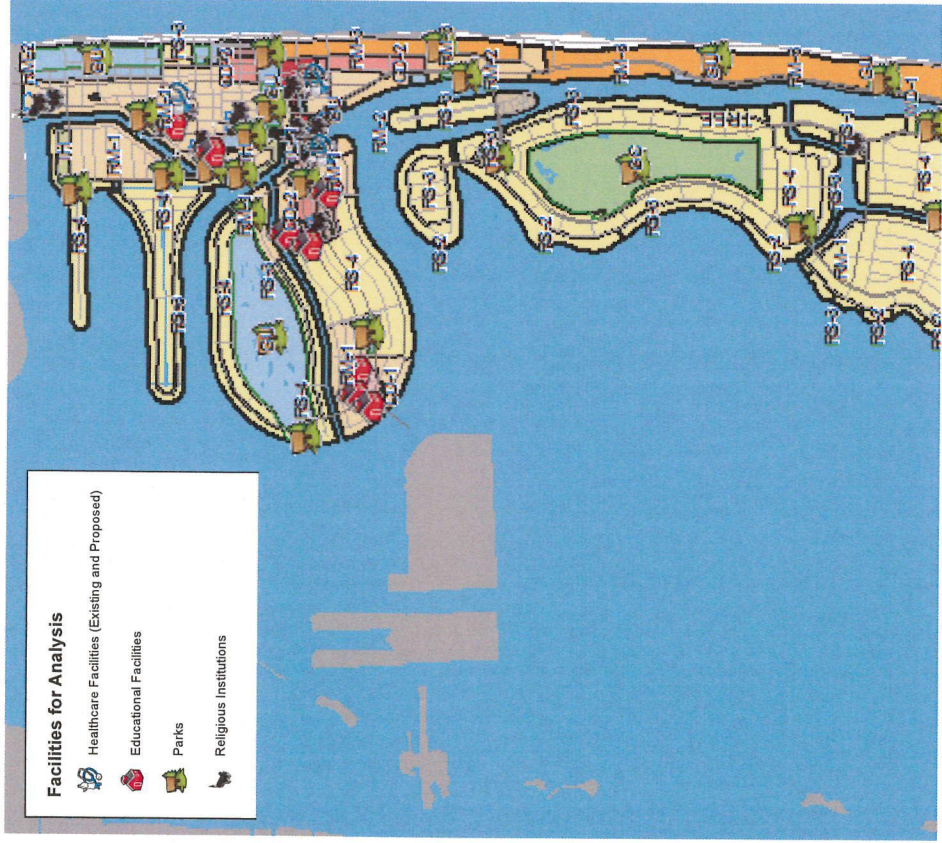
Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director



# **Medical Cannabis Ordinance Location Study**



# Facilities for Analysis



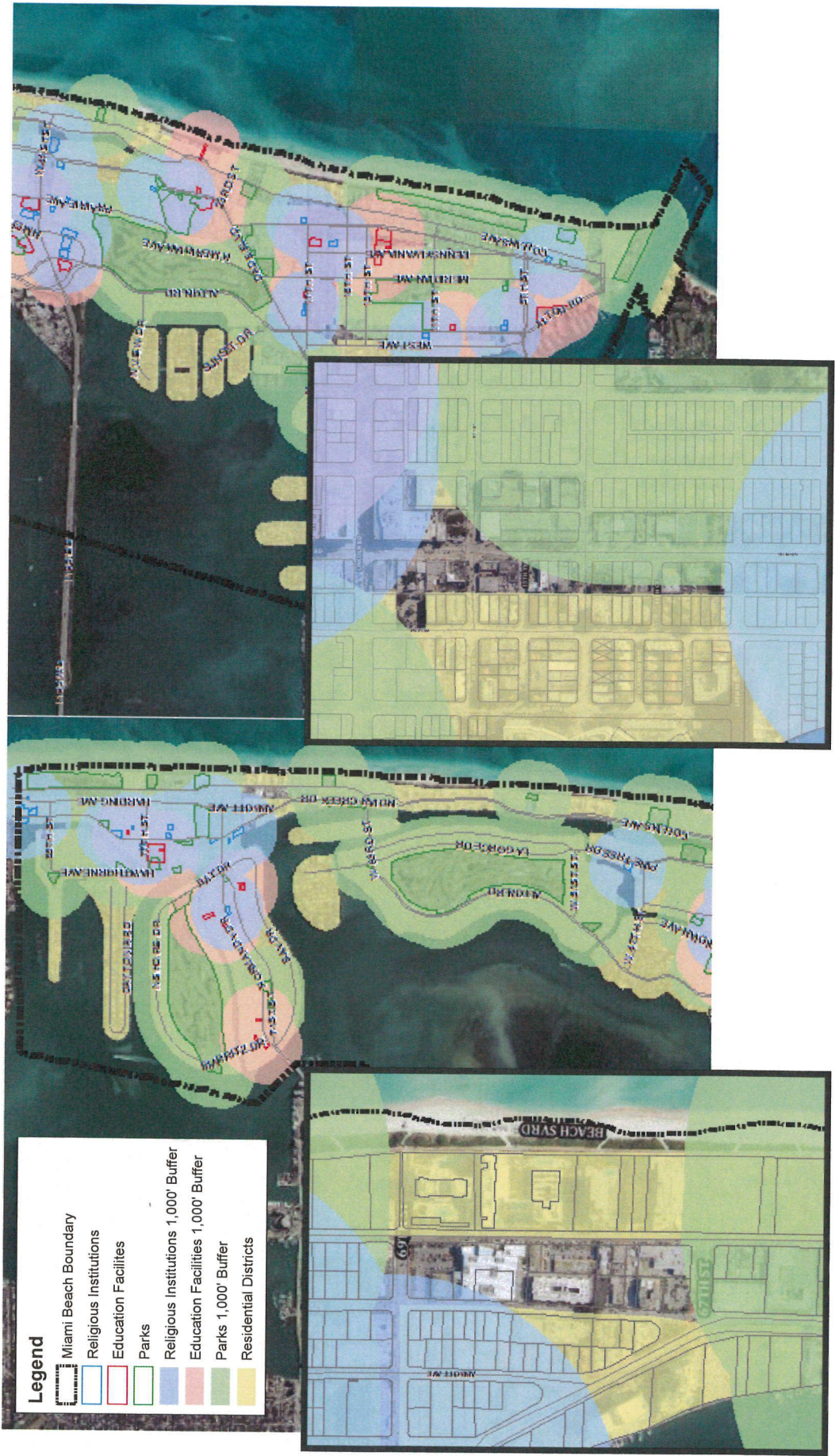
# 1,500 Foot Buffers



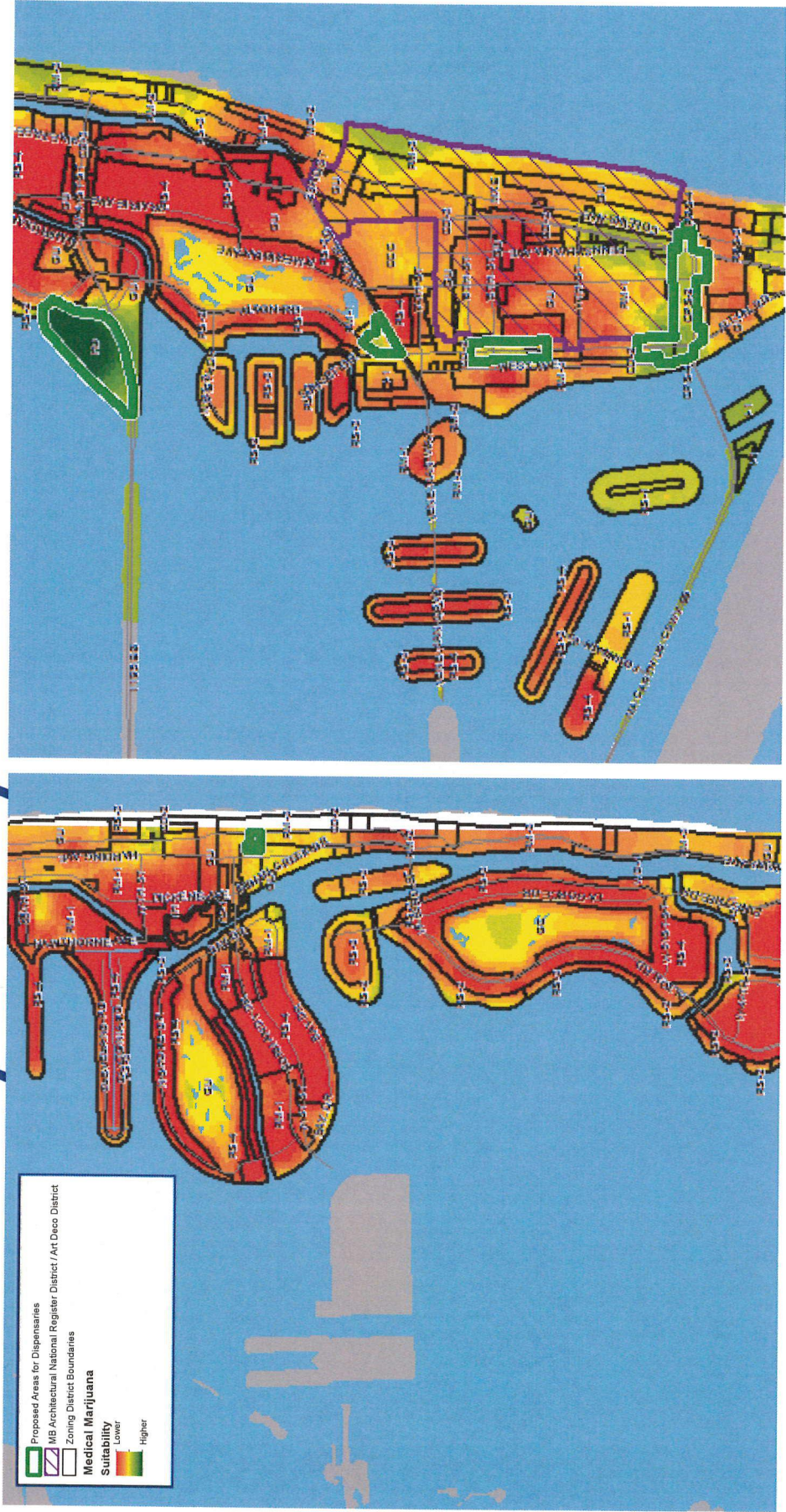
# 1,000 Foot Buffers (Excluding Residential Buffer)



# 1,000 Foot Buffers (Excluding Residential Buffer)



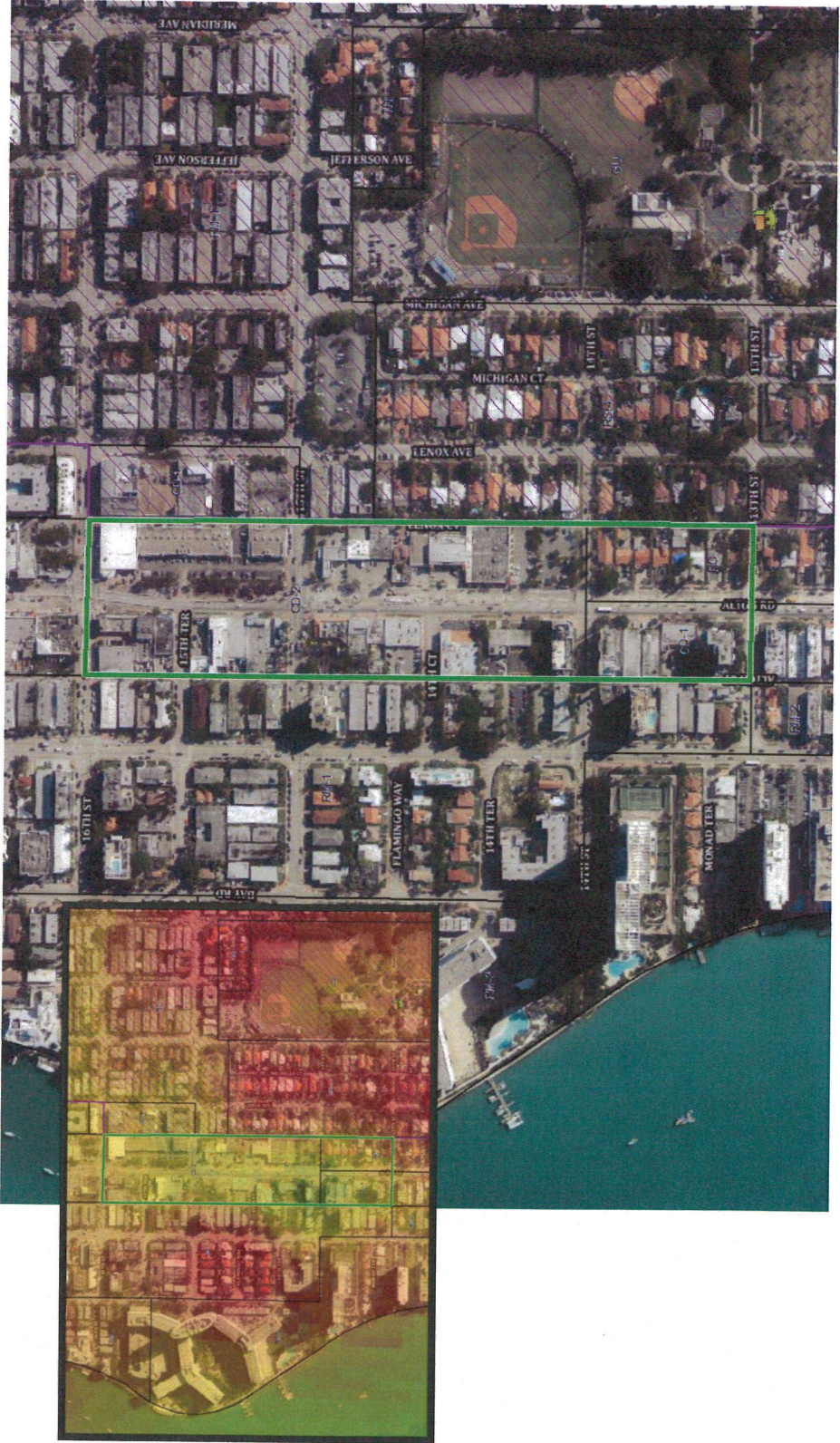
# Suitability Study



# South Beach Alton Road and 5th Street



# South Beach Alton Road



# Mid Beach HD District



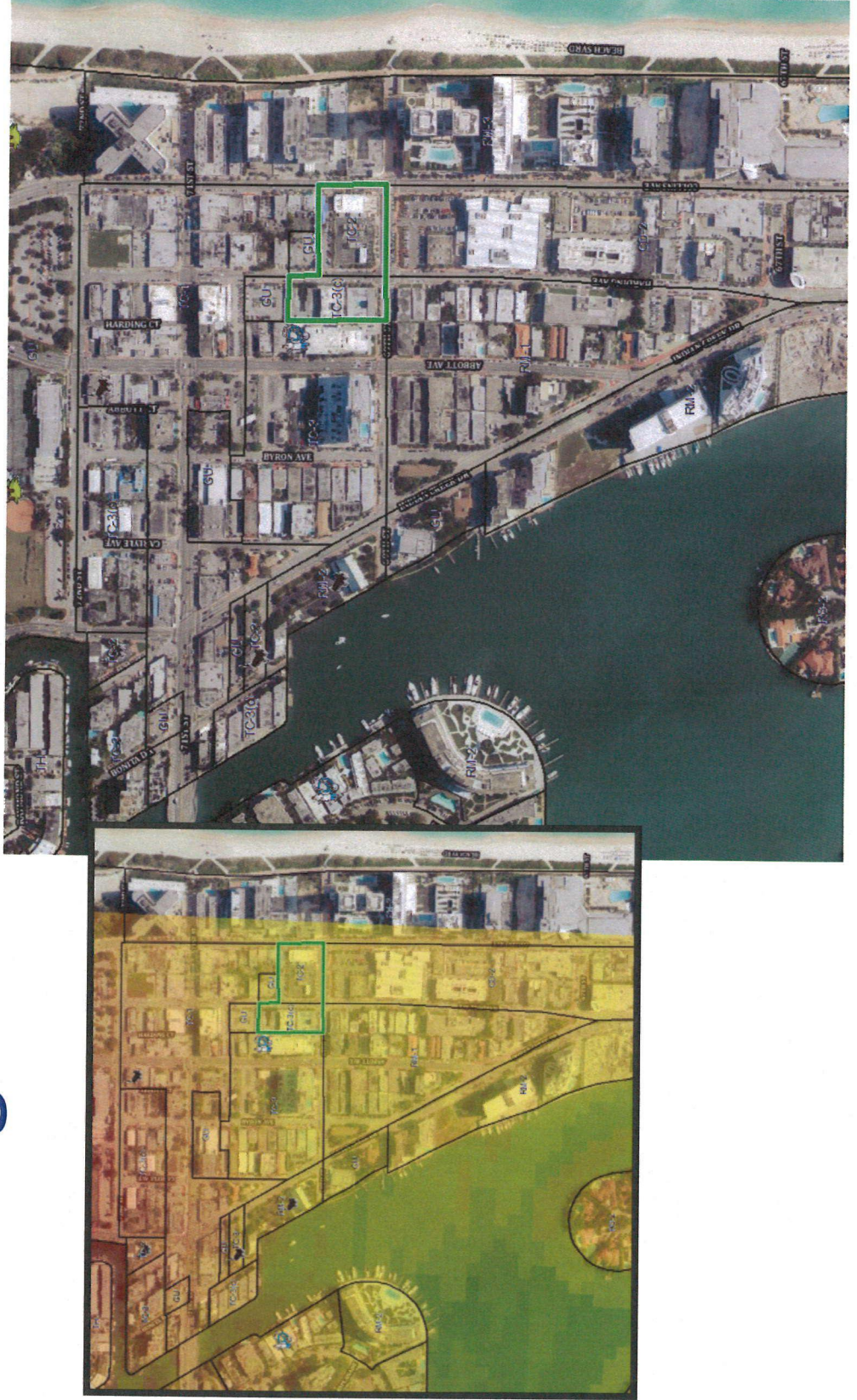


# Mid Beach

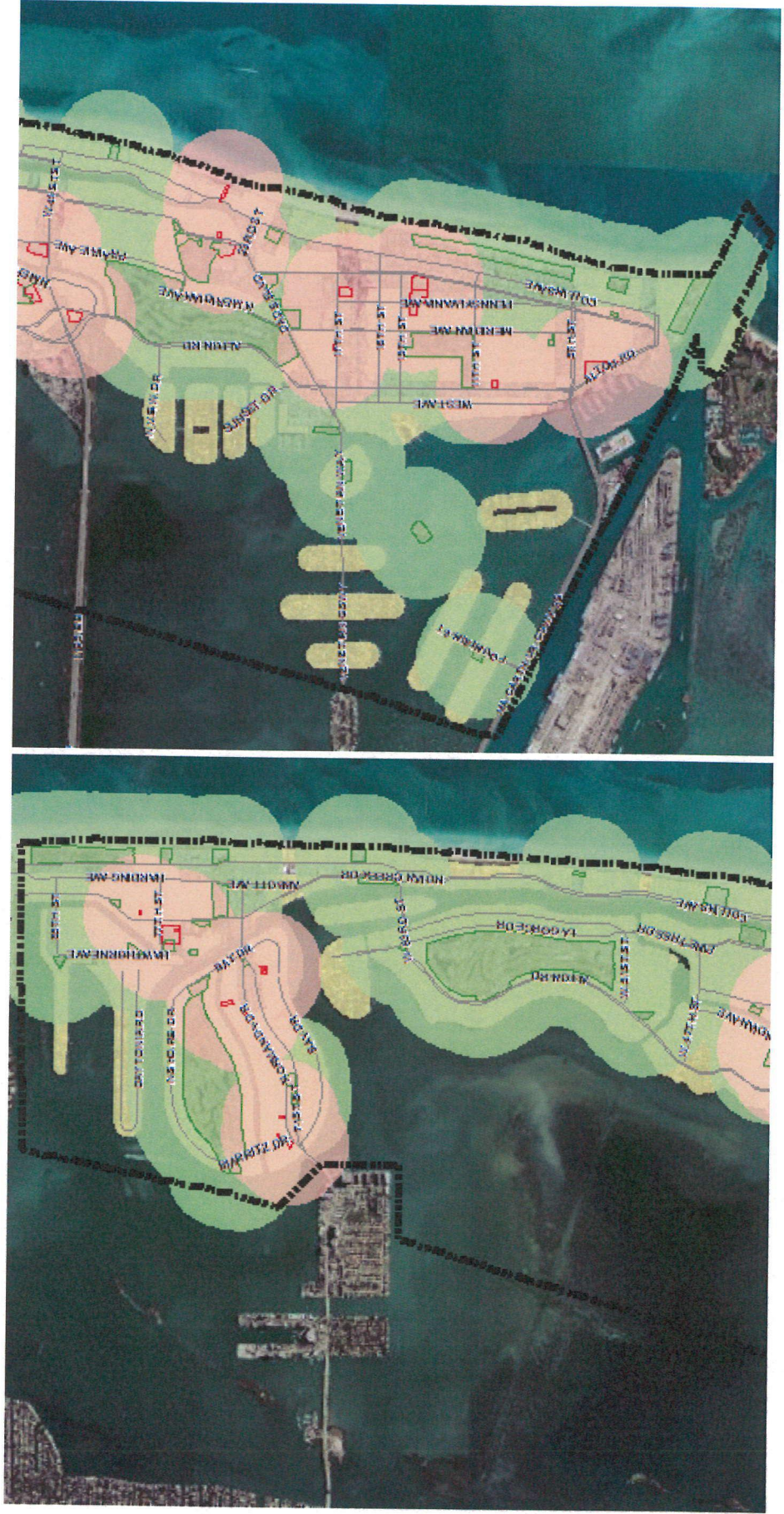
## Alton Road and Dade Boulevard



# North Beach Harding and 69th Street



# 1,500 Foot Buffers w/o Religious Institutions

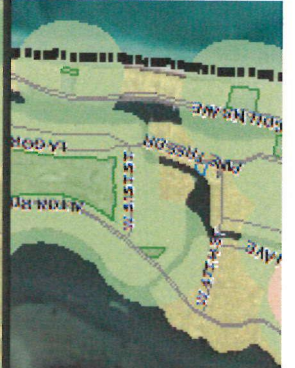
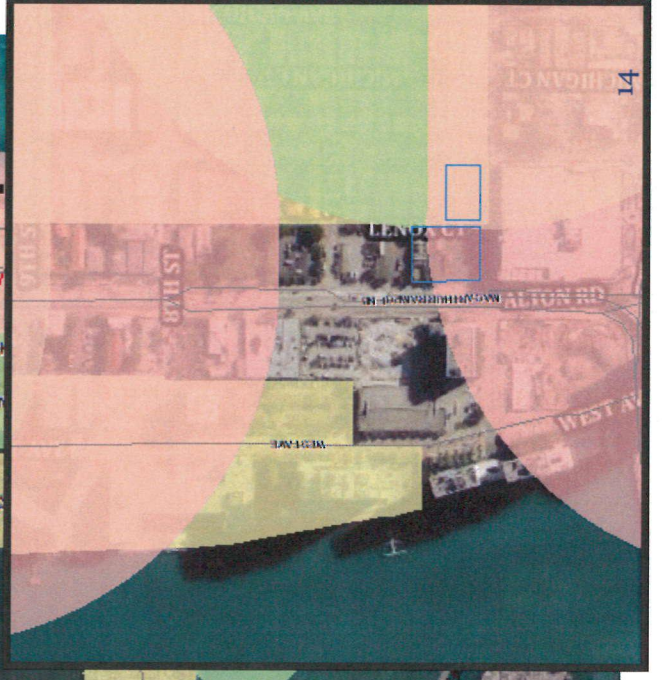
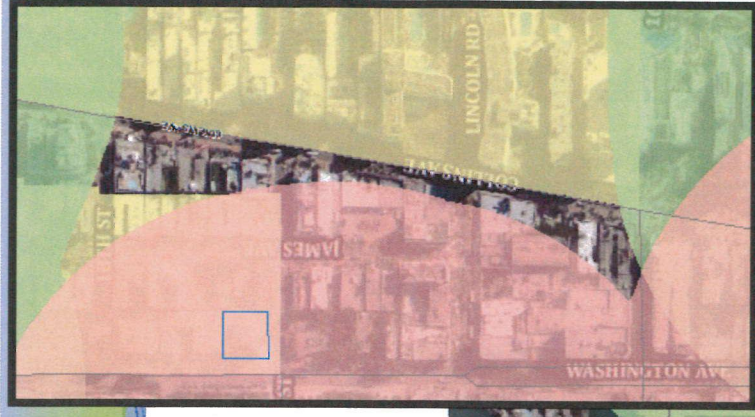


# 1,000 Foot Buffers

## w/o Religious Institutions

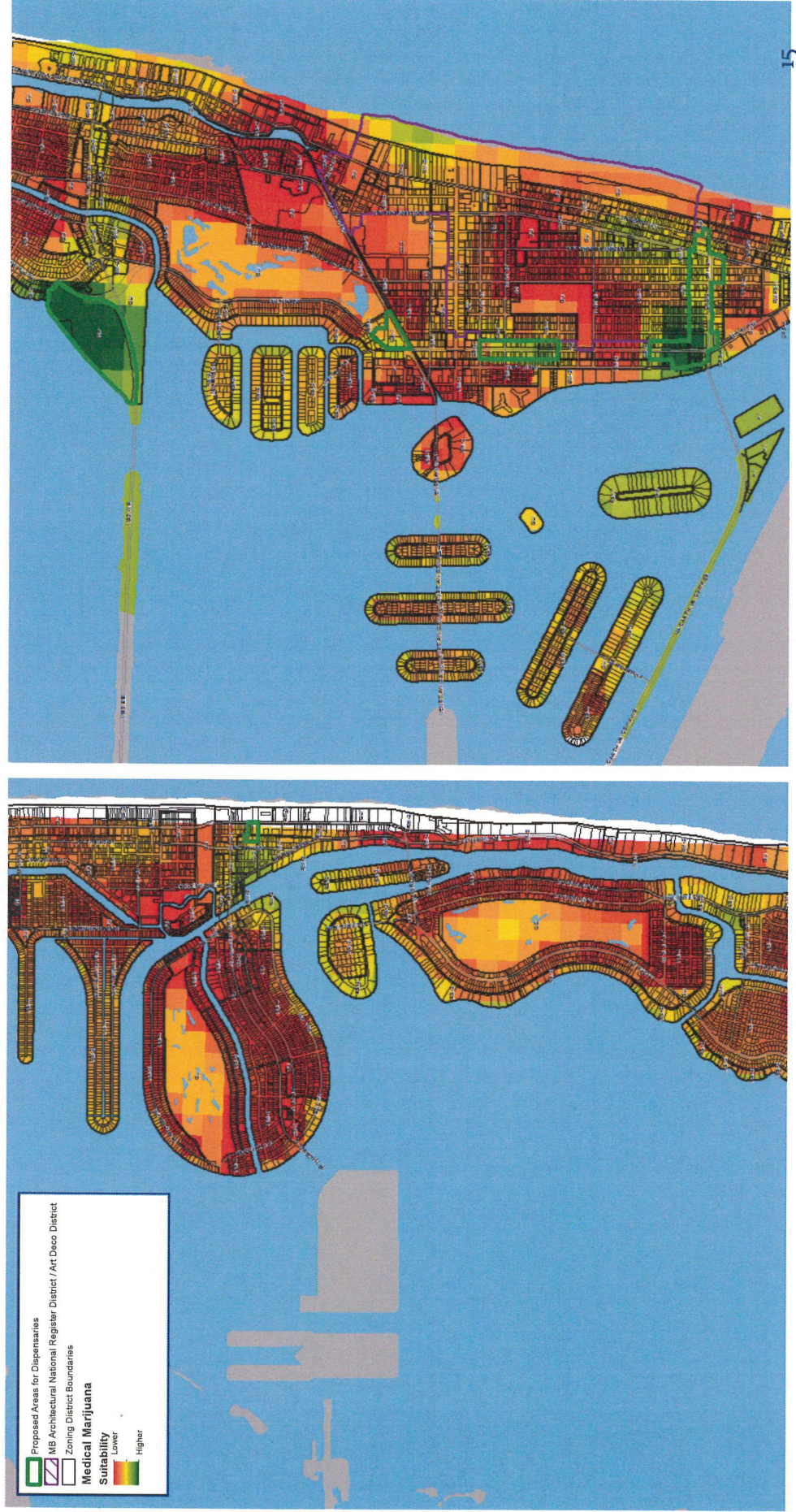


# 1,000 Foot Buffers w/o Religious Institutions

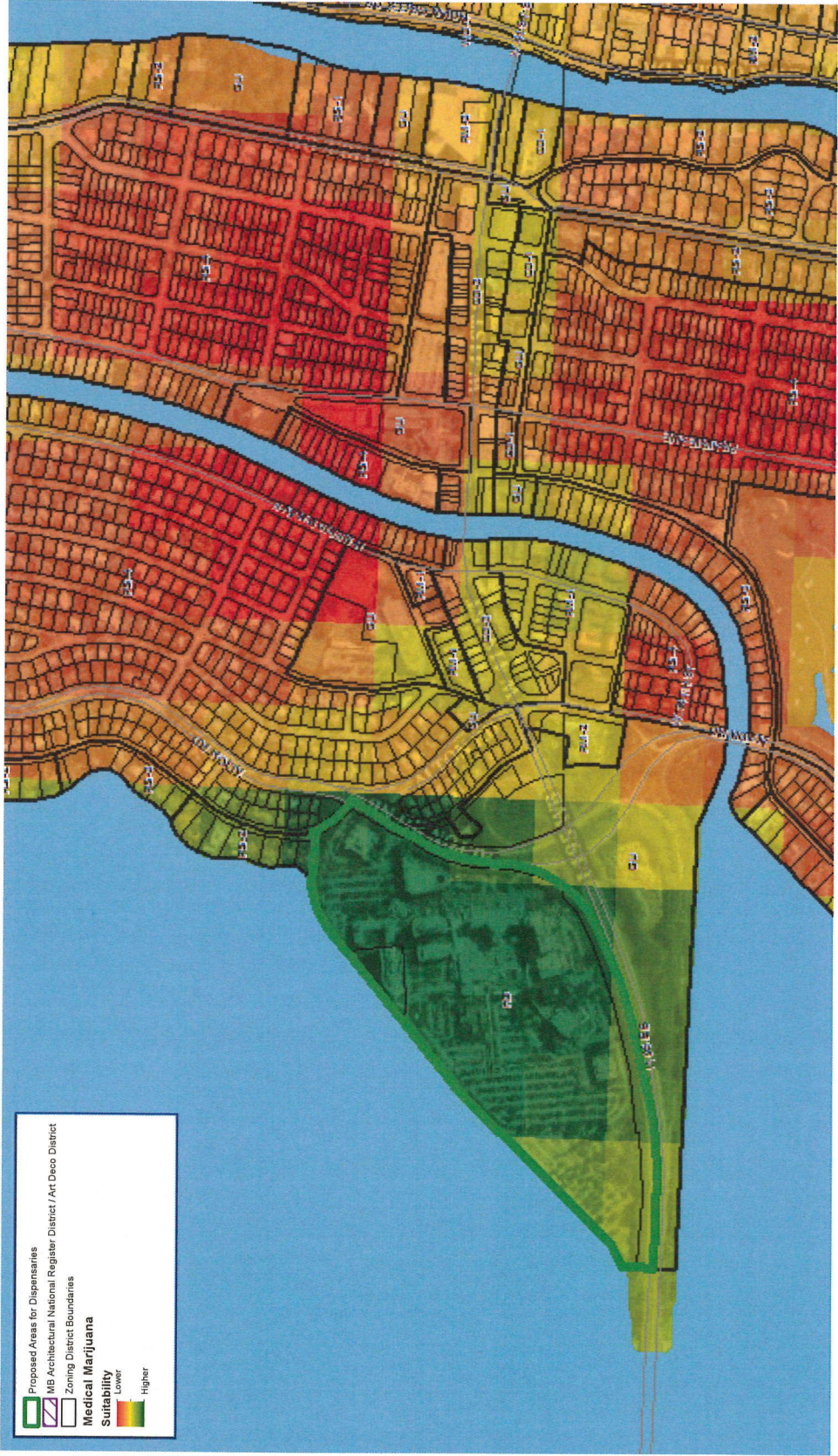


# Suitability Study

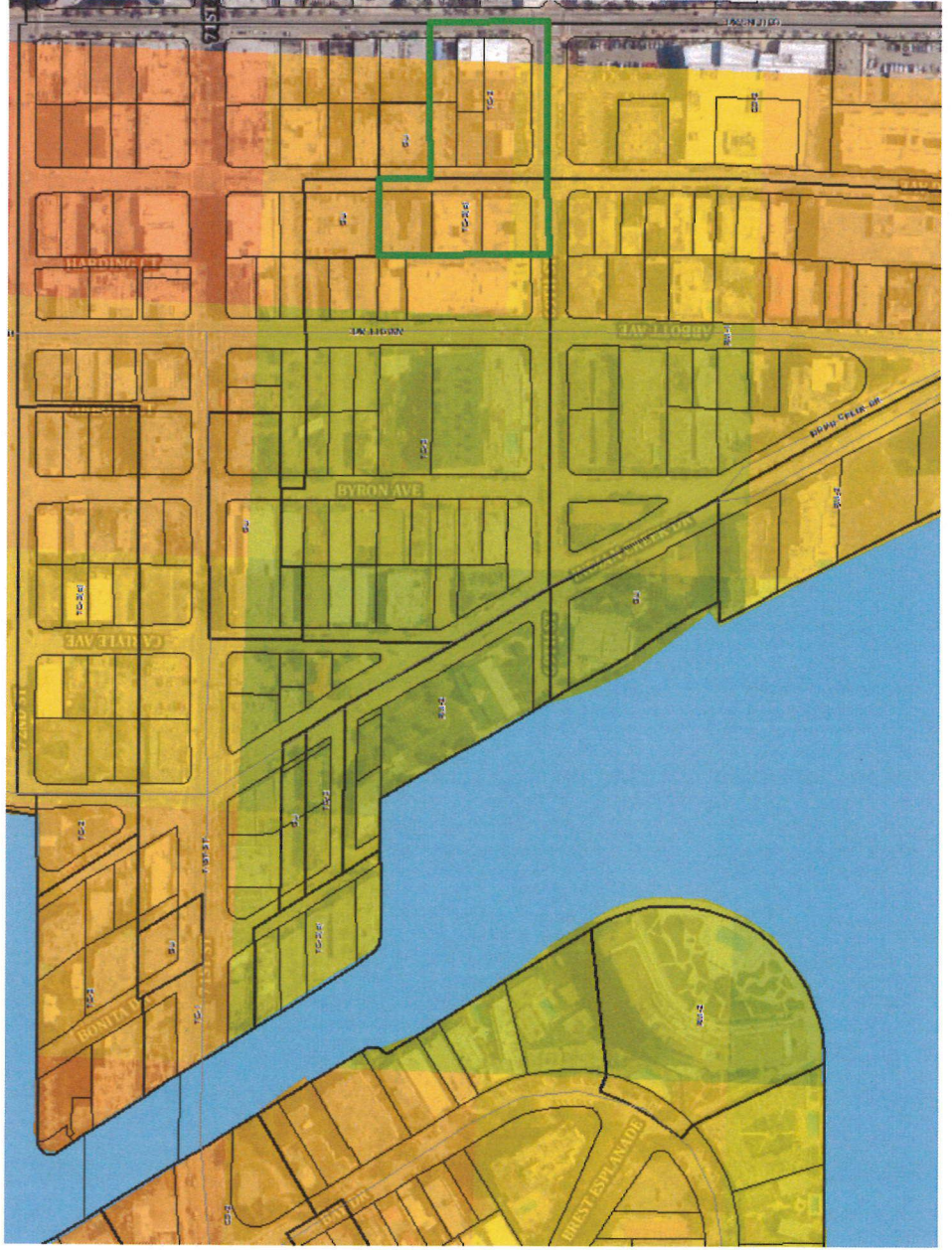
## w/o Religious Institutions



# Mid Beach 41st Street



# North Beach Southwest Town Center





**Cannabis BTR Procedure Ordinance**

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

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 6 OF THE CITY CODE, ENTITLED "ALCOHOLIC BEVERAGES," TO MODIFY THE TITLE TO REFLECT "ALCOHOLIC BEVERAGES AND MEDICAL CANNABIS/MARIJUANA;" TO CREATE ARTICLE III, ENTITLED "MEDICAL CANNABIS" TO CREATE A LICENSURE PROCEDURE FOR MEDICAL CANNABIS DISPENSARIES; PROVIDING FOR APPLICATIONS, REVIEW PROCESS, APPEALS, ENFORCEMENT, PENALTIES, CRITERIA FOR INSPECTIONS, GENERAL SECURITY AND VIDEO REQUIREMENTS, AND OTHER GENERAL LICENSURE REQUIREMENTS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the Compassionate Medical Cannabis Act of 2014, the Florida Legislature authorized a very limited number of large nurseries to cultivate, process, and dispense non-euphoric, low THC cannabis and operate dispensing organizations, as of January 1, 2015; and

**WHEREAS**, in 2016, the Florida Legislature amended Section 381.986 of the Florida Statutes to include medical cannabis, revise the requirements for physicians ordering low-THC cannabis, medical cannabis, or cannabis delivery devices, amend the requirements for the cultivation, processing, transportation, and dispensing of low-THC cannabis or medical cannabis, revise the Florida Department of Health's authority and responsibility and provide for penalties; and

**WHEREAS**, pursuant to Section 381.986(8) of the Florida Statutes, a municipality may determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with state law for dispensing facilities of dispensing organizations located within its municipal boundaries; and

**WHEREAS**, the supermajority of voters in the State of Florida approved Ballot Question No. 2, creating Article X, Section 29 of the Florida Constitution, recognizing the public policy that the medical use of marijuana (cannabis) by a qualifying patient or caregiver in compliance with Section 29 of the Constitution is not subject to criminal or civil liability or sanctions under Florida law; and

**WHEREAS**, Section 29 also recognizes that a physician shall not be subject to criminal or civil liability or sanctions under Florida law solely for issuing a physician certification with reasonable care to a person diagnosed with a debilitating medical condition in compliance with the Constitutional Amendment; and actions and conduct by a Medical Marijuana Treatment Center registered with the Department, or its agents or employees, and in compliance with Section 29 and Department regulations, shall not be subject to criminal or civil liability or sanctions under Florida law; and

**WHEREAS**, due to the historical prohibition of cannabis, the city of Miami Beach does not currently have any land development regulations nor business tax receipt procedures governing the use of real property for the purpose of on-site distribution, sale, delivery or retail of low-THC cannabis, medical cannabis (marijuana) or cannabis delivery devices as provided by Florida Statutes Sections 381.986 and 499.0295; 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 6 of the city Code, entitled “Alcoholic Beverages,” is hereby amended as follows:

**Chapter 6 - ALCOHOLIC BEVERAGES AND MEDICAL CANNABIS/MARIJUANA**

\* \* \*

**ARTICLE III – MEDICAL CANNABIS**

**Sec. 6-50 Purpose and Intent.**

(a) Article X, Section 29 of the Florida Constitution (the “Medical Marijuana Amendment”) recognizes (1) that the medical use of marijuana (cannabis) by a qualifying patient or caregiver in compliance with the Constitutional Amendment is not subject to criminal or civil liability or sanctions under Florida law; (2) a physician shall not be subject to criminal or civil liability or sanctions under Florida law solely for issuing a physician certification with reasonable care to a person diagnosed with a debilitating medical condition in compliance with state law; and (3) actions and conduct by a Medical Marijuana Treatment Center registered with the Department, or its agents or employees, and in compliance with state law, shall not be subject to criminal or civil liability or sanctions under Florida law. The state has yet to enact regulations relating to Article X, Section 29, and the city of Miami Beach, in an abundance of caution, and using the example of other locations throughout the United States, that have already adopted regulations relating to medical marijuana, has created regulations taking best practices into consideration, to ensure the health, safety, welfare of the community. The city’s zoning regulations relating to Medical Marijuana are located in Chapter 142, of the land development regulations, at division X, entitled “Cannabis Regulations And Use”, as to the process for approving cannabis dispensaries, and process for obtaining zoning authorization of same.

(b) The city commission has determined to allow retail medical cannabis dispensaries in the city on the condition that the establishments are operated in compliance with all applicable state and local laws. This ordinance creating the local procedural requirements is necessary for proper administration and enforcement.

(c) The purpose of these regulations is to establish specific standards and procedures for local licensing of retail medical cannabis dispensaries and to protect the health, safety, and welfare of the residents and consumers of the city of Miami Beach (“the city”) by prescribing the manner in which these establishments can be conducted in the city. Retail medical cannabis dispensaries are a heavily regulated industry in the state and city. The city has a zero-tolerance policy for violations of this ordinance or the regulations contained herein.

(d) By enacting these regulations, the city does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, that constitutes or may constitute a violation of state or federal law. As of the date of the enactment of these regulations, the use, possession, distribution, and sale of marijuana is illegal under federal law and those who engage in such activities do so at their own risk of criminal prosecution.

(e) Solely medical marijuana as provided under the State Constitution, Section 381.986, Florida Statutes, and Florida Administrative Code Chapter 64-4 is authorized, and solely a medical marijuana dispensary or low-THC or medical *cannabis dispensary is authorized for licensure. No recreational or other retail use of cannabis is authorized.*

### **Sec. 6-51 Definitions.**

“Applicant” means a person that has submitted an application pursuant to these rules that was accepted by the city for review but has not yet been approved or denied by the city. A person submitting multiple applications for retail medical cannabis dispensary business tax receipt in the city is considered to be a separate applicant for each of the applications submitted.

“Business manager” means an individual designated in the application for a business tax receipt or renewal thereof as the person responsible for all operations of the business in the absence of the owner from the premises to receive the business tax receipt, and shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to lock or unlock the business, or set or disarm the alarm.

“Liquid assets” are assets in the form of money or cash in hand, assets that will be placed directly into the retail medical cannabis dispensary or other assets that can be quickly converted into cash. Liquid assets include, but are not limited to the following: funds in checking or savings accounts, certificates of deposit, money market accounts, mutual fund shares, publicly traded stocks, United States savings bonds, furniture and equipment, and packaged marijuana, and related products and inventory to be transferred to the retail medical cannabis dispensary. For purposes of these regulations, household items, vehicles, marijuana plants, and real property and improvements thereto are not considered to be liquid assets.

“Person” means a natural person, partnership, association, company, corporation, or organization, or a director, officer, shareholder, partner, manager, agent, servant, or employee thereof.

### **Sec. 6-52 Relationship to Other Laws.**

The provisions in these regulations that are different from the applicable state law are consistent with the city’s responsibility to protect the public health, safety, and welfare as authorized by the home rule authority granted to the city under Article IX, Section 2, of the Florida Constitution, section 166.011, Florida Statutes, and the charter of the city. Where these regulations are more restrictive than any state regulations, the city regulation shall control. Whenever possible, these regulations and any city business tax receipt issued under these regulations shall be construed to comply with federal law, specifically including the Controlled Substances Act (21U.S.C. 801 et seq.).

### **Sec. 6-53 Medical Marijuana Business Tax Receipt Process; Generally; Application Process**

(a) This article III establishes the business tax receipt requirements for regulating and controlling the licensing and sale of retail medical cannabis in the city. The finance director shall serve as the primary point of contact. The city manager, or his designee, shall have the final authority of review, approval or revocation of business tax receipts under this article III.

(b) State licensure required and business tax receipt. It is unlawful for any person to operate a retail medical cannabis dispensary in the city without obtaining a valid license from the State of Florida, and a city Business Tax Receipt.

(c) No entitlement or vested right. No person shall have any entitlement or vested right to a business tax receipt under these regulations. Operation of a retail medical cannabis dispensary is a revocable privilege and not a right in the city. The applicant bears the burden of proving that all qualifications for a business tax receipt have been satisfied.

(d) The city shall require a retail medical cannabis dispensary obtain business tax receipt prior to opening the dispensary. No business tax receipt shall issue relating to the cultivation, production, manufacturing or testing of medical marijuana.

(e) Business tax receipt application process:

(1) State Application Required. Filing a local application for a retail medical cannabis dispensary with the city does not constitute an application with the State of Florida. A separate state application must be processed and obtained prior to seeking a business tax receipt in the city.

(2) Letter of Intent. The purpose of the letter is to notify the city that an application may be forthcoming. The letter shall set forth: the name of the individual(s) or entity applying for business tax receipt; contact information for the applicant or primary contact person; the address of the proposed retail medical cannabis dispensary; a statement, not to exceed 100 words, defining the applicant's intent to submit an application for a retail medical cannabis dispensary; and the dated signature of the prospective applicant.

(3) Application materials. All applications for retail medical cannabis dispensary business tax receipt shall be made upon forms provided by the city and shall include the following supplemental materials:

A. If an owner is not a natural person, the organizational documents for all entities identified in the application consistent with disclosure requirements of city code section 2-450;

B. A copy of the lease or deed for the property (a document showing clear legal title to the proposed site, an option to purchase the site, the lease);

C. If the property is leased, written, notarized, consent from the owner allowing operation of a retail medical cannabis dispensary on the leased premises;

D. A site plan of all buildings on the property where the premises is located, including but not limited to: a floor plan showing how the floor space is or will be used, parking for the premises, total floor area of the building(s), and the nature and location of any existing or proposed exterior lighting and signage;

E. A list of all other uses on the property (not just the leasehold interest, but the entire building);

F. A list of all proposed changes or modifications to the premises, including any such proposed changes that are purposed because of state licensing requirements;

G. A security plan indicating how the applicant will comply with the requirements of this ordinance and any other applicable law, rule, or regulation; and

H. Fingerprints and personal histories of applicant, and all persons affiliated with applicant, including a copy of the driver's license of each person, as may be specified on forms provided by the city.

(4) Specialized Requirements. In addition, applicants shall satisfy the following requirements when applying for a medical marijuana dispensary business tax receipt.

A. Liquid assets. All applicants for retail medical cannabis dispensary store business tax receipts must demonstrate/document a minimum of \$400,000 in liquid assets under control of the Owners of the Business Tax Receipt, and available at the time of application. This threshold must be separately met for each of the retail medical

cannabis dispensary stores for which the applicant is seeking licensure. Only assets held or titled in the name of the actual applicant will qualify toward meeting this requirement – for example, in the case of a corporate applicant, the personal assets of owners or assets of related business entities would not be considered. For jointly held assets, only the applicant’s portion of ownership will be considered toward the minimum requirement. The applicant must provide satisfactory documentation of asset ownership such as bank statements, lines of credit, stock certificates, and invoices or receipts. The city has discretion to make final determinations as to whether assets qualify as liquid assets and whether sufficient proof of ownership in the name of the applicant has been demonstrated.

B. Background. The applicant and any employees must complete a city police department background check. The city shall establish a fee for such background check. No business tax receipt may issue should the applicant or persons affiliated with the applicant have a felony conviction, guilty pleas or a plea of nolo contendere from any state, the United States, the military, territorial, or Indian tribal authority; no drug-related misdemeanor convictions, guilty pleas, or please of nolo contendere for the past ten years, nor any criminal convictions relating to moral turpitude in the United States, or a military, territorial, or Indian tribal authority. Moreover, neither the applicant nor any person affiliated with the applicant may be under indictment or under prosecution for a felony or drug related misdemeanor.

C. Administrative actions. The applicant shall provide a description of any past or pending legal or enforcement actions in any other state against any officer, executive, director, or board member of the applicant or its members, or against any other entity owned or controlled in whole or in part by them, relating to the cultivation, processing, distribution, or sale of marijuana for medical purposes. This information shall be taken into consideration by the city in determining whether to issue a business tax receipt.

D. Prior license revocation. The applicant shall provide a description of any past or pending denial, suspension, or revocation of a license or registration, or the denial of a renewal of license or registration, for any type of business or profession, by any federal, state, or local government, or any foreign jurisdiction, including denial, suspension, revocation, or refusal to renew certification for Medicaid or Medicare. This information shall be taken into consideration by the city in determining whether to issue a business tax receipt.

E. Disciplinary actions. The applicant shall provide a description of any past discipline by, or a pending disciplinary action or unresolved complaint by the state, or a like action or complaint by another state, the United States, or a military, territorial, or Indian tribal authority with regard to any professional license or registration for an executive of the applicant, as well as by any member of the applicant. This information shall be taken into consideration by the city in determining whether to issue a business tax receipt.

F. Tax compliance. In evaluating an applicant’s history of tax compliance, the local licensing entity will review the federal, state, and local tax returns of the applicant, to determine whether a timely history of payment has been established. The city will also review available public records to determine whether the applicant, have in the past three years been subject to any tax-related liens, seizures, or fines, or have been convicted of a tax-related criminal offense. This information shall be taken into consideration by the city in determining whether to issue a business tax receipt.

G. Security plan. All applicants must include a security plan as part of their application package, which will be reviewed by the city in conjunction with members of the police department. The applicant shall be required to provide enhanced security measures which shall include, but not be limited to, steel security doors, improved video surveillance system capabilities, and advanced alarm systems. It will also address security relating to inventory procedures, transportation of the medical marijuana, and procedures for quality control and testing of product for potential contaminants.

H. Limitation on number of business tax receipts per person. No person may hold an ownership interest in more than two retail medical cannabis dispensary stores located throughout the city. While a person may submit an unlimited number of applications for retail medical cannabis dispensary store licensure, a maximum of two business tax receipts may be awarded to any particular owner.

I. Conditional use approval pursuant to the land development regulations.

J. Provide, either prior to or at the time of building plan submittal to the building article III, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the city.

K. Provide a ventilation and filtration plan at the time of plan submittal to the building division, describing the systems that will be used to prevent the detection of any odor of marijuana from the premises.

L. Pay all business tax receipt charges, and any applicable fees. All fees and tax receipts are nonrefundable.

(5) Waiver or Additional Requirements. The city may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these regulations. To the extent any of the foregoing supplemental materials have been included with the applicant's state license application and forwarded to the city by the state licensing authority, the city may rely upon the information forwarded from the state without requiring resubmittal of the same materials in conjunction with the local business tax receipt application.

(6) Complete Application. The city will not accept an incomplete application. An application shall not be considered complete until the city has: (i) determined that all requirements of the application have been provided to the city, (ii) fingerprints and photographs of each person required, (iii) received all applicable city business tax receipt fees, and any applicable additional fees from the applicant, and (iv) obtained all other information the city determines necessary to make a decision whether to approve or deny the application, or approve it with conditions. No business tax receipt shall issue until all the requirements of this article III are complied with, and a final order is rendered authorizing a conditional use permit for a medical marijuana dispensary, as provided under chapter 142, division X.

(7) Denial. The city will deny any application that does not meet the requirements of these regulations or any other applicable law, rule, or regulation or that contains any false or incomplete information. In the event an application for licensure is denied, the city will notify the applicant in writing, explaining the reasons for the denial.

(8) Appeal. Persons whose applications have been denied have a right to appeal the denial

via the procedures set forth in section 6-62.

(9) Annually, the city will issue no more than three (3) retail medical cannabis dispensary store business tax receipts. See chapter 142, division X, of this code. The business tax receipt shall be on a first come, first serve basis, and provided all zoning authorizations, and all licensure requirements are met.

(10) Transfer of Ownership and Changes in Business Structure. A business tax receipt holder for a retail medical cannabis dispensary shall apply to the city prior to initiating a transfer of ownership or changing the business structure of the entity. Such application shall be made upon forms prescribed by the city. No application for transfer of ownership or change in business structure shall be approved by the city until all occupational taxes, sales and excise taxes, any fines, penalties, and interest assessed against or imposed upon such business tax receipt holder in relation to the business are paid in full. For one year after the date any business tax receipt is issued by the city pursuant to the ordinance, the holder is prohibited from transferring ownership of the business tax receipt or making changes to the business structure of the entity, unless the holder can demonstrate that a transfer of ownership or change in structure is made necessary by death or disability of the holder or a similarly substantial financial hardship. A retail medical cannabis dispensary business tax receipt issued by the city is not transferable except as provided in these rules. No transfer of ownership shall be permitted until after the city considers the application, and such additional information as it may require, and issues a business tax receipt to the transferee. Upon issuance of the new business tax receipt in the transferee's name, the prior business tax receipt holder becomes invalid and the transferor must immediately cease operations. The transferee may not commence operations until all inspections and approvals have been completed and the new business tax receipt has been issued.

(11) Change of location. Any business tax receipt granted under these regulations is limited to the location specified on the application. A change in location would require a new conditional use approval under See chapter 142, division X, of this code, and a new application for a business tax receipt for the new location.

(12) License – valid one year. A retail medical cannabis dispensary business tax receipt shall be valid for a period of one year from the date of issuance or upon the expiration and non-renewal of the associated business tax receipt, whichever occurs first.

(13) Renewal; application procedure. Renewal of a retail medical cannabis dispensary business tax receipt is not automatic, and it is the business tax receipt holder's responsibility to ensure that the renewal application and all supplemental materials are submitted in a timely manner. Such application is made in addition to, and not in lieu of the state application for license renewal. The business tax receipt holder shall apply for renewal using forms provided by the city. The application for renewal must include the supplemental information set forth below before the application will be considered complete and processed by the city.

A. The yearly business tax receipt, and late fee if applicable, shall accompany the renewal application. The fees shall be nonrefundable.

B. In the event there has been a change to any of the plans identified in the business tax receipt application which were submitted to and approved by the city with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.

C. In the event any person who has an interest as described in the disclosures

made to the city pursuant to this chapter, or any business manager, financier, agent as defined herein, or employee, has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed, and the disposition of the violation with the renewal application.

D. In the event the retail medical cannabis dispensary license has been suspended or revoked or a business tax receipt holder has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension, or revocation.

E. The renewal application shall include verification that the retail medical cannabis dispensary has a valid state license and the state license is in good standing.

F. The renewal application shall include a summary report for the previous twelve months identifying any police report numbers or case numbers of all police calls to the retail medical cannabis dispensary; and, for calls resulting in a charge of a violation of any law, the charge, case number, and disposition of any of the charges.

(14) Denial of renewal. The city may refuse or deny a business tax receipt renewal:

(A) If renewal of the business tax receipt will have a harmful or damaging impact on the public health, safety or the general welfare of the city or the neighborhood where the establishment is located.

(B) If during the prior licensure year, there is a felony conviction, pleas of guilt, or pleas of nolo contendere, or a drug related misdemeanor conviction, pleas of guilt or plea of nolo contendere, of any employee or principal of the applicant.

(C) If evidence is obtained by the city of any attempt by applicant, or person affiliated with applicant attempted to obtain a registration, license, business tax receipt, or approval to operate in any state by fraud, misrepresentation, or the submission of false information.

(D) Nothing in these regulations limits the city's consideration of behavior occurring on or about the authorized premises. It may consider behavior that occurs in other jurisdictions in which the business tax receipt holder conducts business in determining the potential impact on the city and the surrounding neighborhood.

(E) If there is a civil or administrative action under the laws of the State, another state, the United States, or a military, territorial, or Indian tribal authority relating to any persons' profession, occupation or fraudulent practices, including but not limited to fraudulent billing practices.

(F) A business tax receipt holder may file an appeal request of the business tax receipt denial pursuant to section 6-62, below.

(15) Notice of renewal. Approximately, 90 days prior to the expiration of an existing business tax receipt, the city will send a renewal notification to the business tax receipt holder's mailing address of record via first class mail. Failure to receive a renewal notification does not relieve the business tax receipt holder of the obligation to renew all business tax receipts in a timely manner. Application for renewal of the retail medical cannabis dispensary business tax receipt shall be at least 30 days, but no earlier than 90 days prior to the expiration date. If the applicant fails to apply for renewal at least 30 days before the expiration date, but does apply for renewal prior to expiration, the city may process the renewal application if the applicant provides a written explanation of the reasons for the late renewal and submits a late filing fee at the time of submittal of the renewal application. If the city accepts a late application as described above, it may elect to administratively continue the business tax receipt beyond



the expiration date while the renewal process is pending.

(16) Expiration of the business tax receipt. A retail medical cannabis dispensary business tax receipt is immediately invalid upon expiration of the year, unless the receipt holder has filed a late renewal application and the city has granted an administrative continuance of the license as described above. Expiration of a retail medical cannabis dispensary business tax receipt for any reason, including, without limitation, failure to file a renewal application in a timely manner, shall be considered an inactive city business tax receipt and no longer valid. A business tax receipt holder whose receipt has expired shall not sell any retail medical cannabis dispensary until all required licenses and receipts have been obtained. If the holder of an expired business tax receipt files a renewal application after 90 days from date of expiration, the application will be treated as a new application.

**Sec. 6-54 General requirements for Medical Marijuana Dispensaries; Premises.**

(a) Retail medical cannabis shall only be stored, weighed, displayed, packaged, sold, or possessed for sale in a limited access area under the business tax receipt holder's control. Business tax receipt holders shall restrict entrance to limited access areas only to owners and employees in possession of an occupational license from the state of Florida relating to medical cannabis sales, along with visitors registered as described below.

(b) Visitors in limited access areas. Visitors must be escorted at all times by a person holding a valid owner or occupational license. Management personnel of the business tax receipt holder must take the following actions prior to allowing any visitor to enter a limited access area:

(1) Enter the visitor's name, address and the purpose of the visit into a log, which shall be made available for inspection upon request;

(2) Check the identification for all visitors to verify that the name on the identification matches the name in the visitor log and that the visitor is at least 21 years of age; and

(c) Required signage.

(1) All areas of ingress and egress to limited access areas on the premises shall be clearly identified by the posting of a sign at least 12 inches wide and 12 inches long, which shall state, "Do Not Enter - Limited Access Area – Access Limited to Personnel and Escorted Visitors" in letters at least one-half inch in height.

(2) Price list.

(d) Violations. A retail medical cannabis dispensary's failure to comply with the limited access area restrictions and procedures described in this rule may be considered a violation affecting the public safety.

(e) Evidence of lawful possession. All applicants for retail medical cannabis dispensary business tax receipt must demonstrate proof of lawful possession of the premises at the time of application. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documentation the city may consider satisfactory. Lease agreements contingent upon the applicant being approved are acceptable to show the applicant's lawful possession of the intended premises.

(f) Relocation or modification prohibited. A business tax receipt issued to a medical marijuana dispensary shall be tied to the site plan, security plan, and video plan submitted to the city. Any material modifications to the plans, and any expansion, or relocation shall require zoning

review, and a new application for an updated business tax receipt. Material or substantial changes, alterations, or modifications of the site plan requiring approval include, but are not limited to the following:

- (1) Any increase or decrease in the total physical size or capacity of the premises;
- (2) The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the limited access areas;
- (3) The permanent addition of a separate sales counter or display case in a retail medical cannabis dispensary store; or
- (4) The procedures for material changes listed above are in addition to, and not in lieu of, other general building requirements that may apply to building structures and land parcels in the city. Modification of any building structure where a retail medical cannabis dispensary store is located is subject to all applicable provisions of the land development regulations and Florida Building Code.

(g) Security requirements.

(1) Security Plan. All applicants for retail medical cannabis dispensary licensure shall file a written security plan with the city. The written security plan shall be consistent with the requirements of the conditional use permit and address, at a minimum, the following elements:

A. Evidence that the space will comply with all security and video surveillance requirements set forth in these rules.

B. A site plan showing the entire vicinity in which the retail medical cannabis dispensary is located, including the street(s), parking lot(s), other tenants within the facility, and any other entities that physically border the establishment.

C. A floor plan of the retail medical cannabis dispensary detailing the locations of the following:

i. All entrances and exits to the establishment;

ii. The location of any windows, skylights, and roof hatches;

iii. The location of all cameras, and their field of view;

iv. The location of all alarm inputs (door contacts, motion detectors, duress/hold up devices) and alarm sirens;

v. The location of the digital video recorder and alarm control panel; and

vi. Restricted and public areas.

D. The type of security training provided for, and completed by, establishment personnel, including conflict resolution training and procedures for handling violent incidents. Employee security policies, including personal safety and crime prevention techniques.

E. How the applicant intends to use and maintain an incident log.

F. The establishment's procedures for preventing the use of marijuana on the premises.

G. Security measures taken by the applicant to prevent individuals from entering the limited access area portion of the registered premises.

H. The applicant's closing procedures after the cessation of business each day.

I. The applicant's plan to prevent theft or the diversion of marijuana, including maintaining all marijuana in a secure, locked room that is accessible only to authorized persons.

J. The type of alarm system and outdoor lighting to be used by the applicant.

K. The applicant's procedures for accepting delivery of retail medical cannabis

dispensary products at the facility, including procedures for how it is received, where it is stored, and how the transaction is recorded.

L. Emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies.

(2) The applicant must demonstrate that the following security measures are in place or will be implemented prior to opening:

A. Installation of a safe or vault for storage of any processed marijuana or marijuana product and cash on the premises when the business is closed to the public. The safe or vault must be incorporated into the building structure or secured to the structure to prevent removal. For marijuana-infused products that must be kept refrigerated or frozen, the establishment may lock the refrigerated container or freezer so long as the appliance is affixed to the building structure.

B. Any dumpster or similar trash receptacle on the premises used to discard retail medical cannabis dispensary products must have a metal cover or lid that is locked at all times when the receptacle is unattended.

(3) Security alarm system. All retail medical cannabis dispensaries shall install, maintain, and use a professionally monitored security alarm system meeting the following requirements:

A. The system shall provide coverage of all facility entrances and exits, rooms with exterior windows, rooms with exterior walls or walls shared with other building tenants, roof hatches, skylights, and storage rooms containing safes or vaults;

B. The system shall include at least one silent holdup or duress alarm that can be manually triggered in case of emergency;

C. The alarm system must be equipped with a failure notification, c and a battery backup system sufficient to support a minimum of four (4) hours in the event of a power outage;

D. The alarm system must be monitored by a company that is staffed 24 hours a day, seven (7) days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and shall be updated within 72 hours in the event the monitoring company is changed; and

E. The business tax receipt holder shall maintain for a period of three (3) years, reports of any incidents triggering an alarm, and such reports shall be made available to the city and the police department during any inspection of the facility.

(h) Video surveillance.

(1) Prior to receiving a business tax receipt to operate, all retail medical cannabis dispensaries are required to install a video surveillance system satisfying the minimum standards described below, in addition to the state requirements.

(2) Retail medical cannabis dispensaries are responsible for ensuring that all video surveillance equipment is properly functioning and maintained, such that the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas with a recording quality suitable for viewing. The surveillance systems must be continuously operational at all times, 24 hours per day. The retail medical cannabis dispensary or agent overseeing the functioning of the video surveillance system must immediately report to the police department any malfunctions or technical problems with the system.

(3) Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos. The surveillance equipment must meet the following specifications:

A. The video cameras employed in the system must have a minimum resolution of 1.3 megapixels (1280 x 1024 pixels) and record at a minimum rate of 12 frames per second;

B. All video cameras employed in the system must have infrared capabilities to capture images in low lighting conditions;

C. The use of motion detection is authorized when the applicant can demonstrate that monitored activities are adequately recorded;

D. All video surveillance systems must be equipped with a failure notification system and a battery backup system sufficient to support a minimum of four hours of recording in the event of a power outage; and

E. The Applicant's surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the premises.

(4) Camera placement and coverage. The retail medical cannabis dispensary shall install and use security cameras to monitor and record all interior areas of the premises, except in restrooms, along with trash receptacles and all points of ingress and egress to the exterior of the premises. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, with camera placement capable of identifying activity occurring within 20 feet of all such points of ingress and egress. Camera placement in all areas shall allow for the clear and certain identification – with sufficient detail to identify facial features and clothing – of any individual and activities present on the premises.

(5) Location and maintenance of surveillance equipment.

A. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, service personnel or contractors, state or local law enforcement agencies, and agents of the city and the state.

B. Applicant must maintain a current list of all authorized employees and service personnel who have access to the surveillance system and shall keep a surveillance equipment maintenance activity log on the premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.

C. Each retail establishment must have a separate surveillance room or area that is dedicated to those specific premises, regardless of any shared or adjoining location in a common building.

(6) Video recording and retention requirements.

A. All surveillance recordings are required to be retained for a minimum of 60 days and shall be in a digital format that can be easily accessed for viewing and that ensures authentication of the recording as being legitimately captured without alterations.

B. In addition to maintaining surveillance recordings in a locked area on the premises, a copy of the surveillance recordings must be stored at a secure off-site location in the city or through a network “cloud” service that provides on-demand access to the recordings. The off-site location or network service provider shall be included in the security plan submitted to the city and provided to the police

department upon request, and updated within seventy-two hours of any change to the location or provider.

C. All surveillance recordings shall be embedded with the date and time without significantly obscuring the picture.

D. Regardless of the expiration of the 60-day limit for retention of surveillance video recordings, such recordings may not be destroyed if the Applicant/business tax receipt holder knows or should have known of a pending criminal, civil or administrative investigation, or any other proceeding for which the recording may contain relevant information.

(j) Applicant shall provide a policy for the immediate dismissal of any dispensary agent, or employee who has diverted marijuana, which shall be reported to law enforcement officials; engaged in unsafe practices with regard to the operation of the dispensary, which shall be reported to the city; indictment for a state or federal felony or a misdemeanor drug related activity, which shall be reported to the city; or conviction, pleas of guilty, pleas of nolo contendere for a felony or misdemeanor drug related activity in any state, the United States, military, territorial or Indian tribal authority, which shall be reported to the city.

### **Sec. 6-56 General Operational Requirements**

The following requirements apply to all retail medical cannabis dispensaries within the city.

(1) Age limitation. Retail medical cannabis dispensaries may not allow persons less than 21 years of age to enter limited access areas under any circumstances. No retail medical cannabis dispensary store is permitted to sell marijuana to persons younger than 21 years of age, and stores must conspicuously post signage in the entrance area that clearly states: "You must be at least 21 years old to enter."

(2) Identification scanners. For retail medical cannabis dispensary stores, the business shall verify the proof of age of every person entering the business with an electronic identification scanner. An electronic identification scanner is a device that is capable of quickly and reliability confirming the validity of an identification using computer processes.

(3) Receipts. All receipts for the sale of retail medical cannabis dispensary to consumers must contain the statement: "It is illegal to transfer or sell retail medical cannabis dispensary or retail medical cannabis dispensary products to anyone under the age of 21."

(4) Posting of hours of operation. Retail medical cannabis dispensaries shall post their hours of operation at the main entry of the store or facility.

(5) Public access restricted. Retail medical cannabis dispensaries shall require visitors to be tracked in an entry log identifying the visitor's name, entry and departure times, and the purpose of the visit. Visitors to such establishments must be escorted by a manager or owner at all times.

(6) Display of business tax receipt and state license(s) required. The general business tax receipt and any required state licenses shall be conspicuously posted inside the retail medical cannabis dispensary near the main entrance.

(7) Emergency contact information. The name and contact information for the owner or owners and any business manager of the retail medical cannabis dispensary shall be

conspicuously posted inside the premises near the main entrance.

(8) Owner or business manager required on premises. No retail medical cannabis dispensary shall be managed by any person other than the owner or the business manager listed on the application for the business tax receipt or a renewal thereof. Such persons shall be on the premises and responsible for all activities within the business during all hours of operation. In the event the Owner intends to employ a business manager or employee(s) to run the business when the Owner or business manager are not present, the Owner shall immediately report the name of such business manager or employee to the city, and such person shall submit to the city, at least 30 days prior to commencing employment, the requested contact and background information for the person on a form specified by the city. Owner shall report to the city the release or removal of a business manager, or any employee from employment no later than five (5) days after such an occurrence.

(9) Each Owner, business manager or employee shall be required to undergo a background check by the city of Miami Beach police department. (1) A conviction, pleas of guilty, or pleas of nolo contendere for a felony or drug related misdemeanor, from any state, the United States, the military, a territory, or Indian tribal council, by any business manager or employee may be cause for termination of a business tax receipt. The applicant, owner, must advise the City of any conviction, pleas of guilt or pleas of nolo contendere, within 24 hours of the event.

(10) The business tax receipt holder shall record all delivery documents and manifests for movement of any marijuana and/or marijuana product between any of the retail medical cannabis dispensaries.

(11) Trash. Each business is responsible for removing trash, litter and garbage from its property. An active trash contract service contract must be maintained on file, and trash must be removed from the property on a weekly basis, or more often if necessary. In the event that the hauler is changed, the applicant must notify the City within 72 hours. The contract shall identify procedures for the safe disposal of cannabis and other medical waste. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. Per the security regulations above, all trash receptacles on the premises used to discard retail medical cannabis dispensary products shall be kept in an indoor trash area except when trash pickup is occurring. The trash receptacle must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.

(12) Exterior maintenance. Every wall, window, roof, and door must be weatherproof and watertight and must be kept free of holes, loose or rotting boards or timbers. Faded or deteriorating walls, trim, siding and doors must be painted or replaced as appropriate. Sidewalks, driveways and parking surfaces must be maintained free of weeds, potholes, dirt, trash and debris. Businesses must stripe parking spaces and maintain the pavement. Any graffiti located on premises shall be removed promptly.

#### **Sec. 6-57 Sales Limitations and Advertising.**

(a) Direct sales. All retail sales of marijuana must be in person, directly to the purchaser. No sales may be made through a drive up window, by telephone, internet, or other means of remote purchase.

(b) Giveaways. Retail medical cannabis dispensary stores may not distribute marijuana or