

**ORDINANCE NO. 1098-2017**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, AMENDING CHAPTER 150 OF THE CITY LAND DEVELOPMENT CODE TO DEFINE, PERMIT AND REGULATE MEDICAL MARIJUANA DISPENSARIES, LICENSED BY THE STATE OF FLORIDA; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Miami Springs (the “City”) has adopted land development regulations to facilitate safe and appropriate development in the community; and

**WHEREAS**, notwithstanding federal law, 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 November 2016 the Florida voters approved a ballot initiative amending the Florida Constitution to allow for broader sale and use of marijuana for medical purposes within the State of Florida; and

**WHEREAS**, to implement the Constitutional provisions for medical marijuana the state legislature adopted Senate Bill 8A during its 2017 Special Session which provides a framework for local government regulation of the dispensing of medical marijuana, allowing a local government to either ban medical marijuana retail centers or to regulate them similar to pharmacies; and

**WHEREAS**, Senate Bill 8A was signed by the Governor on June 23, 2017; and

**WHEREAS**, pursuant to the revised 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 City Council desires to amend the various commercial districts defined in the City's land development code (the "Code") to define, permit, and appropriately medical marijuana dispensaries in the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, AS FOLLOWS:**

**Section 1. Recitals.** The recitals are hereby confirmed, adopted and incorporated herein and made a part hereof by this reference.

**Section 2. Code Amended.** The Code of Ordinances of the City of Miami Springs is hereby amended as follows:

**Chapter 150 – ZONING CODE**

\* \* \*

**ARTICLE I. IN GENERAL**

\* \* \*

**Sec. 150-002. – Definitions**

\* \* \*

(C) The following words and phrases shall have the following meanings ascribed to them respectively:

\* \* \*

(50) *Marijuana.* Any strain of cannabis or marijuana, in any form, that is authorized by state law to be dispensed or sold in the State of

Florida. Also referred to as "Medical Marijuana."

\* \* \*

(51) *Mechanical amusement device. . . .*

(52) *Medical Marijuana Dispensary.* A retail establishment, licensed by the Florida Department of Health as a "medical marijuana treatment facility," "medical marijuana treatment center," "dispensing organization," "dispensing organization facility" or similar use, that sells and dispenses medical marijuana.

(53) *Mezzanine. . . .*

**[Remainder of definitions listed in this section that follow are renumbered based on the foregoing sequence.]**

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## **ARTICLE VII. – BUSINESS DISTRICT**

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\* \* \*

### **Sec. 150-070. - CBD central business district.**

\* \* \*

(B) *Allowed uses.*

Accounting, bookkeeping, law and other professional offices.

Agency (for employment, travel and/or services to be performed elsewhere).

Art or photographic studio (commercial).

Automobile rental agency, office use only.

Bank or other financial institution.

Business or commercial school.

Catering and delicatessen (including butcher shop) business.

Civic clubs, lodges and fraternal organization facilities.

Conference, meeting facilities or areas of public assemblage for less than 20 people.

Day care center, nursery school or preschool facility.

Dental care and doctor's offices.

Dog grooming only—Prohibiting a "pet shop" type business or the boarding, maintaining or keeping of dogs on-premises anytime between 7:00 p.m. and 7:00 a.m.

Dry cleaning and laundry, drop-off/pick-up only.

Family restaurant/arcade; so long as the arcade use does not exceed 40 percent of the available business space, no alcoholic beverages are permitted on the premises, no gambling games/machines are permitted, no more than one pool table is permitted, the arcade area is continually supervised, and the family nature of the operation is maintained. No more than two family restaurant/arcades shall be permitted in the Central Business District.

Gymnasium, health club, dance studio or other center where "physical activity" lessons are conducted.

Insurance agency.

Laundry—No more than two allowed in the Central Business District.

**Medical Marijuana Dispensary (with a minimum distance of 500 feet from real property that comprises a public or private elementary school, middle school, or secondary school).**

Mixed-use development of residential uses on upper floors above retail, office and related uses.

Office supply or support (office supplies, copying, printing shop).

Package store—No more than two allowed in the Central Business District.

Personal services (i.e., barbershops, beauty parlors, physical therapy clinics, etc. No physical therapy clinic shall be open for business between the hours of 10:00 p.m. and 6:00 a.m.).

Pharmacy

Post office.



Restaurant (and lounge), cafe, cafeteria, bar and grill.

Retail use.

Small appliance sales and/or service.

Sporting goods store; including the sale of weapons and related products used for sporting and hunting activities, so long as all such merchandise is removed from the premises within 24 hours of delivery and receipt, and there are no store displays or merchandising activities; no more than one store allowed in the district that sell the described merchandise.

Stereo/video/electronics rental, sales and/or service.

Theater (live) or motion picture house.

Veterinary clinic (which may provide short-term boarding, for medical purposes only, for no more than 48 hours).

Other enterprises or businesses which are similar in character and impact to enterprises or businesses enumerated herein, and which are consistent with the Comprehensive Plan adopted pursuant to Chapter 163, Florida Statutes. A final determination of similarity with listed uses and consistency with the Comprehensive Plan shall be made by the City Council, after obtaining a recommendation by the Zoning and Planning Board.

\* \* \*

**Sec. 150-071. - NBD neighborhood business district.**

\* \* \*

**(B) *Allowed uses and off-street parking requirements.***

- (1) Accounting, bookkeeping, law and other professional offices. Off-street parking spaces required: One space per 300 square feet of gross floor area, minimum of three spaces.
- (2) Agency (for employment, travel and/or services to be performed elsewhere). Off-street parking spaces required: One space per 300 square feet, minimum of three.
- (3) Art or photographic studio (commercial).

Off-street parking spaces required: One space per 300 square feet, minimum of three.

- (4) Automobile rental agency, office use only.  
Off-street parking spaces required: One space per 300 square feet, minimum of three.
- (5) Bank or other financial institution.  
Off-street parking spaces required: One space per 300 square feet, minimum of three.
- (6) Business or commercial school.  
Off-street parking spaces required: One space per 100 square feet.
- (7) Catering and delicatessen (including butcher shop) business.  
Off-street parking spaces required: One space per 300 square feet, minimum of three.
- (8) Clubs, lodges and fraternal organization facilities.  
Off-street parking spaces required: One space per 100 square feet, minimum of three.
- (9) Day care center, nursery school or preschool facility.  
Off-street parking spaces required: One space per 300 square feet, minimum of three.
- (10) Dental care and doctor's offices.  
Off-street parking spaces required: One per 300 square feet, minimum of three.
- (11) Dog grooming only prohibiting a "pet shop" type business or the boarding, maintaining or keeping of dogs on-premises anytime between 7:00 p.m. and 7:00 a.m.  
Off-street parking spaces required: One space per 300 square feet, minimum of three.
- (12) Dry cleaning, drop-off/pick-up only.  
Off-street parking spaces required: One per 300 square feet, minimum of three.
- (13) Gymnasium or health club.

Off-street parking spaces required: One per 100 square feet of exercise machine area.

- (14) Dance studio or other center where "physical activity" lessons are conducted.

Off-street parking spaces required: One per 100 square feet.

- (15) Laundry; self-service or laundromat only when sanitary and safe disposal of wastewater is provided, and when operated without producing smoke or noxious fumes or odors. Off-street parking spaces required: One space per 300 square feet, minimum of three.

- (16) Medical Marijuana Dispensary (with a minimum distance of 500 feet from real property that comprises a public or private elementary school, middle school, or secondary school).

Off-street parking spaces required: One space per 300 square feet, minimum of three.

- (17) Mixed-use development of residential uses on upper floors above retail, office and permitted uses.

Off-street parking spaces required: Determine the parking required for each use separately; add these together.

- (18) Office supply or support (office supplies, copying, printing shop not to exceed 2,500 square feet).

Off-street parking spaces required: One space per 300 square feet, minimum of three.

- (19) Personal services (i.e., barbershops, beauty parlors, physical therapy clinics, etc. No physical therapy clinic shall be open for business between the hours of 10:00 p.m. and 6:00 a.m.). Off-street parking spaces required: One space per 300 square feet, minimum of three.

- (20) Pharmacy.

Off-street parking spaces required: One space per 300 square feet, minimum of three.

- (21) Post office.

Off-street parking spaces required: One space per 300 square feet, minimum of three.

- (22) Restaurant (and lounge), cafe, cafeteria, club (not to exceed 2,500 square feet).  
Off-street parking spaces required: One per 100 square feet.
- (23) Retail use.  
Off-street parking spaces required: One space per 300 square feet, minimum of three.
- (24) Small appliance sales and/or service.  
Off-street parking spaces required: One space per 300 square feet, minimum of three.
- (25) Stereo/video/electronics rental, sales and/or service.  
Off-street parking spaces required: One space per 300 sq. ft., minimum of three.
- (26) Veterinary clinic (which may provide short-term boarding, for medical purposes only, for no more than 48 hours).  
Off-street parking spaces required: One space per 300 square feet, minimum of three.

Other businesses which are similar in character and impact to businesses listed herein, and which are consistent with the comprehensive plan adopted pursuant to Chapter 163, Florida Statutes. A final determination of similarity with listed uses and consistency with the comprehensive plan shall be made by the City Council, following a recommendation by the Zoning and Planning Board.

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**Sec. 150-072. – B-3 arterial business district.**

\* \* \*

**(A) Uses permitted.**

- (1) Any use permitted in the B-2 central business district.

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**ARTICLE XV. – LARGE SCALE COMMERCIAL DEVELOPMENT DISTRICT**

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**Sec. 150-164. - Northwest 36th Street [District].**

\* \* \*

(B) *Permitted uses.*

(1) *Principal uses and structures generally permitted.*

- (a) Hotels.
- (b) Offices, business and professional.
- (c) Aviation schools.
- (d) Banks, savings and loan associations and similar financial institutions.
- (e) Cultural or recreational facilities such as urban plazas, health and athletic clubs, theaters, auditoriums, libraries, art galleries and museums; maximum occupancy of 999.
- (f) Structures and uses relating to operation of public utilities and requiring location within the district to serve it or neighborhood districts.
- (g) Mixed-use development of residential uses (up to 20 dwelling units per acre as limited in the City Charter) on upper floors above retail, office, and related uses. Buildings that include residential uses must be built on the northern half of the property if the property is adjacent to NW 36th Street.
- (h) All uses identified as permitted uses within a building with other permitted uses but not as a stand alone uses provided in Code § 150-164(B)(2)(d), with the express condition and limitation that the aforesaid uses are permitted as principal uses only in already existing buildings.
- (i) Chapel/viewing services with or without onsite catering, with the express condition and limitation provided in subsection (h) above and the additional restriction that no body preparation or cremation services are permitted onsite.

- (j) Other enterprises or businesses which are similar to enterprises or businesses enumerated herein, which have been approved by the City Council upon application and hearing.
- (2) *Principle uses and structures generally permitted; limitations as to location.*
- (a) Bar if related to restaurant within the same building or within a hotel.
  - (b) Parking lots adjacent to NW 36th Street are allowed only as a temporary use, subject to improvement of those portions of lots adjacent to principal pedestrian movement. These parking lots may be authorized for use not to exceed a period of one year, and thereafter on a year-to-year basis upon proper application approved by the City Board of Adjustment and the City Council.
  - (c) Parking garage with first floor commercial uses. This is not applicable to accessory parking garages in connection with a principal use.
  - (d) The following uses are permitted within a building with other permitted uses but not as a stand alone use:
    - 1. Restaurants.
    - 2. Medical and veterinary clinics; boarding for veterinary services only.
    - 3. Clinical laboratory.
    - 4. Agencies for travel and insurance and similar services.
    - 5. Automobile rental agency.
    - 6. Catering business.
    - 7. Retail stores.

8. Service establishments, including personal service establishments such as barber and beauty shops, manicure/pedicure shops, skin care (aesthetics), physical therapy clinics, etc. No physical therapy clinic shall be open for business between the hours of 10:00 p.m. and 6:00 a.m.
9. Service establishments for the repair of shoes, small home appliances, clocks and watches, printing/photocopying service shops; not to exceed 2,500 square feet.
10. Stereo/video/electronics rental, sales and/or service.
11. Dry cleaning and/or laundry for customer pick up/drop off only.
12. Domestic pet grooming only, prohibiting a "pet shop" type business or the boarding, maintaining or keeping of domestic pets on-premises anytime between 7:00 p.m. and 7:00 a.m.
13. Post office.
14. Parcel delivery services.
15. Government uses.
16. Pharmacy.
17. Medical Marijuana Dispensary (with a minimum distance of 500 feet from real property that comprises a public or private elementary school, middle school, or secondary school).

\* \* \*

**Sec. 150-165. - Abraham Tract District.**

\* \* \*

(B) *Permitted uses.*

(1) *Principal uses and structures generally permitted.*

- (a) Adult related businesses (subject to the provisions of Code Chapter 132, and the regulations contained in Section (D) of this ordinance).
- (b) Agencies for travel and insurance and similar services.
- (c) Airport parking.
- (d) Animal hospitals.
- (e) Aviation-related schools.
- (f) Automobile sales and service, new and used.
- (g) Automobile rental agency.
- (h) Banks, savings and loan associations and similar financial institutions.
- (i) Bar if related to restaurant within the same building or within a hotel.
- (j) Catering business.
- (k) Clinical laboratory.
- (l) Dry cleaning and/or laundry.
- (m) Domestic pet grooming and boarding.
- (n) Government uses, including public utility structures and facilities.
- (o) Gun shops and/or indoor ranges.
- (p) Hotels.
- (q) Medical clinics.



- (r) Mixed-use development, excluding residential.
- (s) Motion picture studios.
- (t) Offices, business and professional.
- (u) Package stores.
- (v) Parcel delivery services.
- (w) Pawn shops and gold buying enterprise.
- (x) Personal and repair service establishments.
- (y) Post office.
- (z) Restaurants.
- (aa) Retail stores, including membership warehouse stores.
- (bb) Stereo/video/electronics rental, sales and/or services.
- (cc) Storage warehouse facilities.
- (dd) Pharmacy.
- (ee) Medical Marijuana Dispensary (with a minimum distance of 500 feet from real property that comprises a public or private elementary school, middle school, or secondary school).
- (ff) Other enterprises or businesses which are similar to enterprises or businesses enumerated herein, which have been approved in conjunction with site plan approval, as specified herein.

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**Sec. 150-166. – Airport Golf District.**

\* \* \*

(B) *Permitted uses.*

(1) *Principal uses and structures permitted generally.*

- (a) Agencies for travel and insurance and similar services\*.
- (b) Automobile rental agencies\*.
- (c) Banks, savings and loan associations and similar financial institutions.
- (d) Bars and package stores\*.
- (e) Catering business\*.
- (f) Cultural or recreational facilities such as urban plazas, health and athletic clubs, theatres, libraries, art galleries and museums.
- (g) Domestic pet grooming\*.
- (h) Hotels, including extended-stay hotels\*\*.
- (i) Mixed-use development and structures.
- (j) Offices, business and professional.
- (k) Parking garages, subject to screening requirements.
- (l) Personal and repair services, such as beauty and barber shops, medical clinics, etc.\*.
- (m) Pharmacy, subject to the provisions of Code § 150-166(B)(2), herein.
- (n) Post office, public or private\*.
- (o) Medial Marijuana Dispensary (with a minimum distance of 500 feet from real property that comprises a public or private elementary school, middle school, or secondary school), subject to the provisions of Code § 150-166(B)(2), herein.
- (p) Multi-family residential uses.
- (q) Restaurants\*.

- (r) Retail uses, subject to the provisions of Code § 150-166(B)(2), herein.
- (s) Structures and uses relating to operation of public utilities and requiring location within the district to serve it or neighborhood districts.
- (t) Structures and uses required for necessary performance or governmental functions.
- (u) Veterinary clinics without boarding\*.
- (v) Other enterprises or businesses which are similar to enterprises or businesses enumerated herein, which have been approved by the City Council.

\* Use permitted within a building with other permitted uses, but not as a stand-alone use.

\*\* For purposes of this section, an extended-stay hotel shall be defined as follows: Any public lodging establishment that contains units with kitchen and housekeeping facilities. Units are typically rented or leased for a period of six months or less. The street address of the establishment may not be used by occupants as a place of residence for any reason.

(2) *Permissible principle uses and structures; limitations as to location.*

- (a) Any retail service establishments shall be limited to the ground floor of principal structures.
- (b) Any retail service establishments shall front on pedestrian portions of the street right-of-way, or on other pedestrian open space areas with public access from streets, and shall occupy at least 50 percent of the ground floor street frontage.

\* \* \*

**Section 3. Implementation.** The City Manager, City Clerk, and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Ordinance.



**Section 4. Incorporation into the Code.** The provisions of this Ordinance, to the extent appropriate, shall become and be made a part of the Code of Ordinances of the City of Miami Springs. The City Clerk is authorized to take all actions necessary to incorporate the provisions of this Ordinance into the Code of Ordinances, including, but not limited to, renumbering or relettering sections and to change and that the word "ordinance" may be changes to "section," "article," or such other appropriate word or phrase in order to accomplish such intention.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

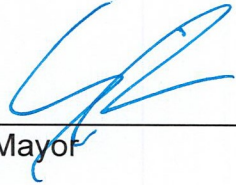
**Section 7. Effective Date.** This Ordinance shall become effective immediately upon adoption.

**PASSED ON FIRST READING** this 23<sup>rd</sup> day of October, 2017, on a motion made by Vice Mayor Mitchell and seconded by Councilman Best.

**PASSED AND ADOPTED ON SECOND READING** this 13<sup>th</sup> day of November, 2017, on a motion made by Councilman Best and seconded by Vice Mayor Mitchell.

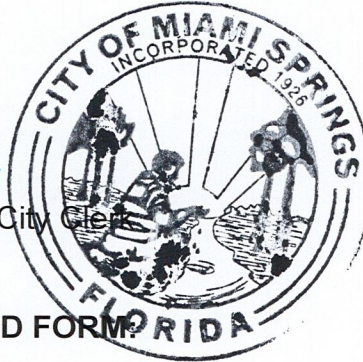


|                             |            |
|-----------------------------|------------|
| Vice Mayor Maria Mitchell   | <u>YES</u> |
| Councilman Robert Best      | <u>YES</u> |
| Councilwoman Mara Zapata    | <u>YES</u> |
| Councilman Jaime Petralanda | <u>YES</u> |
| Mayor Billy Bain            | <u>YES</u> |

  
\_\_\_\_\_  
Billy Bain, Mayor

ATTEST:

  
\_\_\_\_\_  
Erika Gonzalez-Santamaria, MMC, City Clerk



APPROVED AS TO LEGALITY AND FORM

  
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Weiss Serota Helfman Cole & Bierman PL,  
City Attorney