

ORDINANCE NO. 2016-14

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL AMENDING THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA BY AMENDING CHAPTER XXIV “NORTH MIAMI BEACH ZONING AND LAND DEVELOPMENT CODE”, ARTICLE II “DEFINITIONS”, SECTION 24-22 “DEFINITIONS”, AND ARTICLE V, “ZONING USE DISTRICTS”, SECTION 24-52 “B-2 GENERAL BUSINESS DISTRICT”, SECTION 24-54 B-4 “DISTRIBUTION BUSINESS AND LIGHT INDUSTRIAL DISTRICT”, AND SECTION 24-54.1 “B-5 DISTRIBUTION BUSINESS AND MEDIUM INDUSTRIAL DISTRICT” TO PROVIDE THE CONDITIONS AND REQUIREMENTS FOR THE USE OF MEDICAL MARIJUANA DISPENSARIES, AND MEDICAL MARIJUANA TREATMENT CENTERS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, *Florida Statutes*, provides municipalities the authority to exercise any power for municipal purposes, except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

WHEREAS, Section 381.986(8)(b), *Florida Statutes*, provides that “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 or department rule for, dispensing facilities of dispensing organizations located within its municipal boundaries.”; and

WHEREAS, on November 8, 2016, Florida voters will be considering the approval of Constitutional Amendment Number 2, *Use of Marijuana for Debilitating Medical Conditions*, which allows for the broader use of medical marijuana for individuals with debilitating medical conditions within the State; and

WHEREAS, as a result of Federal law, which makes it virtually impossible for banks to accept deposits, significant safety and security concerns have been documented in states where medical marijuana dispensaries (“MMD”) and medical marijuana treatment centers (“MMTC”) are permitted; and

WHEREAS, MMD and MMTC’s are inherently attractive targets for criminals and criminal activity, it is essential for the City to limit the permissible scope and regulate such uses to ensure their compatibility with surrounding businesses, the community, and to protect the public health, safety, and welfare; and

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WHEREAS, Conditional Uses are defined as a use, which when specifically listed as such within the use district regulations, may be permitted with certain stipulated conditions that will serve to insure that said use will assimilate properly into its surrounding neighborhood without deleterious effects; and

WHEREAS, the City’s Planning and Zoning Board, as the Local Planning Agency, held a duly noticed public hearing on October 26, 2016, and reviewed the proposed amendment for consistency with the City of North Miami Beach’s Comprehensive Plan, and recommend approval by a vote of 6 to 0; and

WHEREAS, the Mayor and City Council find the proposed amendment is consistent with the North Miami Beach Comprehensive Plan and is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of North Miami Beach, Florida:

Section 1. The foregoing recitals are true and correct.

Section 2. Article II of the City of North Miami Beach Zoning and Land Development Code, entitled “*Definitions*”, is amended as follows:

ARTICLE II. DEFINITIONS

Sec. 24-22 Definitions.

* * *
Marijuana has the meaning given cannabis in Section 893.02(3), Florida Statutes, as amended and in addition, “Low-THC cannabis” as defined in Section 381.986(1)(e), Florida Statutes, as amended, shall also be included in the meaning of the term “marijuana”.

* * *
Medical Marijuana Treatment Center means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers and is registered by the Department of Health or its successor agency.

* * *
Medical Marijuana Dispensary means a business that sells or otherwise distributes marijuana through one (1) or more primary caregivers to six (6) or more patients for medical use, along with any cultivation of marijuana associated with such sale or distribution. The term "medical marijuana dispensary" shall not include any person or entity that distributes marijuana for medical use exclusively to five (5) or fewer patients, and shall not include the private possession and medical use of marijuana by an individual patient or caregiver to the extent permitted by any applicable state of Florida law or regulation.

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Section 3. Article V of the City of North Miami Beach Zoning and Land Development Code, entitled “*Zoning Use Districts*”, is amended as follows:

Sec. 24-52 B-2 General Business District.

* * *

(C) *Uses Permitted Conditionally.*

* * *

(17) Medical Marijuana Dispensaries/Medical Marijuana Treatment Centers. When considering an application for medical marijuana dispensaries/medical marijuana treatment centers the approving body must consider the conditional use criteria listed below, in addition to that criteria listed in Section 24-175 *Conditional Uses*. The approving body may deny the request, approve the request, or approve the request subject to conditions. The approving body may assign additional conditions and safeguards as deemed necessary:

- a. Whether the request will cause damage, hazard, nuisance or other detrimental impacts to persons or property.
- b. Any parking demand created by a medical marijuana dispensary/medical marijuana treatment center shall not exceed the parking spaces located or allocated on site, as required by the City’s parking regulations. An applicant shall be required to demonstrate, with a current traffic and parking study prepared by a certified professional, that on-site traffic and parking attributable to the medical marijuana dispensary/medical marijuana treatment center will be sufficient to accommodate the traffic and parking demands generated by the medical marijuana dispensary/medical marijuana treatment center.
- c. No medical marijuana dispensary/medical marijuana treatment center shall be located within five hundred (500) feet of any residentially zoned property, as further defined herein. No medical marijuana dispensary/medical marijuana treatment center shall be located within one thousand (~~1,0500~~) feet of any school, day care center, place of worship, ~~drug/alcohol rehabilitation service~~, bars, lounges, or package liquor stores, as further defined herein. No medical marijuana dispensary/medical marijuana treatment center shall be located within twenty-five hundred (~~2,500~~) feet of any other medical marijuana dispensary/medical marijuana treatment center as defined herein. Distances shall be measured by drawing a straight between the closest point of the medical marijuana dispensary/medical marijuana treatment center structure to the closest property line of edge of leased space, whichever is closer, of the school, day care center, place of worship, residentially zoned property, or other medical marijuana dispensary/medical marijuana treatment center.
- d. Medical Marijuana dispensaries/medical marijuana treatment centers shall not be permitted within the legal boundaries defined as the Community Redevelopment Agency (CRA) for the City of North Miami Beach.
- e. Medical marijuana dispensaries/medical marijuana treatment centers shall ensure that there is no queuing of vehicles in the rights-of-way.
- f. No medical marijuana dispensaries/medical marijuana treatment centers shall have a drive-through or drive service aisle.
- g. Medical marijuana dispensaries/medical marijuana treatment centers ~~shall~~ may be required to appear before the City Council for annual progress reports prior to the issuance of business tax receipts and/or renewals.
- h. Medical marijuana dispensaries/medical marijuana treatment centers shall, at all times, be in compliance with federal and state regulations, Miami-Dade County Code of Ordinances, and the City of North Miami Beach Code of Ordinances, as may be amended.

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Section 4. Article V of the City of North Miami Beach Zoning and Land Development Code, entitled “*Zoning Use Districts*”, is amended as follows:

Sec. 24-54 B-4 Distribution Business and Light Industrial District.

* * *

(C) *Uses Permitted Conditionally.*

* * *

(13) Medical Marijuana Dispensaries/Medical Marijuana Treatment Centers. When considering an application for medical marijuana dispensaries/medical marijuana treatment centers the approving body must consider the conditional use criteria listed in Section 24-52 B-2 *General Business District*, in addition to that criteria listed in Section 24-175 *Conditional Uses*. The approving body may deny the request, approve the request, or approve the request subject to conditions. The approving body may assign additional conditions and safeguards as deemed necessary.

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Section 5. Article V of the City of North Miami Beach Zoning and Land Development Code, entitled “*Zoning Use Districts*”, is amended as follows:

Sec. 24-54.1 B-5 Distribution Business and Medium Industrial District.

* * *

(C) *Uses Permitted Conditionally.*

* * *

(11) Medical Marijuana Dispensaries/Medical Marijuana Treatment Centers. When considering an application for medical marijuana dispensaries/medical marijuana treatment centers the approving body must consider the conditional use criteria listed in Section 24-52 B-2 *General Business District*, in addition to that criteria listed in Section 24-175 *Conditional Uses*. The approving body may deny the request, approve the request, or approve the request subject to conditions. The approving body may assign additional conditions and safeguards as deemed necessary.

* * *

Section 6. The Director of Community Development is hereby directed to make all necessary changes to the City of North Miami Beach Zoning and Land Development Code to implement the intent of this Ordinance.

Section 7. All ordinances or parts of ordinances in conflict therewith be and the same are hereby repealed.

Section 8. If any section, subsection, clause or provision of this Ordinance is held invalid, the reminder shall not be affected by such invalidity.

Section 9. It is the intention of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word Ordinance” may be changed to “Section”, “Article”, or other appropriate word as the Codifier may deem fit.

APPROVED on first reading this **1st day of November, 2016.**

APPROVED AND ADOPTED on second reading this **15th day of November, 2016.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM, LANGUAGE
AND FOR EXECUTION:

JOSÉ SMITH
CITY ATTORNEY

Sponsored by: Mayor and City Council.

Note: Proposed additions to existing City Code text are indicated by underline.