

1 **CITY OF CORAL GABLES, FLORIDA**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE OF THE CITY COMMISSION OF
4 CORAL GABLES, FLORIDA PROVIDING FOR TEXT
5 AMENDMENTS TO THE CITY OF CORAL GABLES
6 OFFICIAL ZONING CODE: AMENDING ARTICLE 8,
7 “DEFINITIONS” BY PROVIDING DEFINITIONS
8 RELATED TO MEDICAL MARIJUANA USES;
9 AMENDING ARTICLE 4, “ZONING DISTRICTS”, TO
10 RESTRICT THE LOCATION OF MEDICAL MARIJUANA
11 USES; AMENDING ARTICLE 5 “DEVELOPMENT
12 STANDARDS”, BY PROVIDING DEVELOPMENT
13 STANDARDS FOR MEDICAL MARIJUANA
14 USES; AFFIRMING THAT THE CITY WILL ONLY
15 APPROVE USES THAT ARE LEGAL UNDER FEDERAL
16 AND STATE LAW; PROVIDING FOR SEVERABILITY,
17 REPEALER, CODIFICATION, AND AN EFFECTIVE
18 DATE.

19 **WHEREAS**, the City Commission recognizes that changes to the adopted Code
20 of Ordinances are periodically necessary in order to ensure that the City’s regulations are current
21 and consistent with the City’s planning and regulatory needs; and

22 **WHEREAS**, the 2014 Florida Legislature approved Senate Bill 1030 providing
23 for the growing, processing, and distributing of specific forms of low-THC (non-euphoric)
24 cannabis to qualified patients and their caregivers for the treatment of listed medical conditions,
25 which became effective on June 16, 2014 as Chapter 2014-157, Laws of Florida, and is codified
26 at Section 381.986, Florida Statutes (“Senate Bill 1030”); and

27 **WHEREAS**, the Florida Department of Health is currently adopting a rule to
28 implement Senate Bill 1030, which rule must be effective by January 1, 2015; and

29 **WHEREAS**, despite the adoption of Senate Bill 1030, the activities it condones
30 remain illegal under federal law; and

31 **WHEREAS**, on November 4, 2014, Florida voters will be considering the
32 approval of an amendment to the Florida Constitution to allow for broader medical use of any
33 kind of marijuana (including euphoric strains) within the State (the “Constitutional
34 Amendment”); and

35 **WHEREAS**, the proposed Constitutional Amendment authorizes and defines
36 “Medical Marijuana Treatment Centers” to encompass the entire supply chain (cultivation,
37 processing, storage, distribution, etc.), not just retail sales to qualified patients; and

38 **WHEREAS**, the Constitutional Amendment, if approved, will, permit the use of
39 additional alternative forms of marijuana (marijuana in all its forms including low-THC
40 cannabis, together referred to as “marijuana”) and alternative dispensing methods (including, but
41 not limited to, smoking and food products); and

42 **WHEREAS**, significant safety and security issues exist for any establishment
43 involved in the cultivation, processing or distribution of marijuana, because they maintain large
44 drug inventories and are forced to deal in cash because their activities have not yet been
45 sanctioned by federal law; and

46 **WHEREAS**, such businesses are inherently attractive targets for criminals, and it
47 is therefore essential that the City limit the permissible scope of such uses and regulate them to
48 ensure their compatibility with surrounding businesses and the community, and to protect and
49 advance the public health, safety and welfare; and

50 **WHEREAS**, other attributes of land uses dealing with marijuana, such as odors,
51 must be regulated to minimize their impact on surrounding properties and uses and prevent the
52 creation of attractive nuisances; and

53 **WHEREAS**, both Senate Bill 1030 and the Constitutional Amendment are silent
54 on the topic of local government regulation and, consistent with Florida caselaw governing
55 preemption, local governments are therefore not preempted from regulating marijuana uses; and

56 **WHEREAS**, the City Commission has determined that it is in the best interests of
57 the citizenry and general public to provide appropriate zoning regulations to ensure that the
58 location and development standards applicable to any business involved with marijuana is
59 compatible with surrounding businesses, as well as the safety of the employees, neighbors,
60 customers and area residents, and consistent with the Comprehensive Plan; and

61 **WHEREAS**, the City Commission reviewed and analyzed the impacts of the
62 current legislation and the potential Florida Constitution amendment and directed staff to move
63 forward with the development of strict regulatory controls consistent with state and federal law;
64 and

65 **WHEREAS**, after notice being duly published, a public hearing was held before
66 the Planning and Zoning Board on October 8, 2014, at which hearing all interested persons were
67 afforded the opportunity to be heard; and,

68 **WHEREAS**, at the October 8, 2014 Planning and Zoning Board meeting, the
69 Board recommended Approval (vote: 7-0) of the text amendment; and,

70 **WHEREAS**, after notice duly published, a public hearing for First Reading was
71 held before the City Commission on October 28, 2014 at which hearing all interested parties
72 were afforded the opportunity to be heard; and

WHEREAS, on October 28, 2014 the City Commission was presented with a text amendment to the Zoning Code, and after due consideration and discussion, (approved/denied) the amendment on First Reading .

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE
CITY OF CORAL GABLES, FLORIDA:

SECTION 1. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The Official Zoning Code of the City of Coral Gables is hereby amended as follows (changes in ~~strike through~~ / underline format, ~~striketthrough with underline~~ / double underline reflecting changes subsequent to Planning and Zoning Board hearing):

ARTICLE 8. – DEFINITIONS.

* * *

Aggrieved means any applicant or any person who received courtesy notice of a public hearing from the City and shall also mean the City Manager.

Airline Measurement means the straight line, as the crow flies, measured from property line to property line, regardless of streets, walkways, or intervening structures, physical barriers or other obstructions.

Alcoholic beverages mean distilled spirits and all beverages containing one-half (0.5%) percent or more alcohol by volume (consistent with Section 561.01, Florida Statutes (2004)).

* * *

Manufacturing means the transformation of materials or substances into new products, including the assembly of component parts, and the production or refining of goods, materials, or substances into new products, including the assembly of component parts, but not including research and technology production uses.

Marijuana means any strain of cannabis or marijuana, in any form, that is authorized by state and federal law to be dispensed or sold in the State of Florida. Also referred to as “Medical Marijuana.”

Marina means any structure constructed on pilings over open water or supported by flotation on the water which provides three (3) or more boat slips for the purpose of sale or lease.

* * *

Medical clinic means a health care facility, or clinic, licensed by the State of Florida or operated by two (2) or more physicians or medical practitioners licensed by the State of Florida, that is not part of a hospital and that provides elective care for patients on-site who remain less than twenty-four (24) hours. Medical clinics shall not include sanitariums, convalescent homes, or nursing homes but may include, but is not limited to outpatient surgical clinics and sleep disorder centers.

Medical Marijuana Retail Center means 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, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of Marijuana or Marijuana product, and does not allow on-site consumption of Marijuana. A Medical Marijuana Treatment Center shall not be construed to be a Medical Marijuana Retail Center.

Medical Marijuana Treatment Center means a facility licensed by the Florida Department of Health to acquire, cultivate, possess, process (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, store, or administer Marijuana, products containing Marijuana, related supplies, or educational materials, as authorized by state law. A Medical Marijuana Treatment Center may include retail sales or dispensing of Marijuana. A facility which provides only retail sales or dispensing of Marijuana shall not be classified as a Medical Marijuana Treatment Center under this Chapter. Also may be referred to as a “Medical Marijuana Treatment Facility” or “dispensing organization” or other similar term recognized by state law.

Mediterranean Architecture, Coral Gables means an architectural style that exhibits George Merrick’s vision.

* * *

Publicly accessible means an area that is accessible by the public for use twenty-four (24) hours a day/seven (7) days a week.

Qualified registered patient/Qualified patient means a resident of the state of Florida who has been added to the State’s compassionate use registry by a physician licensed under chapter 458 or chapter 459, Florida Statutes to receive ~~Medical Marijuana~~ Medical Marijuana from a dispensing organization or Medical Marijuana Treatment Center or similar use as defined in Florida Statutes.

Receiving site means the site which will receive unused development rights.

* * *

SECTION 3. The Official Zoning Code of the City of Coral Gables is hereby amended as follows (changes in ~~strike through~~ / underline format):

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ARTICLE 4 - ZONING DISTRICTS

The chart on the proceeding page is a summary of the uses permitted in the following zoning districts:

Single-Family Residential District	SFR
Multi-Family 1 Duplex District	MF1
Multi-Family 2 District	MF2
Multi-Family Special Area District	MFSA
Mixed Use District	MXD
University Campus District	UCD
Special Use District	S
Preservation District	P
Commercial Limited District	CL
Commercial District	C
Industrial District	I
Downtown Overlay District	DO

145 The letter "P" indicates that the use is a permitted use in the district subject to approval as set
146 out in Article 3 and in compliance with the standards in the district and Article 5 of these
147 regulations. The letter "C" indicates that the use is permitted in the district as a conditional use
148 in accordance with the procedures set out in Article 3, Division 4 and the standards in these
149 regulations.

Article 4 – Table No. 1. Zoning District Uses											
Use categories	Zoning Districts										
	SFR	MF1	MF2	MFSA	CL	C	I	MXD	S	UCD	P
* * *											
Non-residential uses											
* * *											
Medical clinic					P/C	P	P				
Medical Marijuana Retail Center						C					
Mixed use buildings						C	C				

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151
152

* * *

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Section 4-302. Commercial District (C).

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C. *Conditional uses.* The following uses are permitted as conditional uses, if approved under the provisions of Article 3, Division 4, subject to the standards in this Section and other applicable regulations in Article 5:

1. Drive through facilities abutting and/or adjacent to SFR, MF1, MF2, and MFSA zoning districts.

2. Helistop.

3. Marina facilities.

4. Medical Marijuana Retail Center, unless prohibited under state or federal law, subject to all of the following additional requirements:

a. Application. In addition to meeting the application requirements for a Medical Marijuana Permit in Chapter 14 "Businesses," Article 5 "Marijuana Sales" of the City Code of Ordinances, an application for conditional use approval for a Medical Marijuana Retail Center shall:

i. be a joint application by the property owner and the tenant, if the Medical Marijuana Treatment Center and the property are not owned by the same person or entity;

ii. be accompanied by a lease identifying the specific use, if the Medical Marijuana Treatment Center and the property are not owned by the same person or entity;

iii. include a survey sealed by a registered land surveyor who is licensed by the State of Florida. The survey shall indicate the distance between the proposed Medical Marijuana Retail Center and any other Medical Marijuana Retail Center, SFR or MF1 zoning district, elementary, middle or secondary school, child day care facility, county or municipal park, or place of worship, as identified in Section 4-302(C)4.b;

iv. conduct the public information meeting required pursuant to Section 3-302D. Notice of the public information meeting shall be provided to all property owners and tenants within 1,000 feet of the property on which the Medical Marijuana Retail Center is proposed; and

v. provide, in addition to the quasi-judicial notice of conditional use hearings to property owners required by this Code, no later than 10 days prior to each and every public hearing, ~~provide proof of~~ notice of the public hearing to all tenants within 1,000 feet of the property on which the Medical Marijuana Retail Center is proposed.

b. Location requirements. A Medical Marijuana Retail Center shall not be located:

i. within ~~500~~ 600 feet of any SFR or MF1 zoning district;

189 ii. within 1,000 feet of another Medical Marijuana Retail Center;

190 iii. within 1,000 feet of an elementary, middle or secondary school, child day care
191 facility, county or municipal park, or place of worship; and

192 iv. within the Central Business District.

193 c. *Effect of future uses on spacing.* Where a Medical Marijuana Retail Center is
194 located in conformity with the provisions of this Chapter, the subsequent
195 locating of one of the uses listed in b. above within the specified distance ~~1000~~
196 ~~feet~~ of an existing Medical Marijuana Retail Center shall not cause a violation of
197 this Section. Whenever a Conditional Use approval for a Medical Marijuana
198 Retail Center has been lawfully procured and thereafter an elementary, middle
199 or secondary school, child day care facility, county or municipal park, or place of
200 worship be established within a distance otherwise prohibited by law, the
201 establishment of such use shall not be cause for the revocation of the
202 Conditional Use approval or related Medical Marijuana Permit or prevent the
203 subsequent renewal of same.

204 d. *Measurement.* Distances shall be measured using an airline measurement from
205 the property line of the property on which the Medical Marijuana Retail Center is
206 located to the nearest property line of the use or zone identified in b.i. through
207 b.iv. that existed before the date the Medical Marijuana Retail Center submitted
208 its initial application for approval.

209 e. *Building requirements and use.*

210 i. If the Medical Marijuana Retail Center is located in a freestanding building
211 the Center shall be the only use permitted on the property.

212 ii. If the Medical Marijuana Retail Center is located in a bay or multi-bay space
213 within a multi-tenant structure, the Center shall be the only use permitted
214 within the bay or multi-bay space it occupies.

215 iii. Odor and air quality. A complete air filtration and odor elimination filter
216 and scrubber system shall be provided ensuring the use will not cause or
217 result in dissemination of dust, smoke, or odors beyond the confines of the
218 building, or in the case of a tenant in a multi-tenant building, beyond the
219 confines of the occupied space. A double door system shall be provided at
220 all entrances to mitigate odor intrusion into the air outside the Medical
221 Marijuana Retail Center.

iv. Signage. Notwithstanding other provisions of this Code and the City Zoning Code, signage for a Medical Marijuana Retail Center shall be limited as follows:

(1) One (1) Wall Sign, not to exceed 18 square feet;

(2) No other signage, except as required by this subsection, shall be allowed;

(3) Graphics, symbols and logos are prohibited;

(4) Neon shall be prohibited;

(5) Signs shall not be internally illuminated;

(6) Signs may be externally illuminated only during hours of operation;

(7) A Medical Marijuana Retail Center shall post, at each entrance to the Medical Marijuana Retail Center the following language:

ONLY INDIVIDUALS WITH LEGALLY RECOGNIZED MARIJUANA OR CANNABIS QUALIFYING PATIENT OR CAREGIVER IDENTIFICATION CARDS OR A QUALIFYING PATIENT'S LEGAL GUARDIAN MAY OBTAIN MARIJUANA FROM A MEDICAL MARIJUANA RETAIL CENTER.

The required text shall be a minimum one-half inch in height.

f. Queuing of vehicles. The Medical Marijuana Retail Center shall ensure that there is no queuing of vehicles in the adjacent rights-of-way, the drive aisles of the Center's parking lot, or on any adjacent properties. The Medical Marijuana Retail Center shall take all necessary and immediate steps to ensure compliance with this paragraph.

g. No Drive-through service. No Medical Marijuana Retail Center shall have a Drive-through service aisle. All activities will occur within an enclosed building. ~~all dispensing and sales of products shall occur inside the building.~~

h. Prohibited activities. A Medical Marijuana Retail Center shall not engage in any activity other than those activities specifically defined herein as an authorized part of the use. The preparation, wholesale storage, cultivation, or processing of any form of Marijuana or Marijuana product and on-site consumption of any Marijuana or Marijuana product is specifically prohibited. On-site storage of any form of Marijuana or Marijuana product is prohibited, except to the extent reasonably necessary for the conduct of the on-site retail business.

i. Conditional use duration. A conditional use approval for a Medical Marijuana Retail Center shall be valid for two (2) years, subject to compliance with the conditions of approval and all state and federal laws, licensing and operational requirements. A new conditional use approval must be obtained prior to expiration of the active approval to ensure continued operation.

j. Revocation of conditional use approval. Any conditional use approval granted under this section shall be immediately terminated if any one or more of the following occur:

i. The Applicant provides false or misleading information to the City;

ii. Anyone on the premises knowingly dispenses, delivers, or otherwise transfers any Marijuana or Marijuana product to an individual or entity not authorized by state and federal law to receive such substance or product;

iii. An Applicant, Owner or manager is convicted of a felony offense;

iv. Any Applicant, Owner, manager or Employee is convicted of any drug-related crime under Florida Statutes;

v. The Applicant fails to correct any City Code violation or to otherwise provide an action plan to remedy the violation acceptable to the City Manager within 30 days of citation;

vi. The Applicant fails to correct any State law violation or address any warning in accordance with any corrective action plan required by the State within the timeframes and completion date the Applicant provided to the City;

vii. The Applicant's State license or approval authorizing the dispensing of Medical Marijuana expires or is revoked; or

viii. The Applicant fails to maintain a Medical Marijuana Permit as required by Chapter 14 "Businesses," Article 5 "Marijuana Sales" of the City Code of Ordinances.

k. Transfer of Medical Marijuana Conditional Use Approval.

i. A Conditional Use Approval for a Medical Marijuana Retail Center shall not be transferred to a new Owner, or possession, control, or operation of the establishment surrendered to such other person until a new Medical Marijuana Permit has been obtained by the new Applicant in accordance with Chapter 14 "Businesses," Article 5 "Marijuana Sales" of the City Code.

ii. An application for a Conditional Use Approval transfer, meeting the requirements of Section 4-302.C.4.a., shall be filed with the City at the same time the new Applicant files its application for a Medical Marijuana Permit.

iii. The Application for a Conditional Use Approval transfer shall be accompanied by a Conditional Use Approval transfer fee to be set by resolution of the Commission.

iv. If the new Applicant is granted a Medical Marijuana Permit and the transfer application meets the material requirements of Section 4-302.C.4., the City Manager shall approve the Conditional Use Approval transfer.

v. A Conditional Use approval is particular only to the applicant at the approved location and shall not be transferred to another applicant, owner or location.

vi. An attempt to transfer a Conditional Use approval either directly or indirectly in violation of this Section is hereby declared void, and in that event the Conditional Use shall be deemed abandoned, and the related Medical Marijuana Permit shall be forfeited.

* * *

Section 4-417. Marijuana Businesses.

The preparation, cultivation, storage, processing, manufacturing, delivering or dispensing of marijuana shall not be conducted for personal, business or occupational use anywhere within the City of Coral Gables. Specifically, the City will not allow a Medical Marijuana Retail Center if such use is unlawful in the opinion of the City Attorney under either state or federal law. Notwithstanding the foregoing, if permitted under both state and federal law, a Medical Marijuana Retail Center as defined herein, may be approved by the City Commission as a conditional use in the Commercial District, if the use obtains and maintains a Medical Marijuana Permit as required by Chapter 14 "Business" Article 5 "Marijuana Sales" of the City Code of Ordinances.

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Section 5-1409. Amount of required parking.

* * *

Medical clinic.	One (1) space per two-hundred (200) square feet of floor area, plus one (1) space per FTE.
<u>Medical Marijuana Retail Center</u>	<u>One (1) space per 150 square feet of floor area, plus one (1) space per FTE and one (1) space for every two (2) PTEs.</u>

Mixed use or multi-use	Parking shall be provided for each use in the mix of uses in correlation with the requirements of this table.
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SECTION 4. The City Commission hereby affirms the policy that the City shall approve only those uses, businesses and activities which are legal and permitted under state and federal law. No use, business or activity which is illegal under state or federal law shall be tolerated, supported, or approved within the City. Specifically, the City will not allow any Medical Marijuana Retail Center or other type of marijuana related business as long as such business or activity is impermissible under state and federal law in the opinion of the City Attorney.

SECTION 5. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 6. All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

SECTION 7. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of Ordinance No. 2007-01 as amended and known as the “Zoning Code” of the City of Coral Gables, Florida, which provisions may be renumbered or re-lettered and that the word ordinance be changed to “section”, “article”, or other appropriate word to accomplish such intention.

SECTION 8. If the Official Zoning Code of the City of Coral Gables Table of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 9. This Ordinance shall become effective _____, 2014.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D. 2014.

APPROVED:

JIM CASON
MAYOR

351 ATTEST:
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355 WALTER FOEMAN
356 CITY CLERK
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358
359
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APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

CRAIG E. LEEN
CITY ATTORNEY