

ORDINANCE NO. 18-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING; AMENDING SECTION 13-799.7, “CANNABIS DISPENSARIES, MEDICAL MARIJUANA TREATMENT FACILITIES, AND INDEPENDENT TESTING LABORATORIES”; AMENDING DEFINITIONS; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature in 2014 enacted a Low-TCH (less than .8% THC) and High CBD (10% or more) Statute, also known as the “Compassionate Medical Cannabis Act of 2014” (codified as Section 381.986, Florida Statutes) (“Act”).

WHEREAS, the Act authorized a limited number of large nurseries to cultivate, process, transport and dispense non-euphoric, Low-THC/High-CBD cannabis and operate as “Dispensing Organizations” for individuals with certain specified serious ailments; and

WHEREAS, THC is the byproduct of Cannabis associated with the psychotropic effect derived from the intake of Cannabis, also known as Marijuana.

WHEREAS, CBD is the byproduct of Cannabis associated with medicinal properties; and

WHEREAS, Low-THC/High-CBD products are commonly known as Hemp, and commonly sold as cannabidiols (“Hemp”)

WHEREAS, in 2014, the U.S. Congress passed the “Farm Bill” which legalized the cultivation, production and use of Hemp; and

WHEREAS, on November 8, 2016, Florida’s voters voted in favor of an amendment to the Florida Constitution, titled “Use of Marijuana for Debilitating Medical Conditions (“Amendment 2”); and

WHEREAS, Amendment 2 fully legalizes the medical use of high THC (more than .8%) marijuana (“Medical Marijuana”) throughout the State of Florida for those individuals with specified debilitating conditions, and authorized the cultivation processing, distribution and sale of marijuana and related activities by licensed Medical Marijuana Treatment Centers; and

WHEREAS, as the result of the passing of Amendment 2, in 2016 the Florida Legislature amended the Compassionate Medical Cannabis Act (Section 381.986, Florida Statutes) to include the use of Medical Marijuana for eligible patients with terminal conditions; and

WHEREAS, Section 381.986(11)(b), Florida Statutes, permits municipalities to determine by ordinance to ban dispensing facilities and medical marijuana treatment facilities; and

WHEREAS, On Tuesday, September 5, 2017, the Town Council of the Town of Miami Lakes considered and adopted Ordinance No. 17-210 creating section 13-799.7 in the Land Development Code, banning cannabis dispensaries, medical marijuana treatment facilities, and independent testing laboratories related thereto as provided for by Florida Statute 381.986(11)(b).

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “* * *”.

WHEREAS, On April 12, 2018, Florida Department of Agriculture passed rule 5B-57.013 providing for Hemp planting pilot projects at University of Florida, Florida Agricultural and Mechanical University, and any other land grant university in the state that has a college of agriculture; and

WHEREAS, Cannabidiol or CBD oil is being studied for medicinal and nutritive purposes and is currently sold as a food additive or a nutraceutical; and

WHEREAS, Hemp has much lower tetrahydrocannabinol (THC) content (less than 0.3%) than medical marijuana (between 5 and 20%), and is therefore not a psychoactive agent; and

WHEREAS, the Administrative Official reviewed the proposed amendment to the and recommends approval, as set forth in the Staff Analysis and Recommendation dated October 2, 2018 and incorporated into this Ordinance by reference; and

WHEREAS, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, on October _____, 2018, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval to the Miami Lakes Town Council; and

WHEREAS, on October _____, 2018, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading

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for second reading and consideration of adoption; and

WHEREAS, The Town Council finds that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found in Subsection 13-306(b) of the Town Code; and

WHEREAS, on October _____, 2018, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council finds it in the public interest to adopt the proposed ordinance.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings. After considering Staff's report, both submitted in writing and presented orally and the public, the Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

Section 3. Approval. The Town Council hereby adopts the amendment as provided at Exhibit "A"

Section 4. Repeal of Conflicting Provisions. All provisions of the Code of the Town

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of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

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. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

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

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FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of September, 2018.

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SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of _____, 2018.

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT A

Chapter 13 - LAND DEVELOPMENT CODE

* * *

ARTICLE IV. - ZONING DISTRICT REGULATIONS

* * *

DIVISION 21. - ADDITIONAL BUSINESS, COMMERCIAL, INDUSTRIAL AND OTHER USE REGULATIONS

* * *

13-799.7 Low THC Facilities, Cannabis Dispensaries, Medical Marijuana Treatment Facilities, and Independent Testing Laboratories.

With the exception of Low THC Cannabis, as defined in this Section, Cannabis Dispensaries, Medical Marijuana Treatment Facilities, and Independent Testing Laboratories are prohibited within the territorial jurisdiction of the Town of Miami Lakes as provided at Florida Statue 381.986.

13-799.7(1) Definitions. For purposes of this section, the following words terms and phrases, including their respective derivatives have the following meanings:

- a. *Cannabis* 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 derivative, mixture or preparation of the plant or its seeds or resin. Also known as marijuana.
- b. *Cannabis dispensary* means an establishment where the cultivation of the cannabis plant, sale of the cannabis plant, sale of any part of the cannabis plant, including its flowers and any derivative product of the cannabis plant, not including low-THC cannabis, is dispensed at retail.
- c. *Derivative product* means any form of cannabis suitable for routes of administration.
- d. *Independent testing laboratory* means a laboratory, including the managers, employees, or contractors of the laboratory, which has no direct or indirect interest in a dispensing organization.

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- e. *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, derivative, 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.
- f. *Low-THC cannabis dispensary* means an establishment where low-THC cannabis is dispensed at retail.
- g. *Medical cannabis* 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, derivative, 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 as defined in s. 499.0295, Florida Statutes.
- h. *Medical Marijuana Treatment Facility* means business entities that cultivate, process, and dispense cannabis for medicinal purposes to qualified patients.

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