



Department of Planning, Zoning and Code Compliance
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Staff Analysis and Recommendation

To: Honorable Mayor and Town Council
From: Alex Rey, Town Manager
Subject: Cannabidiol and Industrial Hemp products
Date: October 2, 2018

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.

A. BACKGROUND

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).

As a result of the new ordinance, all commercial and industrial activities related to the sale or manufacture of products within genus *cannabis* were banned within the boundaries of the Town. Staff has been made aware that the definition adopted via the ordinance, may have been unduly broad, and may have excluded otherwise legal commercial and industrial activities, that although they are related to products extracted from a plant within the genus *cannabis* they do not constitute a medical marijuana product, nor do they contain any of the psychoactive ingredients such as tetrahydrocannabinol (THC) in amounts large enough to have psychoactive effects.

B. STAFF RECOMMENDATION

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance amending the definitions in section 13-799.7 to exclude hemp derived

products and commercial and industrial activities related to hemp derived products from the objective of the ban.

C. ANALYSIS

The Land Development Code (LDC) provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this proposed ordinance.

1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: Although the Comprehensive Plan does not specifically address uses presented in the proposed ordinance, Objective 1.2 provides underlying intent to ensure the LDC's appropriately regulate the use of land reflective of the community's desires. Notwithstanding the Federal Government's laws pertaining to marijuana and/or its derivative products, supporting such uses within the Town's LDC may result in impacts that are not entirely foreseeable at this time.

Objective 1.2: LAND DEVELOPMENT CODE

Maintain an effective and efficient Land Development Code (LDC), which implements the community vision underlying the goals, objectives and policies of adopted Comprehensive Plan, regulates the quality, scope and impacts of new development and redevelopment, coordinates future land uses with topography and soil conditions, and incorporates innovative land development techniques.

Finding: Complies

2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.

Analysis: The proposed ordinance conforms with the Town's LDC's. A review of the LDC's found no conflicts. Further, as proposed, the ordinance is consistent with adopted Florida Senate Bill SB 8-A as provided at Section 381.986, Florida Statutes.

Finding: Complies.

3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.

Analysis: See Section "A", Background, of this report. The Background section of this report provides a fuller accounting of the evolution of legalized low THC cannabis and medical marijuana within the State of Florida.

Finding: Complies.

4. **Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.**

Analysis: See Section “A”, Background, of this report.

Finding: Complies.

5. **Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

6. **Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

7. **Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

Analysis: See Section “A”, Background, of this report.

Finding: Complies.

8. **Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

Analysis: See Section “A”, Background, of this report.

Finding: Complies.

9. **Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

Analysis: See Section “A”, Background, of this report. No portion of the proposed amendment is in conflict with the existing regulations of the LDC.

Finding: Complies.

10. Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.

Analysis: See Summary Section and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed FLUM amendment is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

Finding: As determined by the Town Council.