

# MEMORANDUM

Agenda Item No. 5(A)

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**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

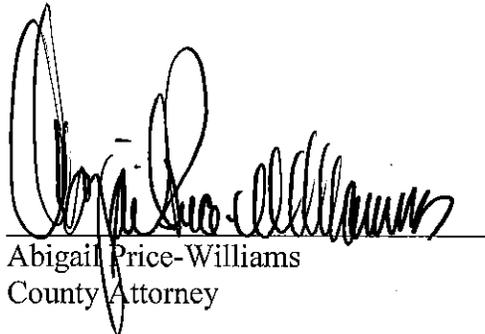
**DATE:** (Public Hearing 7-6-16)  
June 21, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Ordinance pertaining to zoning;  
creating Article IXA of Chapter  
33 of the Code; amending  
sections 33-238 and 33-284.83;  
establishing zoning regulations  
for the dispensing of low-THC  
cannabis and medical cannabis

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



Abigail Price-Williams  
County Attorney

APW/cp

# Memorandum



**Date:** July 6, 2016

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez   
Mayor

**Subject:** Fiscal Impact Statement for Ordinance Establishing Zoning Regulations for the  
Dispensing of low-THC Cannabis and Medical Cannabis

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The proposed ordinance pertaining to zoning creates Article IXA of the Chapter 33 of the Code of Miami-Dade County establishing zoning regulatory framework for the location and permitting of establishments that dispense low-THC cannabis or medical cannabis, and amends Section 33-238 and 33-284.83 of the Code.

It is anticipated that the implementation of this ordinance will not have a fiscal impact to Miami-Dade County.

A handwritten signature in black ink, appearing to read "Jack Osterholt".

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Jack Osterholt  
Deputy Mayor

Fis07116 161473

# Memorandum



**Date:** July 6, 2016

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Social Equity Impact Statement for Zoning Ordinance Establishing Zoning Regulations for the Dispensing of low-THC Cannabis and Medical Cannabis

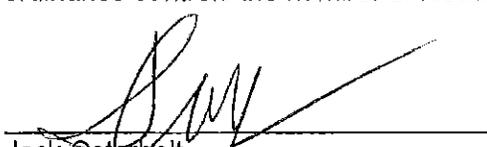
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The proposed ordinance amends the existing Code to establish the zoning regulations related to the location and permitting of establishments that dispense low-THC cannabis or medical cannabis. More specifically, the proposed ordinance does the following:

- Sets the minimum distance between any establishment dispensing low-THC and medical cannabis and child care facilities, preschools, schools, or religious facilities (1,000 feet); certain zoning districts designated as residential (500 feet); and other establishments dispensing same (one mile).
- Requires the establishment to obtain an annual certificate of use and includes language that (i) a certificate of use shall not be renewed if there are open enforcement cases or if the establishment has cases pending before the Nuisance Abatement Board, and (ii) a certificate of use shall be revoked if the establishment has been found guilty of three (3) or more violations pertaining to the dispensing use, or has been determined as a nuisance by the Nuisance Abatement Board.
- Sets operating hours (between 7 a.m. and 9 p.m. daily) and also prohibits the dispensing, receipt, payment, and consumption of low-THC and medical cannabis, as well as the consumption of alcohol, outside of the dispensing establishment.

The proposed ordinance intends to ensure that these establishments are at a minimum distance from child care facilities, schools, religious facilities, certain areas designated as residential, and other businesses dispensing the same products. Without this amendment to the Code, any business wishing to dispense these products would be able to establish itself in a BU zoning district regardless of its distance to these aforementioned institutions and residential neighborhoods.

The cost of compliance, such as obtaining an annual certificate of use or penalties for violating any provisions of the Code, will be borne by the business establishment. Additionally, by setting minimum distance standards from certain institutions and residential neighborhoods, this proposed ordinance controls the number of locations available to these establishments.

  
\_\_\_\_\_  
Jack Osterholt  
Deputy Mayor

161473



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** July 6, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 5(A)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 5(A)  
7-6-16

ORDINANCE NO. \_\_\_\_\_

ORDINANCE PERTAINING TO ZONING; CREATING ARTICLE IXA OF CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AMENDING SECTIONS 33-238 AND 33-284.83; ESTABLISHING ZONING REGULATIONS FOR THE DISPENSING OF LOW-THC CANNABIS AND MEDICAL CANNABIS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Article IXA of Chapter 33 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:<sup>1</sup>

**>>ARTICLE IXA – LOW-THC CANNABIS AND MEDICAL CANNABIS DISPENSING FACILITIES**

**Sec. 33-149.1 - Intent**

Section 381.986, Florida Statutes, and Florida Administrative Code Chapter 64-4 authorize a limited number of dispensing organizations throughout the State of Florida to cultivate, process, and dispense low-tetrahydrocannabinol (low-THC) cannabis and medical cannabis for use by qualified patients suffering from cancer, terminal conditions, and certain chronic conditions. The dispensing organizations must be approved by the Florida Department of Health and, once approved, are subject to state regulation and oversight.

The intent of this article is to establish the criteria for the location and permitting of establishments that dispense low-THC cannabis or medical cannabis in accordance with Section 381.986, Florida Statutes, and Florida Administrative Code Chapter 64-4.

<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

**Sec. 33-149.2 - Applicability**

The provisions of this article shall be applicable in the unincorporated areas of Miami-Dade County. This article shall only be construed to allow the dispensing of low-THC cannabis or medical cannabis for medical use. The sale of cannabis or marijuana is prohibited in Miami-Dade County except in accordance with this article.

**Sec. 33-149.3 - Definitions**

Except as provided herein, all terms shall be defined in accordance with this chapter and Section 381.986, Florida Statutes, as may be amended from time to time:

- (A) “Dispensing facility” refers to the building or structure where low-THC cannabis or medical cannabis, as well as cannabis delivery devices, are dispensed at retail.
- (B) “Low-tetrahydrocannabinol cannabis” or “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 seeds or resin that is dispensed only from a dispensing organization.
- (C) “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.
- (D) “Medical use” means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:
  - (1) Possession, use, or administration of low-THC cannabis or medical cannabis by smoking; or

- (2) Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient's legal representative authorized to receive it on the qualified patient's behalf.
- (3) Use or administration of low-THC cannabis or medical cannabis:
  - i. On any form of public transportation.
  - ii. In any public place.
  - iii. In a qualified patient's place of employment, if restricted by his or her employer.
  - iv. In a correctional institution.
  - v. On the grounds of any child care facility, preschool, or school.
  - vi. On or in any vehicle, aircraft, or motorboat.

**Sec. 33-149.4 – Zoning districts where dispensing allowed.**

Dispensing of low-THC or medical cannabis shall be permitted in the BU-1, BU-1A, BU-2, BU-3 Zoning Districts and in areas designated MC, MCS and MCI in an Urban Center District, only in accordance with the requirements of this article and the applicable zoning district. Notwithstanding any provision of the code to the contrary, including article XXXIII of this chapter, dispensing of low-THC or medical cannabis shall be prohibited in the AU Zoning District.

**Sec. 33-149.5 – Zoning requirements for dispensing facilities.**

Low-THC and medical cannabis dispensing facilities shall comply with the following requirements:

- (A) No low-THC or medical cannabis dispensing facility shall be located within:
  - (1) 1 mile from any other low-THC or medical cannabis dispensing facility;
  - (2) 1,000 feet of any child care facility, preschool, school, or religious facility; or

(3) 500 feet of any property in an EU or RU Zoning District (except for RU-5A), or any property developed solely with residential uses.

(B) Distances between low-THC or medical cannabis dispensing facilities shall be measured by drawing a straight line between the front doors of the respective dispensing facilities.

The distance from a child care facility, school, religious facility, or residential property shall be measured by following a straight line from the front door of the proposed dispensing facility to the nearest point of the child care facility, school, religious facility, or residential structure.

The applicant shall furnish a certified survey from a registered engineer or surveyor, indicating the distance between the proposed dispensing facility and any existing low-THC or medical cannabis dispensing facility, child care facility, preschool, school, religious facility, or residential properties within the applicable radius. In case of dispute, the measurement scaled by the Director shall govern.

(C) Dispensing of, payment for, and receipt of low-THC or medical cannabis is prohibited anywhere outside of the dispensing facility, including, but not limited to, on sidewalks, in parking areas, or in the rights-of-way surrounding the dispensing facility.

(D) Consumption of low-THC or medical cannabis or alcoholic beverages is prohibited within the dispensing facility and anywhere outside of the dispensing facility, including, but not limited to, in the parking areas, sidewalks, or rights-of-way surrounding the dispensing facility.

(E) Irrespective of any statutory amendment, facilities dispensing low-THC or medical cannabis shall only be allowed to operate between the hours of 7:00 a.m. and 9:00 p.m. daily, as provided by Section 381.986, Florida Statutes, as of the effective date of Ordinance No. [Insert Ordinance No.].

- (F) A certificate of use shall be obtained for the low-THC or medical cannabis dispensing facility on an annual basis. The application for the certificate of use shall be made on a form prescribed by the Director.
- (1) All low-THC or medical cannabis dispensing facilities must be established on the premises within 30 days of the date the certificate of use is issued; after 30 days, the certificate of use shall be null and void, and the applicant must re-apply.
- (2) The Department shall have the right to periodically inspect the premises of the dispensing facility at any reasonable time to ensure that the facility has a current and valid certificate of use, and to ensure compliance with the terms and conditions under which it was issued. Violators will be subject to all appropriate penalties, including revocation of the certificate of use.
- (3) The certificate of use for a low-THC or medical cannabis dispensing facility shall not be renewed while there are open enforcement cases, nor shall the certificate be renewed if the establishment has cases pending before the Nuisance Abatement Board (NAB). In addition, where the establishment has been determined, pursuant to Chapter 8CC of this Code, to be guilty of three or more violations pertaining to the dispensing use, or has been determined to be a nuisance at that location by the NAB, the certificate of use shall be revoked immediately, and a new application may not be made within a period of 12 months.
- (G) Any use, created and established under this article in a legal manner, which may thereafter become legally nonconforming, may continue until there is an abandonment of said use. Once a legally nonconforming use is abandoned, it shall not be re-established unless it conforms to the requirements of this article.

Abandonment shall consist of: a change of use or suspension of active business with the public for a period of at least 3 months; or a lesser time if a written declaration of abandonment is provided by the owner of the premises or, if the property is subject to a lease, by the owner and tenant thereof.

- (H) No certificate of use, license, or building or other permit shall be issued for a low-THC or medical cannabis dispensing facility where the proposed place of business does not conform to the requirements of this subsection.<<

**Section 2.** Section 33-238 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

**Sec. 33-238. – Uses permitted**

No land, body of water or structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, reconstructed or structurally altered or maintained in any BU-1 District, which is designed, arranged or intended to be used or occupied for any purpose, except for one (1) or more of the following uses:

\* \* \*

>>(13.1) Dispensing facilities for low-THC or medical cannabis, pursuant to article IXA of this chapter.

(13.2)<< [[(13.5)]] Drugstores.

\* \* \*

**Section 3.** Section 33-284.83 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

**Sec. 33-284.83. - Uses.**

No land, body of water, or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, structurally altered, or maintained for any purpose in the Urban Center (UC) or Urban Area (UA) Districts, except as provided in this article. The uses delineated herein shall be permitted only in compliance with the Regulating Plans and standards provided in this article. The following regulations outline permitted uses in the R (Residential), RM (Residential Modified), MC (Mixed-Use Corridor), MM (Mixed-Use Main Street), MO (Mixed-Use Optional), MCS (Mixed-Use Special), MCI (Mixed-Use Industrial), ID (Industrial District) and I (Institutional) Land Use Areas.

\* \* \*

B. *Land Use Groups.* The uses listed following each group in this section shall be permitted in the land use categories shown in Table (C) subject to the provisions noted for each land use category. Uses provided in Table (C) below not listed in this subsection shall be permitted subject to the provisions noted for each land use area. The Director shall have the authority to determine that a use not specifically enumerated below may nevertheless be permitted in a land use category because it is similar to an enumerated use.

\* \* \*

- (11) *General Retail/Personal Service Establishments:* Establishments that provide goods and services geared toward an individual consumer. This group shall include businesses such as: banks; beauty parlors; adult day care; bakeries; bookstores; apparel stores; grocery stores; pharmacies; tailor shops; health clubs; gift shops; indoor pet care centers/boarding and indoor kennels (soundproofed and air-conditioned building required); vehicle retail showrooms; and similar uses. This group shall also include schools offering instruction in dance, music, martial arts and similar activities, but this group shall not include colleges/universities. Except as otherwise authorized in this article, uses enumerated in the BU-3 zoning district shall only be permitted in the MCS and MCI categories and shall

be subject to the public hearing and spacing requirements set forth in Section 33-255 of this chapter. >>Dispensing facilities for low-THC or medical cannabis, in accordance with the requirements of article IXA of this chapter, shall also be allowed in areas designated MC, MCS and MCI.<<

\* \* \*

**Section 4.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 5.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 6.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

Prepared by:

James Eddie Kirtley  
Dennis A. Kerbel

Prime Sponsor: Commissioner Sally A. Heyman

