

ORDINANCE NO. 1439

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, PROVIDING FOR A TEXT AMENDMENT TO CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES BY AMENDING ARTICLE 4, DIVISION 2, ENTITLED “ZONING DISTRICTS”, SPECIFICALLY AT SECTION 4-202, ENTITLED “TYPES OF USES”, TO ALLOW MEDICAL MARIJUANA DISPENSARIES AS OF RIGHT; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CORRECTION OF SCRIVENER’S ERRORS, CODIFICATION AND FOR AN EFFECTIVE DATE.**

**WHEREAS**, on July 11, 2017, the Mayor and City Council of the City adopted updates to the Land Development Regulations (“LDRs”) and the Official Zoning Map under Chapter 29 of the City Code of Ordinances, in order to implement the 2015 Ear-based Amendments to the City Comprehensive Plan, consistent with the requirements of ss. 163-3184, 163.3202, and 166.041(3)(c), F.S.; and

**WHEREAS**, Article 3, Division 10, Sections 3-1003 through 3-1007 of the City LDRs outlines the procedures for text amendments and zoning map changes to the City LDRs initiated by either the City or one (1) or more owners of record for parcel(s) located within the jurisdictional boundary of the City; and

**WHEREAS**, Article 3, Division 3, Section 3-302 of the City LDRs establishes a uniform notice and procedure in order to ensure procedural due process and maintain citizen access to the local government decision-making process relating to the approval of land use map changes within the jurisdictional boundary of the City; and

**WHEREAS**, in accordance with Fla. Stat. §381.986(11), local jurisdictions may not regulate medical marijuana treatment center dispensaries more stringently than they regulate pharmacies; and

**WHEREAS**, pharmacies are currently treated as a permitted use with no requirement to undergo the special exception approval process; and

**WHEREAS**, in order to mitigate potential impacts of certain operations and ancillary uses, such as twenty four (24) hour service and alcohol sales, there is a need to provide a method

whereby conditions could be attached to the approval of a pharmacy in order to better protect the health, safety and welfare of surrounding neighborhoods; and

**WHEREAS**, given the rapidly evolving landscape of medical marijuana in the State of Florida and the inability to gauge the effects that these newly created dispensary locations will have on the surrounding community, City staff recommends that both pharmacies and medical marijuana treatment center dispensaries undergo the special exception approval process; and

**WHEREAS**, pursuant to the requirements of Article 3, Division 11, Section 3-1006 of the City LDRs, the Planning Commission review the proposed Amendment to the LDRs, the recommendation of City staff, testimony provided at the public hearing (if any), and issue a recommendation to the Mayor and the City Council to take the appropriate action and adopt the proposed Amendments by passage of this ordinance; and

**WHEREAS**, pursuant to Article 2, Division 2, Section 2-203, LDRs, at least four (4) affirmative votes of the Planning Commission shall be required for a positive recommendation of any proposed zoning or Comprehensive Plan change; and

**WHEREAS**, on March 5, 2019, the Planning Commission, after a duly noticed public meeting, approved the proposed LDR amendment, pursuant to Article 3, Division 11, Section 3-1006, LDRs; and

**WHEREAS**, on March 23, 2019, City Council voted at first reading to allow medical marijuana dispensaries as of right rather than as a special exception; and

**WHEREAS** pursuant to Article 3, Section 3-1007C, LDRs, the Mayor and City Council shall adopt the proposed LDR amendment with the affirmative vote of a supermajority; and

**WHEREAS**, the Mayor and City Council, after two (2) duly noticed public meetings (first reading and second reading), find it in the best interest of City residents to adopt the proposed LDR amendment, in accordance with state law.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

**Section 1. Recitals.** The recitals to the preamble herein are incorporated by reference.

**Section 2. Amendment to Chapter 29, North Miami Code of Ordinances.** The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled “Land Development Regulations”, by amending

Article 4, Division 2 entitled “Zoning Districts”, specifically at Section 4-202, entitled “Types of Uses” to allow medical marijuana dispensaries as of right as follows:

CITY OF NORTH MIAMI CODE OF ORDINANCES  
CHAPTER 29. LAND DEVELOPMENT REGULATIONS

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ARTICLE 4. – ZONING DISTRICTS

\* \* \* \* \*

DIVISION 2. - ZONING DISTRICTS.

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Sec. 4-202. – Types of Uses.

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**Industrial Type Uses**

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Medical Marijuana Dispensaries

					PSE	PSE	PSE	PSE	PSE****				
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**Section 3. Repeal.** All Ordinances and part of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 4. Conflicts.** All Ordinances or parts of ordinances in conflict herewith the provisions of this Ordinance are repealed.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable. If any section, paragraph, sentence, phrase, clause or word of this Ordinance shall, for any reason, be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, phrases, clause or words of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall notwithstanding the invalidity of any part.

**Section 6. Scrivener's Errors.** The City Attorney may correct scrivener's errors found in this Ordinance by filing a corrected copy with the City Clerk.

**Section 7. Codification.** The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or any other appropriate word.

**Section 8. Effective Date.** This Ordinance shall become effective ten (10) days after adoption on second reading.

**PASSED AND ADOPTED** by a 4-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 26th day of March, 2019.

**PASSED AND ADOPTED** by a 3-1 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 23rd day of April, 2019.

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DR. SMITH JOSEPH  
MAYOR



ATTEST:



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MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:



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JEFF P. H. CAZEAU, ESQ.  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin

Seconded by: Keys

**Vote:**

Mayor Smith Joseph, D.O., Pharm. D.  
Vice Mayor Philippe Bien-Aime  
Councilman Carol Keys, Esq.  
Councilman Scott Galvin  
Councilman Alix Desulme, Ph.Ed.

  X   (Yes)        (No)  
  X   (Yes)        (No)  
       (Yes)   X   (No)  
  X   (Yes)        (No)  
       (Yes)        (No) Absent