

ORDINANCE NO. 11-133

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA AMENDING CHAPTER 33 "ZONING" BY AMENDING THE DEFINITIONS AND BY AMENDING THE ZONING REGULATIONS RELATED TO THE REGULATION OF PAIN MANAGEMENT CLINICS, DRUG STORES, MEDICAL OFFICES AND CLINICS, MEDICAL AND DENTAL LABORATORIES, PHARMACIES AND USES WHICH INCLUDE PHARMACIES; AMENDING ARTICLE 6 "SUPPLEMENTARY REGULATIONS" OF THE TOWN'S LAND DEVELOPMENT CODE, BY PROVIDING NEW REGULATIONS FOR PAIN MANAGEMENT CLINICS, DRUG STORES, MEDICAL OFFICES AND CLINICS, MEDICAL AND DENTAL LABORATORIES, PHARMACIES AND USES WHICH INCLUDE PHARMACIES; PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE CODE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Miami Lakes ("Town Council") finds that it is in the best interest of the health, safety, and welfare of its residents, businesses, and visitors to enact regulations to provide for safer residential and commercial neighborhoods in the Town; and

WHEREAS, the Town Council finds that the illegal sale, use, and delivery of controlled substances is a threat to the health, safety and welfare of the residents of the Town; and

WHEREAS, the Town Council has recently been made aware by law enforcement and news reports that a pattern of illegal drug use and distribution has been associated with medical offices and clinics which provide "pain management" services and dispense narcotic controlled substances on-site as aided by those who act in concert with said establishments ; and

WHEREAS, the Miami Herald, Sun-Sentinel and other news media outlets have published numerous newspaper stories in the recent past describing a "pipeline" of trafficking

drugs from South Florida “pain management clinics” to users in other states, such as Kentucky, West Virginia, and Ohio; and

WHEREAS, increased criminal activity and other secondary effects including parking, noise, loitering and littering associated with the narcotics-related activities at such clinics is very significant and threatens to undermine the economic health of the Town’s development and redevelopment efforts, by creating negative secondary effects which affect the commercial and residential properties surrounding these clinics; and

WHEREAS, the Florida Legislature has attempted to deter such illegal drug use, distribution and activities by the creation of a secure and privacy-protected, statewide electronic system of monitoring prescription drug medication information, through adoption of SB 462 (2009) and SB 2272 (2010); and

WHEREAS, despite such legislative efforts by the Florida Legislature, the state has only raised half of about \$1 million needed to establish the database, and implementation of these legislative mandates is delayed; and

WHEREAS, a recent Broward County grand jury reported that every three days, a new pain management clinic opens in Broward and Palm Beach counties; and

WHEREAS, in the last six months of 2008 alone, such clinics dispensed nearly 9 million doses of the controlled substance oxycodone in South Florida – the equivalent of more than two doses for every man, woman and child in Miami-Dade, Broward and Palm Beach counties; and

WHEREAS, it is the intent of this Ordinance not to interfere with the legitimate medical use of controlled substances, but rather to prohibit the location of dispensing of narcotic controlled substances on-site at medical clinics and offices (or in close proximity thereto), subject to specific exceptions; and

WHEREAS, during a public hearing on April 12, 2011, the Town Council, sitting as the Town's Local Planning Agency, reviewed this Ordinance and made a recommendation to the Town Council; and

WHEREAS, following proper notice to the public and after having received input and participation by interested members of the public and staff, and having considered the recommendation of the Local Planning Agency, the Town Council finds this Ordinance consistent with its Comprehensive Plan, as well as Florida and federal law; and

WHEREAS, the Town Council finds that this Ordinance is necessary for the preservation of the public health, safety and welfare of the Town's residents; and

WHEREAS, the Town Council has held two public hearings in accordance with Florida law.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:¹

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Town Code Amended. That Article I "In General," Section 33-13, "Unusual uses." of Chapter 33 "Zoning" of the Code of Ordinances of the Town of Miami Lakes is hereby amended to read as follows:

Sec. 33-13. Unusual uses.

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(e) *Unusual and new uses.* Unless approved upon public hearing, the following unusual uses or uses similar thereto shall not be permitted in any district save and except in those districts that permit such uses without a public hearing: Airport; airplane crop dusting field; all zoning applications by State and municipal entities and agencies; amusement rides and enterprises;

¹ Proposed additions to existing Town Code text are indicated by an underline; proposed deletions from existing Town Code text are indicated by ~~striketrough~~. Text changes shown in double underline and ~~double-striketrough~~ are additions and deletions between first and second reading.

amusement center (except in BU-1A Zone in which such use is permitted); archery ranges; art galleries and museums (educational and philanthropic) in districts more restrictive than RU-4; auction sales; auto, truck, machinery salvage yards; bathing beach; boat salvage; bombing field, canal excavation, where not a part of C. & S. F. F. C. D. and County secondary canal system; carnivals, circuses; convalescent homes; day camp, day nursery in zone more restrictive than RU-3; dog kennel, dog training track; electric substation; electric power plant; frog farm; garbage and waste dumps; gas distribution system and plant; golf course except in RU-1 and other Districts where the same is a permitted use; golf course clubhouse and incidental uses in all districts more restrictive than the BU-1 District; golf driving range; gypsy camp; heliports; homes of the aged (except group homes and community residential homes where same is a permitted use); homes for dependent children (except group homes and community residential homes where same is a permitted use); hospitals (not animal hospital) in district more restrictive than RU-4; incinerators; Indian village; institutions for handicapped persons (except group homes and community residential homes where same is a permitted use), including but not limited to incidental related facilities such as workshops, sales of products fabricated therein, residential quarters, educational training facilities; infirmary, commissary, or any one (1) or combination of such related incidental facilities; junkyard; kindergarten in zones more restrictive than RU-3; lake excavation and asphalt plant, concrete batching plant, concrete block plant, prestressed and precast concrete products plant, rock crushing and screening plant ancillary thereto or in connection therewith; landing field; movie (open air) except as provided in BU-1A Zone; nightclub in BU-2 or more liberal districts; nursing homes; oil and gas well drilling and essential, incidental uses thereto, such as minimum storage facilities; in AU and GU Districts subject to conformance to all applicable Florida State statutes and rules and regulations of the State Board of Conservation and other applicable state rules and regulations; outdoor display; outdoor paint testing laboratory; pain management clinic; palmist and psychic readers; parking (noncommercial parking in zones more restrictive than in which the use it serves is located); pharmacy; pistol ranges; pony rings; private club in RU-3B and RU-3 and more restrictive districts, including but not limited to AU and GU Districts; private playgrounds and recreational area; except for those allowed pursuant to Section 33-199; public and private utility facilities such as electricity, gas, water, telephone, telegraph, cable TV., and including work centers (repair and storage areas for trucks, heavy equipment, pipe, meters, valves, cable, poles) as accessory uses, and including sewage treatment plants and lift stations and water treatment plants and pumping stations, excluding temporary package water and sewage treatment plants approved by the Environmental Quality Control Board and until December 31, 2008, excluding any telecommunications antenna owned and operated by a telecommunications company providing services to the public for hire attached to any pole or H-frame or lattice structure owned by a utility which is used in and is part of the utility's network for the provision of electric services, provided that (a) equipment appurtenant to the antenna is maintained on the utility pole or structure, (b) the utility pole or structure does not exceed 125 feet in height above ground unless the utility pole or structure is located in an easement or right-of-way which is greater than fifty (50) feet in width or, if less than fifty (50) feet in width, such easement or right-of-way is adjacent to and parallel with road right-of-way which is one hundred (100) feet or greater in width, and (c) the antenna was attached to the utility pole or structure prior to January 1, 1997; race tracks; retirement villages, including as an accessory use commercial facilities of the BU-1 type; rifle range; rock pits (filling of); rock quarries; shopping center promotional activities; skeet range; subdivision entrance gates and entrance features not conforming to regulations;

testing laboratory or plant; tourist attractions; radio and TV transmitting stations; trailer as watchman's quarters; trailers or tourist camp; trap range; water tank and tower; water treatment plant; water use facilities; Wireless Supported Service Facilities except as provided for in Section 33-63.2 and 33-63.3; wood burning barbecue (commercial); zoo (except in public park).

Section 3. Amendments to Code. Section 33-1 of Chapter 33 "Zoning" of the Code of Ordinances of the Town of Miami Lakes is hereby amended to read as follows:

Sec. 33-1. Definitions.

For the purpose of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise:

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(39.1) Dispense or Dispensing. The transfer of possession of one or more doses of a controlled substance identified in Schedule II, III, or IV in Sections 893.03, 893.035, or 893.0355, Florida Statutes, as may be amended from time to time, by a pharmacist, health care practitioner or any other person to the ultimate consumer thereof or to one who represents that it is his or her intention not to consume or use the same but to transfer the same to the ultimate consumer or user for consumption by the ultimate consumer or user.

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(40.3) Drugstore. A retail establishment which includes a pharmacy and which may offer other accessory services such as photo processing, eyeglass care, etc, but in which no more than thirty (30)% of the gross floor area of the establishment is utilized for prescription drug storage, dispensing or prescription drug related customer service area.

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(57.1) Hospital. An institution licensed by the state of Florida that (1) offers services more intensive than those required for room, board, personal services and general nursing care; (2) offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and (3) regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent. A hospital may include offices for medical and dental personnel, central service facilities such as pharmacies, medical laboratories and other related uses.

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(58.1) Institution or Asylum. A facility dedicated to the custody, care, treatment, or provision of services for individuals overtly of harm to themselves or others, criminals or the chemically dependent, or a philanthropic or welfare institution not otherwise classified as a hospital, nursing facility or special residential facility.

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(69.1) Medical Office or Clinic. An establishment where patients, who are not lodged overnight except for observation or emergency treatment, are admitted for examination and treatment by a person or group of persons practicing any form of healing or health-building services to individuals, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, surgeons, acupuncturists, podiatrist, psychiatrists, or any such profession, the practice of which is lawful in the State of Florida. Medical Office or Clinic specifically excludes Pain Management Clinics, as defined in this Chapter, regardless or whether such clinics are registered with the State of Florida. Pharmacies are not medical offices or clinics.

(69.2) *Mentally ill* means an impairment of the emotional processes, of the ability to exercise conscious control of one's actions, or of the ability to perceive reality or to understand, which impairment substantially interferes with a person's ability to meet the ordinary demands of living, regardless of etiology; except that, for the purposes of this definition, the term does not include retardation or developmental disability, simple intoxication, or conditions manifested only by antisocial behavior or drug addiction.

* * * * *

(76.1) Office (Office Building). An establishment, or building, providing executive, management, administrative or professional services, but not involving the sale of merchandise except as incidental to a permitted use, and as regulated by other sections of the Code, and not involving medical services or the sale or prescription of controlled substances identified in Schedule II, III, or IV in Sections 893.03, 893.035 or 893.0355, Florida Statutes. Typical uses include, but are not limited to, real estate brokers, insurance agencies, credit reporting agencies, property management firms, investment firms, employment agencies, travel agencies, advertising agencies, secretarial services, data processing, telephone answering services, telephone marketing, professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions, interior decorating consulting services, and business offices of private companies, utility companies, public agencies, trade associations, unions, and nonprofit organizations.

(76.2) Outparcel. A parcel of land designated on a plat or site plan for one or more free-standing nonresidential building, where said parcel is adjacent to a right-of-way or

property line and is located in front of a principal commercial development or may be owned, leased or rented to any entity other than the entity owning the principal development.

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(78.1) *Pain Management Clinic.* Any type of medical office, clinic, or facility which advertises in any medium for any type of pain-management services, or employs a physician or an osteopathic physician on-site, who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications and/or which is required to be registered with the State of Florida Department of Health pursuant to 458.3265 F.S. or 459.0137 F.S. with the exception of the following:

1. A clinic that is licensed as a facility pursuant to Chapter 395 F.S.
2. A facility in which the majority of physicians who provide services in the clinic primary provide surgical services.
3. A clinic that is owned and operated by a publicly held corporation which corporation's shares are traded on a national exchange or on the over-the-counter stock market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million.
4. A clinic that is affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;
5. A clinic that does not prescribe or dispense controlled substances for the treatment of pain.
6. A clinic that is owned by a corporate entity exempt from federal taxation under 26 U.S.C.§.501(c).

A physician is deemed to be primarily engaged in the treatment of pain where the physician is prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic, non-malignant pain. Chronic, non-malignant pain is pain unrelated to cancer or rheumatoid arthritis which persists beyond the usual course of the disease or the injury that is the cause of the pain or more than ninety (90) days after surgery.

(78.2) *Pharmacy.* Any establishment where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis ~~offering on-site dispensing of prescription drugs.~~

(78.3+) *A physically handicapped or disabled person* shall mean a person who has a physical or mental impairment which substantially limits one (1) or more major life activities or who has a record of having, or is regarded as having, such physical or mental impairment.

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- (84) ~~Reserved.~~ Prescribing practitioner. Any health care practitioner licensed to prescribe controlled substances identified in Schedule II, III, or IV in Sections 893.03, 893.035, or 893.0355, Florida Statutes, as may be amended from time to time.

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- (88.1) Retail. An establishment, serving a limited market area and engaged in the retail sale or rental, from the premises, of frequently or recurrently needed items for household use, but which shall not include any establishment which meets the definition of “pharmacy” as provided in this section. Typical uses include apparel stores, bakeries and delicatessens that sell all food prepared at retail on the premises, candy stores, florists, garden supply stores, gift shops, grocery stores, hardware stores, hobby supply shops, ice cream shops, meat markets other than fish or seafood, jewelry stores, music and video tape rental stores, pet supply and grooming, souvenir shops, variety and general merchandise stores.

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Section 4. Town Code Amended. That Article XXIV “BU-1, Neighborhood Business District,” Section 33-238, “Uses Permitted.” of Chapter 33 “Zoning” of the Code of Ordinances of the Town of Miami Lakes 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:

* * * * *

- (13.5) ~~Drugstores. provided that a conditional use approval is obtained for any Pharmacy.~~ If such establishment includes a pharmacy (inclusive of the areas that are dedicated to prescription drug storage, dispensing or prescription drug related customer service area) that occupies 30 percent or more of the establishment’s gross floor area, the establishment shall be subject to Division 6.10 of the Town Land Development Code.

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- (16) Grocery stores, fruit stores, health food stores, delicatessen, meat and fish markets

and other similar food stores, provided such establishments contain not more than four thousand (4,000) square feet of floor area and that if any such establishment includes a pharmacy (inclusive of the areas that are dedicated to prescription drug storage, dispensing or prescription drug related customer service area) that occupies 30 percent or more of the establishments gross floor area, it shall be subject to Division 6.10 of the Town Land Development Code and a conditional use approval must be obtained for the pharmacy.

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(22.1) Medical Office or Clinic, subject to Division 6.10 of the Town Land Development Code.

(22.42) Museum

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(24) Office buildings, provided that the location of a medical office or clinic, medical or dental laboratory, or pain management clinic within said Office building shall be subject to Division 6.10 of the Town Land Development Code and a conditional use approval must be obtained for a pain management clinic.

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(36) Variety stores, provided such establishments contain not more than four thousand (4,000) square feet of floor area and that if such store includes a pharmacy (inclusive of the areas that are dedicated to prescription drug storage, dispensing or prescription drug related customer service area) that occupies 30 percent or more of the establishments gross floor area, the store shall be subject to Division 6.10 of the Town Land Development Code and a conditional use approval must be obtained for the pharmacy.

Section 5. Town Code Amended. That Article XXV “BU-1A, Limited Business District,” Section 33-247, “Uses Permitted.” of Chapter 33 “Zoning” of the Code of Ordinances of the Town of Miami Lakes is hereby amended to read as follows:

Sec. 33-247. Uses permitted.

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

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- (22) Grocery stores, provided that if any such establishment includes a pharmacy (inclusive of the areas that are dedicated to prescription drug storage, dispensing or prescription drug related customer service area) that occupies 30 percent or more of the establishment's gross floor area, the establishment shall be subject to Division 6.10 of the Town Land Development Code and a conditional use approval must be obtained for the pharmacy.

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- (40) Supermarkets, provided that if any such establishment includes a pharmacy (inclusive of the areas that are dedicated to prescription drug storage, dispensing or prescription drug related customer service area) that occupies 30 percent or more of the establishment's gross floor area, the establishment shall be subject to Division 6.10 of the Town Land Development Code and a conditional use approval must be obtained for the pharmacy.

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- (45) Variety stores, provided that if any such establishment includes a pharmacy (inclusive of the areas that are dedicated to prescription drug storage, dispensing or prescription drug related customer service area) that occupies 30 percent or more of the establishment's gross floor area, the store shall be subject to Division 6.10 of the Town Land Development Code and a conditional use approval must be obtained for the pharmacy.

Section 6. Town Code Amended. That Article XXVI "BU-2, Special Business District," Section 33-253, "Uses Permitted." of Chapter 33 "Zoning" of the Code of Ordinances of the Town of Miami Lakes is hereby amended to read as follows:

Sec. 33-253. Uses permitted.

No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, occupied or maintained for any purpose in any BU-2 District except for one (1) or more of the following uses:

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- (7) Office parks, provided that the location of a medical office or clinic, medical or dental laboratory, pharmacy or pain management clinic within said office park shall be subject to Division 6.10 of the Town Land Development Code and a conditional use approval must be obtained for a pharmacy or pain management clinic.

* * * * *

- (9) Regional shopping centers, provided that the location of a medical office or clinic, medical or dental laboratory, pharmacy or pain management clinic within said shopping center shall be subject to Division 6.10 of the Town Land Development Code and a conditional use approval must be obtained for a pharmacy or pain management clinic.

Section 7. Town Code Amended. That Article XXIX “IU-1, Industrial, Light Manufacturing District” Section 33-259, “Uses Permitted.” of Chapter 33 “Zoning” of the Code of Ordinances of the Town of Miami Lakes is hereby amended to read as follows:

Sec. 33-259. Uses permitted.

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

* * * * *

(45.1) Medical Office or Clinic, subject to Division 6.10 of the Town Land Development Code.

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- (50) Office Buildings, provided that the location of a medical office or clinic, medical or dental laboratory, or pain management clinic within said Office building shall be subject to Division 6.10 of the Town Land Development Code and a conditional use approval must be obtained for a pain management clinic.

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(54.1) Pharmaceutical storage, subject to compliance with the following conditions:

- (a) That the applicant secure a license from the State of Florida Department of Health and Rehabilitative Services (HRS) for such pharmaceutical storage.
- (b) That the pharmaceutical storage area shall be air conditioned to continuously control temperature and humidity as required by HRS for pharmaceutical products.

- (c) That the premises be secured with a security system as required by HRS for the storage of pharmaceutical products.
- (d) That a declaration of use be provided permitting a building and zoning enforcement officer to enter the premises to conduct inspection to assure compliance.
- (e) That upon compliance with the conditions enumerated above, a certificate of use and occupancy is secured from the Department.
- (f) That controlled substances which are identified in Schedule II, III, or IV in Sections 893.03, 893.035, or 893.0355, Florida Statutes, as may be amended from time to time, shall only be distributed on a wholesale basis to licensed health care practitioners, pharmacists, or other persons duly licensed to purchase or receive such substances in accordance with Florida law.

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- (62) (a) Salesrooms and showrooms, subject to the prohibitions and limitations in Subsection (b), incorporated as a part of a permitted industrial use upon compliance with the following conditions:
 - (1) Any industrial use and its related retail sales/showroom uses in different units or bays within the same building must be under one (1) certificate of use and occupancy, and all areas under one (1) such certificate must be connected by communicating doors between units or bays.
 - (2) Only merchandise which is warehoused, stored, manufactured or assembled on the premises can be sold on a retail basis.
 - (3) The size of retail sales/showroom floor area must be less than fifty (50) percent of the total floor area of the subject premises under a single certificate of use and occupancy. Outside storage areas are to be excluded from consideration in determining the percentage of uses.
 - (4) A solid wall shall separate retail sales/showroom area from the balance of the industrial area which shall prevent public access to the industrial portion of the building. The industrial use area shall not be accessible to the general public.
 - (5) Required parking is to be calculated based upon the floor area assigned to the use classifications within the building in accordance with the provisions of Section 33-124.

- (6) A declaration of use in a form meeting with the approval of the Director shall be submitted to the Department prior to the issuance of a certificate of use and occupancy specifying compliance with the foregoing conditions. Said declaration of use shall include a floor plan for the intended use as required by the Department.
- (b) Subsection (a) above is intended to permit retail salesrooms and showrooms in recognition of the compatibility and reasonableness of incorporating certain retail uses into the other uses permitted in this district. To assure said compatibility and reasonableness, the retail uses hereinafter enumerated, and uses similar thereto, shall be subject to the following additional conditions: (1) the primary and permitted industrial use shall be the manufacture or assembly of the products being offered for sale; and (2) the retail sales area shall not exceed fifteen (15) percent of the total floor area of the subject premises under a single certificate of use and occupancy. The retail uses subject to the conditions of this subsection are:
- (1) Antique and secondhand goods shops.
 - (2) Apparel stores.
 - (3) Art and crafts supplies and finished products.
 - (4) Art galleries.
 - (5) Bait and tackle shop.
 - (6) Bakeries.
 - (7) Bicycle sales, rentals and repairs (nonmotorized).
 - (8) Card shops.
 - (9) Confectionery, ice cream stores and dairy stores.
 - ~~(10) Drugstores.~~
 - (11) Florist shops.
 - (12) Furniture stores less than ten thousand (10,000) square feet.
 - (13) Gift stores.
 - (14) Grocery stores, supermarkets, fruit stores, health food stores, meat

and fish markets and other similar food stores.

- (15) Hardware stores less than ten thousand (10,000) square feet.
- (16) Jewelry stores.
- (17) Leather goods and luggage shops.
- (18) Liquor package stores.
- (19) Optical stores.
- (20) Paint and wallpaper stores less than ten thousand (10,000) square feet.
- (21) Photograph studio and photo supply.
- (22) Pottery shops.
- (23) Shoe stores and shoe repair shops.
- (24) Sporting good stores.
- (25) Tobacco shops.
- (26) Variety stores and junior and major department stores.
- (27) Retail uses, excluding drugstores and pharmacies, determined by the Director to be similar to those enumerated above. In determining similarity between a proposed use and the uses enumerated above the Director shall be guided by the intent of this Subsection (62) and shall consider common characteristics including the nature of products offered for sale, the generation of pedestrian and vehicular traffic, and incompatibility with the primary uses permitted in this district.

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Section 8. Town Code Amended. That Division 6.10 of Article 6 “Supplementary Regulations” of The Town Land Development Code of the Town of Miami Lakes is hereby created to read as follows:

DIVISION 6.10 “MEDICAL OFFICES OR CLINICS, MEDICAL OR DENTAL LABORATORIES, PHARMACIES AND PAIN MANAGEMENT CLINICS”

(a) Medical offices or clinics, medical or dental laboratories, pain management clinics and pharmacies - Medical offices or clinics, medical or dental laboratories, pain management clinics, and pharmacies, as defined in Section 33-1 of the Code, in whatever districts permitted or approved, shall be subject to the following supplemental regulations:

1. On-site dispensing of controlled substances identified in Schedule II, III, or IV in Sections 893.03, 893.035, or 893.0355, Florida Statutes, as may be amended from time to time, is prohibited, unless expressly permitted under Florida Statutes or as follows:

- a. A health care practitioner when administering a controlled substance directly to a patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session only.**
- b. A pharmacist or health care practitioner when administering a controlled substance to a patient or resident receiving care at a hospital, nursing facility, institution or asylum, ambulatory surgical center, or hospice which is licensed in this state.**
- c. A pharmacist or health care practitioner when administering a controlled substance to a patient or resident receiving care at an intermediate care facility for the developmentally disabled which is licensed in this state.**
- d. A health care practitioner when administering a controlled substance in the emergency room of a licensed hospital.**
- ~~e. A health care practitioner when dispensing a one-time, 72-hour emergency resupply of a controlled substance to a patient.~~**
- e. A health care practitioner in connection with a surgical procedure not-to-exceed a fourteen (14) day supply or to be issued no more than fourteen (14) days after the procedure.**
- f. A health care practitioner when dispensing to a patient of a facility licensed under part IV of Chapter 400 Florida Statutes (hospices).**

2. Medical offices or clinics, medical or dental laboratories, and pain management clinics shall, in addition to all other information required by the Town's Code, as part of the certificate of use application, provide a detailed statement of the nature of the proposed practice, inclusive but not limited to information such as type of medicine practiced, hours of operation, number of doctors, licenses of doctors, locations of other branches, if any. Any applicant for a certificate of use for a medical office or clinic, medical or dental laboratory or pain management clinic shall also address the following in writing:

- i. Whether the proposed use is licensed as a facility pursuant to Chapter 395, Florida Statutes; and**
- ii. Whether the majority of the physicians who provide services in the proposed use primarily provide surgical services; and**

- iii. Whether the proposed use is owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million; and
- iv. Whether the proposed use is affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows; and
- v. Whether the proposed use does not prescribe or dispense controlled substances for the treatment of pain; and
- vi. Whether the proposed use is owned by a corporate entity exempt from federal taxation under 26 U.S.C. s. 501(c)(3); and
- vii. Provide proof that he/she has obtained or complied with all required State, County or Local certifications, registrations, licenses or other requirements and all such items are in good standing and are currently valid; and
- viii. Provide the Drug Enforcement Administration number of each physician practicing at the business or under contract with the business and verify that the Drug Enforcement Administration number has never been revoked; and
- ix. Whether the applicant's license to prescribe, dispense or administer controlled substances has ever been denied by any jurisdiction or governmental agency.

The Director shall determine whether or not the proposed medical office or clinic, medical or dental laboratory or pain management clinic shall be classified as a pain management clinic based on the information provided at the time of the application for the certificate of use. A pain management clinic shall be subject to the requirements of Division 6.10(b)

(b) Pain Management Clinics and Pharmacies

1. Conditional Use Approval

- a. All pain management clinic and pharmacy uses shall require conditional use approval, regardless of the underlying zoning designation, pursuant to Division 3.3.
- b. A conditional use approval shall be required prior to any change of ownership or management of any pain management clinic or pharmacy.
- c. Each pain management clinic and pharmacy location shall be approved through the conditional use approval process separately regardless of whether the pain management clinic or pharmacy is operated under the same business name or management as another pain management clinic or pharmacy.
- d. In addition to the conditional use review criteria contained in Division 3.3, the Town shall refer to the criteria for pain management clinics and

pharmacies contained in Section 458.3265 and 459.0137 Florida Statutes, as may be amended from time to time.

2. It is unlawful for any person, persons or business entity to own, operate, maintain, open, establish, conduct, or have charge of, either alone or with another person or persons, a pharmacy which is located within the Town of Miami Lakes if that same person, persons or entity owns, operates, maintains, opens, establishes, conducts or has charge of a pain management clinic that is located within the Town of Miami Lakes.

32. Pain Management Clinics and Pharmacies shall also be subject to Subsection (c) below.

(c) Medical offices or clinics, medical or dental laboratories, pain management clinics, and pharmacies - additional restrictions.

1. *Pharmacies.* Unless approved as a conditional or unusual use pursuant to Section 33-13 of the Code and Division 3.3 of the Town Land Development Code, no pharmacy shall be permitted to locate within the same establishment, within the same shopping center, including any Outparcels, within the same parcel or tract of land, or within 500 feet of another parcel or tract of land, where any medical office or clinic, any medical or dental laboratory or pain management clinic which is staffed by a Prescribing Practitioner, is located.

2. *Medical or Dental Laboratories and Pain Management Clinics.* Unless approved as a conditional or unusual use pursuant to Section 33-13 of the Code and Division 3.3 of the Town Land Development Code, no medical or dental laboratory or pain management clinic, which is staffed by a Prescribing Practitioner, shall be permitted to locate within the same establishment, within the same shopping center, including any Outparcels, within the same parcel or tract of land, or within 500 feet of another parcel or tract of land where any pharmacy is located. Unless approved as a conditional or unusual use pursuant to Section 33-13 of the Code and Division 3.3 of the Town Land Development Code, no pain management clinic shall be permitted to locate within the same establishment, within the same shopping center, including any Outparcels, within the same parcel or tract of land, or within 500 feet of another parcel or tract of land, where any other pain management clinic is located.

3. The foregoing location restrictions shall not apply to pharmacies or medical offices or clinics, or medical or dental laboratories, for which an application for a business tax receipt has been submitted prior to the date of adoption of this Ordinance.

4. Notwithstanding subsection 3. above, any pharmacy, ~~or~~ pain management clinic, medical office or clinic, or medical or dental laboratory, regardless of the date of commencement of business, shall register with the Town within six months of the

date of this ordinance and maintain an annual registration with the Town. Prior to the change of ownership or management of an existing pharmacy or pain management clinic, a conditional use approval as specified in Division 6.10(b)1.b. shall be required. The information required as part of the registration shall include the following:

- i. Whether the existing use is licensed as a facility pursuant to Chapter 395, Florida Statutes; and
- ii. Whether the majority of the physicians who provide services in the proposed use primarily provide surgical services; and
- iii. Whether the proposed use is owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million; and
- iv. Whether the proposed use is affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows; and
- v. Whether the proposed use does not prescribe or dispense controlled substances for the treatment of pain; and
- vi. Whether the proposed use is owned by a corporate entity exempt from federal taxation under 26 U.S.C. s. 501(c)(3); and
- vii. Provide proof that he/she has obtained or complied with all required State, County or Local certifications, registrations, licenses or other requirements and all such items are in good standing and are currently valid; and
- viii. Provide the Drug Enforcement Administration number of each physician practicing at the business or under contract with the business and verify that the Drug Enforcement Administration number has never been revoked; and
- ix. Whether the applicant's license to prescribe, dispense or administer controlled substances has ever been denied by any jurisdiction or governmental agency.

5. These supplemental regulations are not to be interpreted to limit the lawful operation of a hospital or institution or asylum separately defined and permitted in zoning districts according to separate regulations.

6. All medical office or clinics, medical or dental laboratories, pain management clinics and pharmacies shall be subject to all applicable requirements of state and federal law.

Section 9. Repeal of Conflicting Provisions. All provisions of the Code of the Town of

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

Section 10. 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 11. 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 become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

Section 12. Effective Date. That this Ordinance shall be effective immediately upon its adoption on second reading.

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

Mayor Michael Pizzi	yes
Vice-Mayor Nick Perdomo	yes
Councilmember Mary Collins	yes
Councilmember Tim Daubert	yes
Councilmember Nelson Fernandez	yes
Councilmember Ceasar Mestre	yes
Councilmember Richard Pulido	yes

PASSED AND ADOPTED on first reading this 12th day of April, 2011.

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

Mayor Michael Pizzi	yes
Vice-Mayor Nick Perdomo	yes
Councilmember Mary Collins	yes
Councilmember Tim Daubert	yes
Councilmember Nelson Hernandez	yes
Councilmember Ceasar Mestre	yes
Councilmember Richard Pulido	yes

PASSED AND ADOPTED on second reading this 10th day of May, 2011.



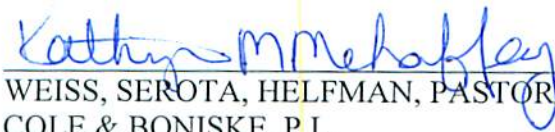
MICHAEL PIZZI
MAYOR

ATTEST:



MARJORIE TEJEDA
TOWN CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF MIAMI LAKES ONLY:



WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
TOWN ATTORNEY