

Residential Use Incentives - Comprehensive Plan Amendment

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY OF MIAMI BEACH YEAR 2040 COMPREHENSIVE PLAN, PURSUANT TO THE EXPEDITED STATE REVIEW PROCESS OF SECTION 163.3184(3), FLORIDA STATUTES, BY AMENDING THE "RESILIENT LAND USE & DEVELOPMENT ELEMENT," GOAL RLU 1, ENTITLED "LAND USE," OBJECTIVE RLU 1.1, ENTITLED "ESTABLISHMENT OF FUTURE LAND USE CATEGORIES" AT TABLE RLU 1.1 TO PROVIDE CONSISTENCY WITH FLOOR AREA RATIO (F.A.R.) REGULATIONS; AT POLICY RLU 1.1.5, ENTITLED "LOW DENSITY MULTI FAMILY RESIDENTIAL (RM-1)," TO PROVIDE FAR INCENTIVES TO ENCOURAGE THE CONVERSION OF LEGALLY ESTABLISHED TRANSIENT USES TO RESIDENTIAL USES IN THE "WEST AVENUE BAYFRONT OVERLAY"; BY AMENDING POLICY RLU 1.1.6 ENTITLED "MEDIUM DENSITY MULTI FAMILY RESIDENTIAL (RM-2)," TO PROVIDE FAR INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES LOCATED IN THE "MID BEACH RESIDENTIAL USE INCENTIVE AREA," AND TO PROVIDE FAR INCENTIVES TO ENCOURAGE THE CONVERSION OF LEGALLY ESTABLISHED TRANSIENT USES TO RESIDENTIAL USES IN THE "WEST AVENUE BAYFRONT OVERLAY"; BY AMENDING POLICY RLU 1.1.7 ENTITLED "HIGH DENSITY MULTI FAMILY RESIDENTIAL (RM-3)," TO PROVIDE FAR INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES LOCATED IN THE "MID BEACH RESIDENTIAL USE INCENTIVE AREA"; BY AMENDING POLICY 1.1.25, ENTITLED "HIGH DENSITY RESIDENTIAL PERFORMANCE STANDARD (R-PS-4)," TO PROVIDE FAR INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES; BY AMENDING OBJECTIVE 1.2, ENTITLED "LAND USE REGULATION," TO ESTABLISH POLICY 1.2.8, ENTITLED "RESIDENTIAL USE INCENTIVES," TO PROVIDE MINIMUM STANDARDS FOR OBTAINING THE FAR INCENTIVES SET FORTH IN THIS ORDINANCE; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, TRANSMITTAL AND AN EFFECTIVE DATE.

WHEREAS, the 2010 US Census indicated that the City of Miami Beach had a population of 87,779; and

WHEREAS, the 2020 US Census indicated that the City of Miami Beach had a population of 82,890; and

WHEREAS, between 2010 and 2020, the City of Miami Beach lost a net total of 4,889 residents; and

WHEREAS, the July 2022 Census American Community Survey estimates that the City of Miami Beach has a population of 80,017, reflecting a further loss of 2,873 residents since the 2020 Census; and

WHEREAS, the City finds the loss of permanent residents may have had a negative impact on the quality of life of remaining residents, by encouraging more traffic congestion due to the need for employees to commute longer distances to employment centers within the City; and

WHEREAS, the loss of residents is partially due to the conversion of residential units to short-term rentals or other transient units; and

WHEREAS, the introduction of transient units in predominantly residential areas has created nuisances for residents and often prevents the quiet enjoyment of their residences; and

WHEREAS, Section 509.032, Florida Statutes provides that *“A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011”*; and

WHEREAS, per Section 509.032, Florida Statutes, the City of Miami Beach cannot prohibit the short-term rental of residential units in areas where they were not prohibited prior to June 1, 2011; and

WHEREAS, the City seeks to establish incentives in order to encourage residential development that will not be used for short-term rentals or other transient uses in order to encourage the growth of the permanent resident population; and

WHEREAS, the City has the authority to enact laws that promote the public health, safety, and general welfare of its citizens; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. The following amendments to the City’s 2040 Comprehensive Plan Resilient Land Use & Development Element are hereby adopted:

RESILIENT LAND USE & DEVELOPMENT ELEMENT

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GOAL RLU 1: LAND USE

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OBJECTIVE RLU 1.1 Establishment of Future Land Use Categories

The City hereby adopts future land use map categories to provide for an efficient distribution and compatible pattern of land uses, and to maintain and enhance the character of the community.

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Table RLU 1.1

The following table is a reference guide that depicts the policy number, and maximum densities and intensities for each future land use map (FLUM) category.

(* = Refer to policy for limits)

FLUM Category	Density Limits (Units Per Acre)	Intensity Limits (Floor Area Ratio)	Reference (Policy #)
Single Family Residential (RS)	7 units per acre	*	RLU 1.1.1
Townhouse Residential (TH)	30 units per acre	0.7	RLU 1.1.2
Fisher Island Low Density Planned Residential (RM-PRD)	25 units per acre	1.6	RLU 1.1.3
Allison Island Low Density Planned Residential Category (RM-PRD-2)	25 units per acre	1.45	RLU 1.1.4
Low Density Multi Family Residential (RM-1)	60 units per acre	1.25*	RLU 1.1.5
Medium Density Multi Family Residential (RM-2)	100 units per acre	2.0*	RLU 1.1.6
High Density Multi Family Residential (RM-3)	150 units per acre	2.25*	RLU 1.1.7
Medium-Low Density Residential Performance Standard (R-PS-1)	57 units per acre	1.25	RLU 1.1.22
Medium Density Residential Performance Standard (R-PS-2)	70 units per acre	1.5	RLU 1.1.23
Medium-High Density Residential Performance Standard (R-PS-3)	85 units per acre	1.75	RLU 1.1.24
High Density Residential Performance Standard (R-PS-4)	102 units per acre	2.0*	RLU 1.1.25
Low Intensity Commercial (CD-1)	60 units per acre	1.0*	RLU 1.1.8
Medium Intensity Commercial (CD-2)	100 units per acre	1.5*	RLU 1.1.9
High Intensity Commercial (CD-3)	150 units per acre	2.0*	RLU 1.1.10
Urban Light Industrial (I-1)	N/A	1.0	RLU 1.1.21

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POLICY RLU 1.1.5 LOW DENSITY MULTI FAMILY RESIDENTIAL (RM-1)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium density multi-family residential areas.

Uses which may be permitted: Single family detached dwellings; single family attached dwellings, townhouse dwellings and multiple family dwellings, and hotels for properties fronting Harding Avenue or Collins Avenue from the City Line on the north to 73rd Street on the south.

Non-conforming buildings containing non-conforming hotel uses, located on the north side of Belle Isle, and not within a local historic district, may be reconstructed to a maximum of 50% of the floor

area of the existing building, provided that the uses contained within the hotel are not expanded in any way, including but not limited to, the number of hotel units and accessory food and beverage uses, the non-conformity of the building is lessened, and required parking for the surrounding neighborhoods with a minimum reduction of 50% of the daily trips on adjacent, two lane, arterial roadways, and improving the resiliency of the building.

Bed and breakfast inns are permitted in RM-1 only in the Flamingo Park Historic District and the West Avenue Bay-Front Overlay District, both of which are described in the Land Development Regulations. Within the RM-1 future land use category, and only in the Flamingo Park Historic District, apartment hotels, hotels, and suite hotels are permitted for properties abutting Lincoln Lane South, between Drexel Avenue and Lenox Avenue. Residential office and suite hotel uses are permitted in the West Avenue Bay Front Overlay District only. Hotels, apartment hotels, and suite hotels are permitted on properties located north of Normandy Drive, having a lot area greater than 30,000 square feet, which are individually designated as an historic site, as described in the Land Development Regulations.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 60 dwellings units per acre.

Intensity Limits: Intensity may be limited by such set back, height, floor area ratio and/or other restrictions as the City Commission acting in a legislative capacity determines can effectuate the purpose of this land use category and otherwise implement complementary public policy. However, in no case shall the intensity exceed a floor area ratio of 1.25, except for the following:

- the west side of Collins Avenue between 76th and 79th Streets shall not exceed a floor area ratio of 1.4; and
- Public and private institutions on a lot area equal to or less than 15,000 sq. ft shall not exceed a floor area ratio of 1.25, or for a lot area greater than 15,000 sq. ft. the floor area ratio shall not exceed 1.4.
- For a legally established, conforming or non-conforming, bed and breakfast inn, hotel, apartment hotel, suite hotel, or hostel located in the West Avenue Bayfront Overlay District that is converted to a conforming residential apartment use, and in compliance with the requirements for Residential Use Incentives in Policy RLU 1.2.8, the floor area ratio shall not exceed 1.6.

POLICY RLU 1.1.6 MEDIUM DENSITY MULTI FAMILY RESIDENTIAL (RM-2)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium density multi-family residential areas.

Uses which may be permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, multiple family dwellings, apartment hotels and hotels. Residential office uses are permitted in RM-2 only in the West Avenue Bay-Front Overlay District, as described in

the Land Development Regulations. Places of assembly, restaurant, retail, and general office uses are main permitted uses in the Faena District Overlay as set forth in the Land Development Regulations.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 100 dwelling units per acre.

Intensity Limits: Intensity may be limited by such set back, height, floor area ratio and/or other restrictions as the City Commission acting in a legislative capacity determines can effectuate the purpose of this land use category and otherwise implement complementary public policy. However, in no case shall the intensity exceed a floor area ratio of 2.0, except as follows:

- For a legally established, conforming or non-conforming, bed and breakfast inn, hotel, apartment hotel, suite hotel, or hostel located in the West Avenue Bayfront Overlay District that is converted to a conforming residential apartment use, and in compliance with the Residential Use Incentive requirements in Policy RLU 1.2.8, the floor area ratio shall not exceed 2.5.
- For developments located in the Mid Beach Residential Use Incentive Area, as described in the Land Development Regulations, that comply with the requirements for Residential Use Incentives in Policy RLU 1.2.8, the floor area ratio shall not exceed 2.3.

POLICY RLU 1.1.7 HIGH DENSITY MULTI FAMILY RESIDENTIAL (RM-3)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new high density multi-family residential and hotel areas.

Uses which may be permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, multiple family dwellings, apartment hotels and hotels.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 150 dwelling units per acre.

Intensity Limits: Intensity may be limited by such set back, height, floor area ratio and/or other restrictions as the City Commission acting in a legislative capacity determines can effectuate the purpose of this land use category and otherwise implement complementary public policy. However, in no case shall the intensity exceed the following:

- a floor area ratio of 2.25 on lot area equal to or less than 45,000 sq. ft.;
- a floor area ratio of 2.75 on lot area greater than 45,000 sq. ft.;
- a floor area ratio 3.0 on oceanfront lots with lot area greater than 45,000 sq. ft.;
- a floor area ratio of 2.0 on oceanfront lots in architectural district;
- a floor area ratio of 3.0 for lots which, as of November 14, 1998, are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, however, the lesser of an additional floor area ratio of 0.15 or 20,000 sq. ft. for the purpose of providing hotel amenities.
- For developments located in the Mid Beach Residential Use Incentive Area, as described in the Land Development Regulations, that comply with the requirements for Residential Use Incentives in Policy RLU 1.2.8, the floor area ratio shall not exceed the following:
 - a floor area ratio of 2.6 on lots with a lot area equal to or less than 45,000 sq. ft.;
 - a floor area ratio of 3.2 on lots with a lot area greater than 45,000 sq. ft.;
 - a floor area ratio 3.5 on oceanfront lots with lot area greater than 45,000 sq. ft.;

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POLICY RLU 1.1.25 HIGH DENSITY RESIDENTIAL PERFORMANCE STANDARD (R-PS-4)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, apartment hotels, hotels and institutional uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 102 dwelling units per acre.

Intensity Floor Area Ratio Limits: 2.0, except as follows:

- For developments that comply with the requirements for Residential Use Incentives in Policy RLU 1.2.8, the floor area ratio shall not exceed 2.25.
- Notwithstanding the foregoing FAR limitations, fFor properties with a main use of hotel as of January 1, 2022 within the R-PS-4 land use category, the City Commission may adopt Land Development Regulations to increase the maximum FAR to 2.75 as a voluntary development incentive, subject to the property owner's voluntary agreement to strictly comply with the following conditions:

1. The main use on the property shall be converted to residential and shall remain residential in perpetuity; hostel, hotel, apartment-hotel, and suite-hotel use shall be prohibited.
2. A new structure, consisting solely of main-use residential and allowable accessory uses, may be constructed, in accordance with all applicable development regulations with a maximum FAR of 2.75. Alternatively, the entire existing building may be converted to main-use residential and allowable accessory uses, including any repairs, alterations and modifications that may exceed the 50% rule in the Land Development Regulations, provided any alterations and modifications do not result in the building exceeding an FAR of 2.75.
3. A property shall only be eligible for the FAR incentive set forth in this section, not to exceed a total FAR of 2.75, if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney, affirming that, in perpetuity, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.

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OBJECTIVE RLU 1.2: LAND USE REGULATION

Future growth and development, redevelopment and rehabilitation will be managed through the preparation, adoption, implementation, and enforcement of land development regulations (LDR) consistent with the Comprehensive Plan and with s.163.3202, F.S.

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POLICY 1.2.8 RESIDENTIAL USE INCENTIVES

These provisions are hereby adopted to provide voluntary zoning incentives for non-transient residential development. Where authorized in the underlying future land use category, and in accordance with all applicable regulations set forth in the Comprehensive Plan and Land Development Regulations, residential developments consisting solely of non-transient residential units and allowable accessory uses shall be eligible for applicable incentives set forth in such future land use category, subject to the following conditions:

1. **Lodging Use Conversion and Prohibition.** In order to be eligible for the residential use incentives, the property shall be required to fully vacate any and all existing transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel, or rooming house. Such transient uses shall be prohibited throughout the development and at all times, in order to maintain the residential use incentives authorized for the applicable future land use category.
2. **Short Term Rental Conversion and Prohibition.** In order to be eligible for the voluntary residential use incentives authorized for the applicable future land use category, the property owner(s) shall first be required to vacate any and all existing approvals for the short-term rental of any apartment units on the property.
3. **Covenant.** As a condition of eligibility for the voluntary residential use incentives authorized for the applicable future land use category, the property owner(s) shall first be required to execute a restrictive covenant running with the land, in a form approved by the

city attorney, affirming that throughout the building and at all times, no residential units on the property shall be leased or rented for a period of less than six months and one day, and that no transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house, shall be permitted on the property.

SECTION 2. CODIFICATION.

It is the intention of the City Commission that this Ordinance be entered into the Comprehensive Plan of the City of Miami Beach, FL, and it is hereby ordained that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. TRANSMITTAL.

The Planning Director is hereby directed to transmit this ordinance to the appropriate state, regional, and county agencies as required by applicable law.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect until 31 days after the state land planning agency notifies the City that the plan amendment package is complete following adoption, pursuant to Section 163.3184(3), Florida Statutes.

PASSED and ADOPTED this ____ day of _____, 2024.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado
City Clerk

First Reading: June 26, 2024
Second Reading: October 30, 2024

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

 6/17/2024
City Attorney NK Date

Verified by: _____
Thomas R. Mooney, AICP
Planning Director