

**R-PS4 Height Incentive for Conversion from Hotel to Residential Use**

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

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, AT CHAPTER 7, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," AT DIVISION 15, "PERFORMANCE STANDARD DISTRICT (PS)," SECTION 7.2.15.2, "RESIDENTIAL PERFORMANCE STANDARD DISTRICTS (R-PS)," TO PROVIDE HEIGHT INCENTIVES TO ENCOURAGE THE REDEVELOPMENT OF HOTELS ON PROPERTIES ZONED R-PS4 INTO RESIDENTIAL STRUCTURES BY PROVIDING SUCH PROPERTIES WITH A HEIGHT BONUS IF THE APPLICANT VOLUNTARILY COVENANTS THAT NO TRANSIENT USES OR SHORT-TERM RENTALS SHALL BE PERMITTED ON THE PROPERTY; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the predominant zoning classification for the South of Fifth neighborhood is RPS, Residential Performance Standard Zoning, which is designed to encourage primarily residential uses, except for limited commercial zoning along the perimeter of the neighborhood; and

**WHEREAS**, the South of Fifth Neighborhood has developed over the past 30 years as an attractive pedestrian-friendly residential neighborhood; and

**WHEREAS**, in recent years, the increase in transient uses has adversely impacted residents' quality of life in the neighborhood; and

**WHEREAS**, the South of Fifth residential community wishes to transition existing hotel uses to residential uses to minimize impacts of transient uses on the community; and

**WHEREAS**, on November 8, 2022, and pursuant to Resolution No. 2022-32255, over 65 percent of City voters approved the .75 FAR incentive for the residential conversion of redevelopment of existing hotels, which is currently codified in section 7.2.15.2 (f) of the Resiliency Code; and

**WHEREAS**, the intent of the codified FAR incentive is to encourage existing hotels and transient uses in the R-PS4 zoning district to transition to residential uses that are compatible with the South of Fifth Neighborhood; and

**WHEREAS**, the existing FAR incentive is practically unusable on qualifying properties because of existing historic buildings and setback regulations; and

**WHEREAS**, to fully implement the FAR incentive and fulfill its intended purpose of incentivizing owners of transient uses to transition to residential uses, additional height is needed to accommodate the extra floor area; 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.** Chapter 7, "Zoning Districts and Regulations," Article II, "District Regulations," Division 15, "Performance Standard District (PS)," of the Resiliency Code of the City of Miami Beach is hereby amended as follows:

**CHAPTER 7  
ZONING DISTRICTS AND REGULATIONS**

\* \* \*  
**ARTICLE II. DISTRICT REGULATIONS**

\* \* \*  
**7.2.15 PERFORMANCE STANDARD DISTRICT (PS)**

\* \* \*  
**7.2.15.2 Residential Performance Standards Districts**

\* \* \*

f. Residential Performance Standard Area Requirements (R-PS)

The development standards for residential performance standard districts are as follows:

\* \* \*

BUILDING SETBACKS				
Front Setback (feet) ④	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean	5 feet			
Pedestal	5 feet (1) (2)			
Tower	50 feet		60 feet – within the Ocean Beach Historic District (however, for residential apartment structures seeking approval under section 7.2.15.2.f.3 below, the tower setback shall be determined by the historic preservation board.) (3)	
Side, Facing a Street Setback (feet) ⑤	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean	5 feet			
Pedestal	5 feet (1)			
Tower	The required pedestal setback plus 10% the height of the building. (3)			
Side, Interior Setback (feet) ⑥	R-PS1	R-PS2	R-PS3	R-PS4

Subterranean	7.5 feet - except when (4) below applies. 5 feet - Lots 50 feet wide or less			
Pedestal	15 feet - on lots greater than 50 feet in width - for any portion of the pedestal above 35 feet in height - (for residential apartment structures seeking approval under section 7.2.15.2.f.3 below) (4)			
Tower	The required pedestal setback plus 10% the height of the building 15 feet - for residential apartment structures seeking approval under section 7.2.15.2.f.3 below (3)			
Rear Setback (feet) ①	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean	10% of lot depth – Nonoceanfront lots			
Pedestal	20% of lot depth, 50 feet minimum from bulkhead line – Oceanfront Lots			
Tower	15% of lot depth – Nonoceanfront lots 25% of lot depth, 75 feet minimum from bulkhead line – Oceanfront lots however, for residential apartment structures seeking approval under section 7.2.15.2.f.3 below, the tower setback shall be the same as the pedestal setback. (3)			

\* \* \*

- (1) All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and pedestal side yard facing a street setback which shall be considered as both minimum and maximum requirements.
- (2) For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of 3 square feet for every linear foot of lot frontage.
- (3) In the R-PS4 zoning district, within the Ocean Beach historic district, the tower portion of ground-floor additions to contributing buildings shall meet a line-of-sight, which for the purpose of this section is defined as not visible when viewed at eye-level (5 feet and 6 inches from grade) from the opposite side of the adjacent right-of-way.
- (4) In the R-PS4 zoning district within the Ocean Beach historic district, when an existing contributing structure has a minimum 5-foot side yard setback, the setback of new construction in connection with the existing building may be allowed to follow the existing building line. The maintenance of the existing setback shall apply to the linear extension of the existing building. Notwithstanding the above, for residential apartment structures seeking approval for the voluntary FAR and height incentive under section 7.2.15.2.f.4 below, with a building height of over 100 feet, the minimum pedestal side setback shall be 7.5 feet for any portion of the pedestal below 35 feet in height and shall be 15 feet for any portion of the pedestal above 35 feet in height.

\* \* \*

4. *Voluntary FAR and height incentive for conversion from hotel to residential use.* Notwithstanding the foregoing FAR and height limitations, for a property with a main use of hotel as of January 1, 2022, which, as built, exceeds an FAR of 2.0 and is located within the R-PS4 zoning district, the maximum FAR may be increased to 2.75 and the maximum height may be increased to 145 feet as a voluntary development incentive, subject to the property owner's voluntary agreement to strictly comply with the following conditions:

- A. 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.
- B. 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 and maximum height of 145 feet. 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 (as set forth in Section 2.12.7 and Section 2.12.8), provided any alterations and modifications do not result in the building exceeding an FAR of 2.75.
- C. A property shall only be eligible for the FAR and height incentives set forth in ~~the~~ this subsection, not to exceed a total FAR of 2.75 and a total height of 145 feet, if the property owner's 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.
- D. Any existing contributing building shall be retained in a manner reviewed and approved by the Historic Preservation Board.
- E. There shall be no variances from ~~the~~ this subsection ~~(e)~~ (f)(4).

## **SECTION 2. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Resiliency Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and 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. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Steven Meiner, Mayor

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado  
City Clerk

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney NK

8/22/2024  
\_\_\_\_\_  
Date

First Reading: September 11, 2024  
Second Reading: October 30, 2024

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director