

Washington Avenue Residential Plan - 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; BY AMENDING POLICY RLU 1.1.6, ENTITLED “MEDIUM DENSITY MULTI FAMILY RESIDENTIAL (RM-2),” TO PROVIDE FAR AND DENSITY INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF NON-TRANSIENT RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO NON-TRANSIENT RESIDENTIAL USES FOR APPLICABLE PROPERTIES LOCATED ON WASHINGTON AVENUE; BY AMENDING POLICY RLU 1.1.9, ENTITLED “MEDIUM INTENSITY COMMERCIAL (CD-2),” TO PROVIDE FAR AND DENSITY INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF NON-TRANSIENT RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO NON-TRANSIENT RESIDENTIAL USES FOR APPLICABLE PROPERTIES LOCATED ON WASHINGTON AVENUE; BY AMENDING POLICY RLU 1.1.10, ENTITLED “HIGH INTENSITY COMMERCIAL (CD-3),” TO PROVIDE FAR AND DENSITY INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF NON-TRANSIENT RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO NON-TRANSIENT RESIDENTIAL USES FOR APPLICABLE PROPERTIES LOCATED ON WASHINGTON AVENUE; BY AMENDING POLICY RLU 1.1.28, ENTITLED “GENERAL MIXED USE COMMERCIAL PERFORMANCE STANDARD (C-PS2),” TO PROVIDE FAR AND DENSITY INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF NON-TRANSIENT RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO NON-TRANSIENT RESIDENTIAL USES FOR APPLICABLE PROPERTIES LOCATED ON WASHINGTON AVENUE; 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 AND DENSITY 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 #)
*	*	*	*
Medium Density Multi Family Residential (RM-2)	<del>400</del> <u>175</u> * units per acre	<del>2.0</del> <u>4.0</u> *	RLU 1.1.6
*	*	*	*
Medium Intensity Commercial (CD-2)	<del>400</del> <u>175</u> * units per acre	<del>4.5</del> <u>4.0</u> *	RLU 1.1.9
High Intensity Commercial (CD-3)	<del>450</del> <u>175</u> units per acre	<del>2.0</del> <u>4.0</u> *	RLU 1.1.10
*	*	*	*
General Mixed Use Commercial Performance Standard (C-PS2)	<del>406</del> <u>175</u> * units per acre	<del>2.0</del> <u>4.0</u> *	RLU 1.1.28

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### **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, except as follows:

- For developments located on Washington Avenue between 6<sup>th</sup> Street and 7<sup>th</sup> Street, as described in the Land Development Regulations, that comply with the requirements for

Residential Use Incentives in Policy RLU 1.2.8, the maximum density shall not exceed 175 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 developments located on Washington Avenue between 6<sup>th</sup> Street and 7<sup>th</sup> Street, 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 4.0.

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### **POLICY RLU 1.1.9 MEDIUM INTENSITY COMMERCIAL (CD-2)**

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium intensity commercial areas which serve the entire City.

Uses which may be Permitted: Various types of commercial uses including business and professional offices, retail sales and service establishments, eating and drinking establishments; apartment residential uses; 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: 100 dwelling units per acre, except as follows:

- For developments located on Washington Avenue between 6<sup>th</sup> Street and 7<sup>th</sup> Street, as described in the Land Development Regulations, that comply with the requirements for Residential Use Incentives in Policy RLU 1.2.8, the maximum density shall not exceed 175 dwelling units per acre.

Intensity Limits: a floor area ratio of 1.5 for commercial; 2.0 for residential or mixed use-, except as follows:

- For developments located on Washington Avenue between 6<sup>th</sup> Street and 16<sup>th</sup> Street. 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 4.0.

### **POLICY RLU 1.1.10 HIGH INTENSITY COMMERCIAL (CD-3)**

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium intensity commercial areas which primarily serve the entire City.

Uses which may be permitted: Various types of commercial uses including business and professional offices, retail sales and service establishments, eating and drinking establishments;

apartment residential uses; 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:

- 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;
- for developments located on Washington Avenue between 16<sup>th</sup> Street and 17<sup>th</sup> street. 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 4.0.

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#### **POLICY RLU 1.1.28 GENERAL MIXED USE COMMERCIAL PERFORMANCE STANDARD (C-PS-2)**

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 commercial 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: 106 dwelling units per acre, except as follows:

- For developments located on Washington Avenue between 6<sup>th</sup> Street and 7<sup>th</sup> Street, as described in the Land Development Regulations, that comply with the requirements for Residential Use Incentives in Policy RLU 1.2.8, the maximum density shall not exceed 175 dwelling units per acre.

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

- For developments located on Washington Avenue between 5<sup>th</sup> Street and 6<sup>th</sup> Street. 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 4.0.

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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** \_\_\_\_\_.

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Steven Meiner, Mayor

**ATTEST:**

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

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

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

\_\_\_\_\_  
Date

First Reading:  
Second Reading:

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