

**C-PS2 Development Regulations - 6th Street Overlay**

**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, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS, ARTICLE II, ENTITLED “DISTRICT REGULATIONS,” SECTION 7.2.15, ENTITLED “PS PERFORMANCE STANDARD DISTRICT,” AT SUB-SECTION 7.2.15.3, ENTITLED “COMMERCIAL PERFORMANCE STANDARDS DISTRICTS (C-PS), TO AMEND THE PERMITTED USES AND THE MAXIMUM PERMITTED HEIGHT WITHIN THE C-PS2 ZONING DISTRICT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE**

**WHEREAS**, the properties located on the south side of 6<sup>th</sup> Street that area east of Lenox Avenue are located in the Flamingo Park Historic district.

**WHEREAS**, residents of the Flamingo Park Historic District have expressed concerns with recent development trends along 6<sup>th</sup> Street that have impacted their neighborhood; and

**WHEREAS**, 5<sup>th</sup> Street has been designated as a transit corridor by the Miami-Dade County SMART plan; and

**WHEREAS**, the proposed “6<sup>th</sup> Street Overlay” is intended to provide an appropriate transition between the higher intensity 5<sup>th</sup> Street commercial corridor and the Flamingo Park Historic District residential neighborhood on the north side of 6<sup>th</sup> Street, while still allowing for new development to take place; and

**WHEREAS**, the proposed “6<sup>th</sup> Street Overlay” is intended to minimize the impact of certain commercial uses on nearby residential areas; and

**WHEREAS**, these regulations will ensure that the public health, safety, welfare, and morals will be preserved; and

**WHEREAS**, the amendments set forth below are necessary to accomplish 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, entitled “Zoning Districts And Regulations, Article II, entitled “District Regulations,” Section 7.2.15, entitled “PS Performance Standard District,” at Sub-Section 7.2.15.3 of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

**7.2.15.3 Commercial Performance Standards Districts (C-PS)**

**a. Purpose (C-PS)**

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## b. Uses (C-PS)

*Uses permitted by right, uses permitted by conditional use permit and uses not permitted.*

No building, structure or land shall be used or occupied except as a main permitted use, a conditional use, or an accessory use to a main permitted use, in accordance with the table and text of permitted uses. A use in any district denoted by the letter "P" is a use permitted by right in such district or subdistrict, provided that all requirements and performance standards applicable to such uses have been met. A use in any district denoted by the letter "C" is permissible as a conditional use in such district or subdistrict, provided that all requirements and performance standards applicable to such use have been met and provided that all requirements of Section 2.5.2, have been met. A use in any district denoted by the letter "Pro," or specifically listed as a use not permitted in the text of Section 7.2.15.2.b, is not permitted in such district or subdistrict. Uses permitted by right, as a conditional use, or as an accessory use shall be subject to all use regulations and performance standards contained herein and to such other regulations as may be applicable, including site plan review and design review. Uses not listed in the table of permitted uses are not permitted in the district or subdistrict. Notwithstanding any provision of this section, no use is permitted on a parcel, whether listed by right, as a conditional use or as an accessory use in such district, unless it can be located on such parcel in full compliance with all of the performance standards and other requirements of these land development regulations applicable to the specific use and parcel in question.

The following uses are permitted in the commercial performance standard districts:

<b>USES TABLE (C-PS)</b>	
	<b>C-PS 1, 2, 3, 4</b>
<b>RESIDENTIAL</b>	
Single-family	P
Townhome	P
Apartment	P
<b>LODGING</b>	
Apartment hotel pursuant to Section 7.5.4.5	P*
Hotel pursuant to Section 7.5.4.5	P*
Suite hotels pursuant to Section 7.5.4.5	P*
Hostel pursuant to Section 7.5.4.5	Pro in C-PS1 and C-PS2 P in C-PS3 and C-PS4
<b>OFFICE</b>	
<b>COMMERCIAL</b>	
Commercial	P
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is located on a property that is abutting a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.	Pro in C-PS1, C-PS2, C-PS3 and C-PS4. A in CPS-4 North of 5th Street only.
Kennel	P in C-PS2 and C-PS4 Pro in C-PS1 and C-PS3

USES TABLE (C-PS)	
Entertainment establishments	Pro P for properties fronting directly on <u>Washington Avenue as of January 1, 2022 and located north of Fifth Street*</u>
Outdoor entertainment establishments	Pro C for properties fronting directly on <u>Washington Avenue as of January 1, 2022 and located north of Fifth Street*</u>
Open air entertainment establishments	Pro C for properties fronting directly on <u>Washington Avenue as of January 1, 2022 and located north of Fifth Street*</u>
Pawnshops	Pro*
Dance Halls	Pro*
Neighborhood Impact Structure	C*
Gambling and casinos pursuant to section 7.1.8	Pro
Rentals or leases of mopeds, motorcycles, and motorized bicycles pursuant to section 7.1.8	Pro
<u>Rentals or leases of any motor vehicle not described in section 7.1.8</u>	Pro on properties located north of <u>5<sup>th</sup> Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district</u> P elsewhere
<u>Sale of any motor vehicle, including, but not limited to, automobiles, golf carts, low-speed vehicles, mopeds, motorcycles, motorized bicycles, motorized scooters, and others described in section 7.1.8</u>	Pro on properties located north of <u>5<sup>th</sup> Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district</u> P elsewhere
Convenience stores	Pro on properties located south of <u>5<sup>th</sup> Street and located north of 5<sup>th</sup> Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district</u> P elsewhere
Tobacco/vape dealers pursuant to section 7.5.5.9	Pro on properties located south of <u>5<sup>th</sup> Street and located north of 5<sup>th</sup> Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district</u> P elsewhere

USES TABLE (C-PS)	
Liquor store and the retail sale of alcohol for off-premises consumption	Pro on properties located south of 5 <sup>th</sup> Street <u>and located north of 5<sup>th</sup> Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district</u> P elsewhere
Neighborhood and Retail Fulfillment Centers pursuant to section 7.1.8	Pro
CIVIC	
Institutional	C
Religious Institutions with occupancy of 199 persons or less	P
Religious Institutions with occupancy of more than 199 persons	C
CIVIL SUPPORT	
EDUCATIONAL	
INDUSTRIAL	
Industrial Uses	Pro
OTHER	
Neighborhood impact establishments	C
Commercial and Non-Commercial Parking Lots and Garages	C
<b>Key</b> P—Main Permitted Use C—Conditional use A — Accessory use Pro—Prohibited Use *See Supplemental Use Regulations Below	

#### c. Supplemental Use Regulations (C-PS)

- i. For purposes of this section, a car wash, filling station and any use that sells gasoline, automobiles or automotive or related repair uses are considered as industrial uses and are not permitted within any C-PS district.
- ii. For purposes of this section, pawnshops, ~~dance halls, outdoor entertainment establishments, open air entertainment establishments and entertainment establishments~~ are not permitted as main permitted or accessory use within any C-PS district.
- iii. For purposes of this section, dance halls and entertainment establishments, including outdoor entertainment establishments and open air entertainment establishments, shall not be permitted as a main permitted or accessory use within any R-PS or C-PS district,

except for properties fronting directly on Washington Avenue as of January 1, 2022 and located north of Fifth Street.

- iv. Commercial and noncommercial parking lots and garages shall be considered as a conditional use in all C-PS districts.
- v. Neighborhood Impact Structure in the C-PS1, 2, 3, and 4 districts (even when divided by a district boundary line) shall be considered as a conditional use, which review shall be the first step in the process before the review by any of the other land development boards.
- vi. Additional regulations for alcoholic beverage establishments located south of 5th Street. (MAP EXHIBIT-1)
  - 1. The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located south of 5th Street: (MAP EXHIBIT-1)
    - I. Operations shall cease no later than 2:00 a.m., except as otherwise provided herein.
    - II. Operations in outdoor or open air areas of an alcoholic beverage establishment shall cease no later than 12:00 a.m., except as otherwise provided herein.
    - III. Alcoholic beverage establishments with sidewalk cafe permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served, shall cease sidewalk cafe operations no later than 12:00 a.m. (except as otherwise provided herein), and shall not be permitted to have outdoor speakers.
    - IV. Outdoor bar counters shall be prohibited.
    - V. No special events permits shall be issued.
    - VI. The provisions of this Section 7.2.15.3.c.v.1 shall not apply, to the extent the requirements of this subsection are more restrictive, to an alcoholic beverage establishment with a valid business tax receipt that is in application status or issued prior to June 28, 2016; or an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired prior to June 28, 2016.
      - i. Existing sidewalk cafes issued a sidewalk cafe permit as of June 28, 2016, for alcoholic beverage sales after 12:00 a.m., with food service, may continue to be renewed, but shall not serve alcoholic beverages later than 1:30 a.m., and alcoholic beverages may not be consumed at sidewalk cafes after 2:00 a.m.
      - ii. Should an alcoholic beverage establishment with a sidewalk cafe permit under (A), above, be delinquent in a payment obligation to the city, and/or receive two final adjudications of violations of section 12-5 of the General Ordinances (special event permit), section 46-152 of the General Ordinances (noise ordinance), or chapter 82, article IV, division 5 of the General Ordinances (sidewalk cafe ordinance), that alcoholic beverage establishment shall only be allowed to serve alcoholic beverages at its sidewalk cafe until 12:00 a.m. for a 12-month period.
  - 2. Notwithstanding the uses permitted in Section 7.2.15.3.b (Uses Table) above, no alcoholic beverage establishment, or restaurant, may be licensed or operated as a main permitted, conditional, or accessory use in any open area above the ground

floor (any area that is not included in the FAR calculations) located south of 5th Street, MAP EXHIBIT-1. Except that:

- I. Outdoor restaurant seating above the ground floor, not exceeding 40 seats, associated with indoor venues may be permitted until 8:00 p.m.
  - II. Outdoor music, whether amplified or nonamplified, and television sets shall be prohibited.
  - III. No commercial activity may be permitted on areas as described in this subsection v.2 between the hours of 8:00 p.m. and 10:00 a.m.
  - IV. Nothing herein shall prohibit residents of a multifamily (apartment or condominium) building, or hotel guests and their invitees to use these areas as described in this subsection v.2, which may include a pool or other recreational amenities, for their individual, personal use.
3. Any increase to an alcoholic beverage establishment's approved hours of operation shall meet the requirements of this section.
  4. Variances from this Section 7.2.15.3.c.5 shall not be permitted. Special events shall not be permitted.
  5. The following additional regulations shall apply to properties located within the C-PS2 district that are within 100 feet of the north side of 4th Street. In the event of a conflict within this division, the following provisions shall control:
    - I. Outdoor music and television sets shall be prohibited within 100 feet of the north side of 4th Street, unless approved by the Planning Board as a conditional use, pursuant to chapter 2, Article 5 section 2.5.2 of this Code. Outdoor music and television sets shall not exceed an ambient volume level (i.e. a volume that does not interfere with normal conversation).
    - II. Entrances/ exits to/ from hotels, apartment hotels, and suite hotels, as well as food and beverage establishments serving alcohol, shall be limited to side streets only, and shall not be permitted on 4th Street. Additionally, a minimum setback of 25 feet from the north side of 4th Street, for all public entrances to the aforementioned uses, shall be required. Notwithstanding the foregoing, this subsection shall not be applicable to existing contributing structures.
  6. The following additional regulations shall apply to properties located from 5th Street to 6th Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district, except for those lots with frontage on Lenox Avenue and Washington Avenue as of January 1, 2022; where there is conflict within this division, the following shall control:
    - I. In the event a lot with frontage on Washington Avenue is unified with a lot that does not have frontage on Washington Avenue, such unified site shall therein after be subject to the regulations herein.
    - II. In the event a lot with frontage on Lenox Avenue is unified with another lot, such unified site shall therein after be subject to the regulations herein.
    - III. Hotel, apartment hotel, and suite hotel use within 200 feet of the south side of 6th Street, shall be prohibited.
    - IV. The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use:

- i. Operations in outdoor or open-air areas of an alcoholic beverage establishment shall cease no later than 12:00 a.m., except as otherwise provided herein.
- ii. Alcoholic beverage establishments with sidewalk cafe permits shall not be permitted to have outdoor speakers abutting or adjacent to any public sidewalks.
- iii. Outdoor bar counters shall be prohibited
- iv. Within 200 feet of the south side of 6th Street, outdoor restaurant and/or bar seating shall not exceed 100 seats, and only when associated with an indoor venue.
- v. Within 200 feet of the south side of 6<sup>th</sup> Street, outdoor restaurant and/or bar seating located above the ground floor shall be prohibited.
- V. Outdoor music, whether amplified or nonamplified, and outdoor televisions or similar digital display devices shall be prohibited within 200 feet of the south side of 6<sup>th</sup> Street.
- VI. For properties with frontage on 6<sup>th</sup> Street, with the exception of required emergency egress, all entry and exit doors, as well as access points to hotels, apartment hotels and suite hotels, and food and beverage establishments serving alcohol, shall not be permitted on 6<sup>th</sup> Street. Additionally, a minimum setback of 20 feet from the south side of 6<sup>th</sup> Street, for all such entry and exit doors, as well as access points, shall be required. Notwithstanding the foregoing, subject to the approval of the Historic Preservation Board, the location of such entry and exit doors, and access points, may be permitted on 6<sup>th</sup> Street for existing contributing structures.
- VII. For properties with frontage on 6<sup>th</sup> Street, which contain 200 feet or more of frontage along Euclid, Meridian, Jefferson, Michigan or Lennox Avenues, with the exception of emergency egress, all entry and exit doors, as well as access points to hotels, apartment hotels and suite hotels, and food and beverage establishments serving alcohol, shall not be permitted on 6<sup>th</sup> Street. Additionally, a minimum setback of 100 feet from the south side of 6<sup>th</sup> Street, for all such entry and exit doors, as well as access points, shall be required. Notwithstanding the foregoing, subject to the approval of the Historic Preservation Board, the location of such entry and exit doors, and access points, may be permitted on 6<sup>th</sup> Street for existing contributing structures, and the minimum setback of 100 feet from the south side of 6<sup>th</sup> Street may be waived or modified by the Historic Preservation Board.
- VIII. For properties with frontage on 6<sup>th</sup> Street, the storage or parking of vehicles above the ground level shall be setback a minimum of 100 feet from the south side of 6<sup>th</sup> Street.

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#### **f. Commercial Performance Standard Area Requirements (C-PS)**

- i. Definitions. For purposes of this district, the following parcels are defined as set forth below:



1. The "Block 51 Properties" shall mean Lots 5-9, 11, 12, 18-30 (and adjacent 10-foot strip of land), Block 51, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County. MAP EXHIBIT-3
2. The "Block 51 Swap Property" shall mean Lot 4, Block 51, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County. MAP EXHIBIT-4
3. The "Block 52 Properties" shall mean Lots 4-11, Block 52, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County. MAP EXHIBIT-5
4. The "Block 1 Properties" shall mean Lots 1-3, 5-13 (and alley adjacent thereto), 17, Block 1, Ocean Beach Florida, PB2, Pg38, Public Records of Miami-Dade County. MAP EXHIBIT-6
5. The "Goodman Terrace and Hinson Parcels" shall mean those properties commonly known as the Goodman Terrace and Hinson Parcels, located south of South Pointe Drive and West of Washington Avenue, whose legal description is on file in the City Clerk's Office. MAP EXHIBIT-7
6. The "Retail Parcel" shall mean the commercial building located south of South Pointe Drive, between Washington Avenue and the theoretical extension of Collins Avenue. MAP EXHIBIT-8

DEVELOPMENT REGULATIONS TABLE (C-PS)				
	C-PS1	C-PS2	C-PS3	C-PS4
Maximum FAR	1.0 1.5 for the Block 51 Properties (MAP EXHIBIT-3) and Block 52 Properties (MAP EXHIBIT-5) 2.0 for the Block 1 Properties (MAP EXHIBIT-6)	2.0	2.5	2.5
FAR Residential and/or hotel development	1.5 (4)	1.75 (5)	2.5 (6) (except on the Goodman Terrace and Hinson Parcels (MAP EXHIBIT-7), the FAR shall be that necessary to achieve 305,500 square feet (estimated at 3.2 FAR), and 300 feet height maximum for the Goodman Terrace	2.5 (6) (open space ratio shall be 0.60 measured at or above grade)



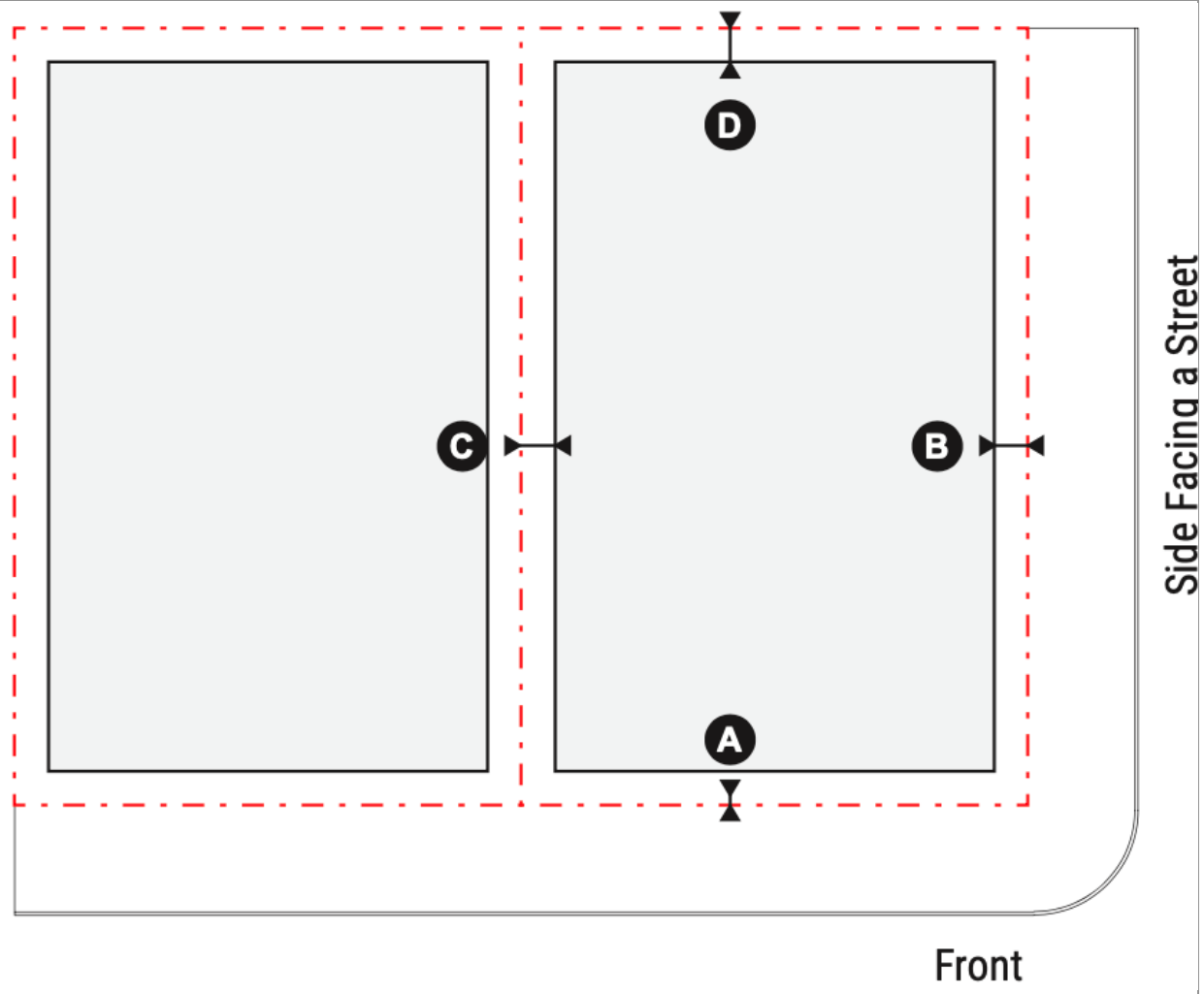
**DEVELOPMENT REGULATIONS TABLE (C-PS)**

			and Hinson Parcels, and open space ratio 0.60 measured at or above grade)	
Maximum Density (Dwelling Units per Acre)	80 DUA (80% bonus for workforce or affordable units)	106 DUA (80% bonus for workforce or affordable units)	125 DUA (80% bonus for workforce or affordable units)	125 DUA (80% bonus for workforce or affordable units)
MINIMUM UNIT SIZES (SQUARE FEET)	C-PS1	C-PS2	C-PS3	C-PS4
Apartments/Multifamily Units				
New Construction	650 SF	600 SF	550 SF	550 SF
Non-elderly and elderly low and moderate income housing	400 SF			
Workforce Housing	400 SF			
Rehabilitated Buildings	400 SF			
Lodging and Hotel Units	15%: 300 SF—335 SF 85%: 335 SF +			
MINIMUM AVERAGE UNIT SIZES (SQUARE FEET)	C-PS1	C-PS2	C-PS3	C-PS4
Apartments/Multifamily Units				
New Construction	900 SF (9) (10)	850 SF (9) (10)	800 SF (9) (10)	800 SF (9) (10)
Non-elderly and elderly low and moderate income housing	400 SF (9) (10)			
Workforce Housing	400 SF (9) (10)			
Rehabilitated Buildings	550 SF (9) (10)			
Lodging and Hotel Units	N/A			
LOT OCCUPATION	C-PS1	C-PS2	C-PS3	C-PS4
Minimum Lot Area (square feet)	6,000 SF			

# DEVELOPMENT REGULATIONS TABLE (C-PS)

Minimum Lot Width (feet)	50 feet			
BUILDING SETBACKS				
	C-PS1	C-PS2	C-PS3	C-PS4
Building setbacks for residential and/or hotel development	Pursuant to R-PS2 district regulations except maximum building height for residential and mixed use buildings shall be 75 feet	Pursuant to R-PS3 district regulations except maximum building height for residential and mixed use buildings shall be 75 feet	Pursuant to R-PS4 district regulations	Pursuant to R-PS4 district regulations
Front Setback (feet) ①	C-PS1	C-PS2	C-PS3	C-PS4
Subterranean	0 feet			
Pedestal	0 feet (2) (3) 5 feet – for residential (2) (3)			
Tower	20 feet from adjacent streets above the first 40 feet in height for the Block 1 Properties (MAP EXHIBIT-6), Block 51 Properties (except lots 11 and 12) (MAP EXHIBIT-3), Block 51 Swap Properties (MAP EXHIBIT-4) and Block 52 Properties (MAP EXHIBIT-5) (2) (3)			
Side, Facing a Street Setback (feet) ②	C-PS1	C-PS2	C-PS3	C-PS4
Subterranean	0 feet			
Pedestal	0 feet (2)			
Tower	Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See Section 7.2.15.2.f)			
Side, Interior Setback (feet) ③	C-PS1	C-PS2	C-PS3	C-PS4
Subterranean	0 feet			
Pedestal	0 feet			
Tower	7.5 feet - when abutting a residential district Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See Section 7.2.15.2.f)			
Rear Setback (feet) ④	C-PS1	C-PS2	C-PS3	C-PS4
Subterranean	0 feet			
Pedestal	5 feet 10 feet - when abutting a residential district			
Tower	3.5 feet for the Block 1 Properties (MAP EXHIBIT-6), Block 51 Properties (except lots 11 and 12) (MAP EXHIBIT-3), Block 51 Swap Properties (MAP EXHIBIT-4) and Block 52 Properties (MAP EXHIBIT-5) 0 feet - separated by a waterway			

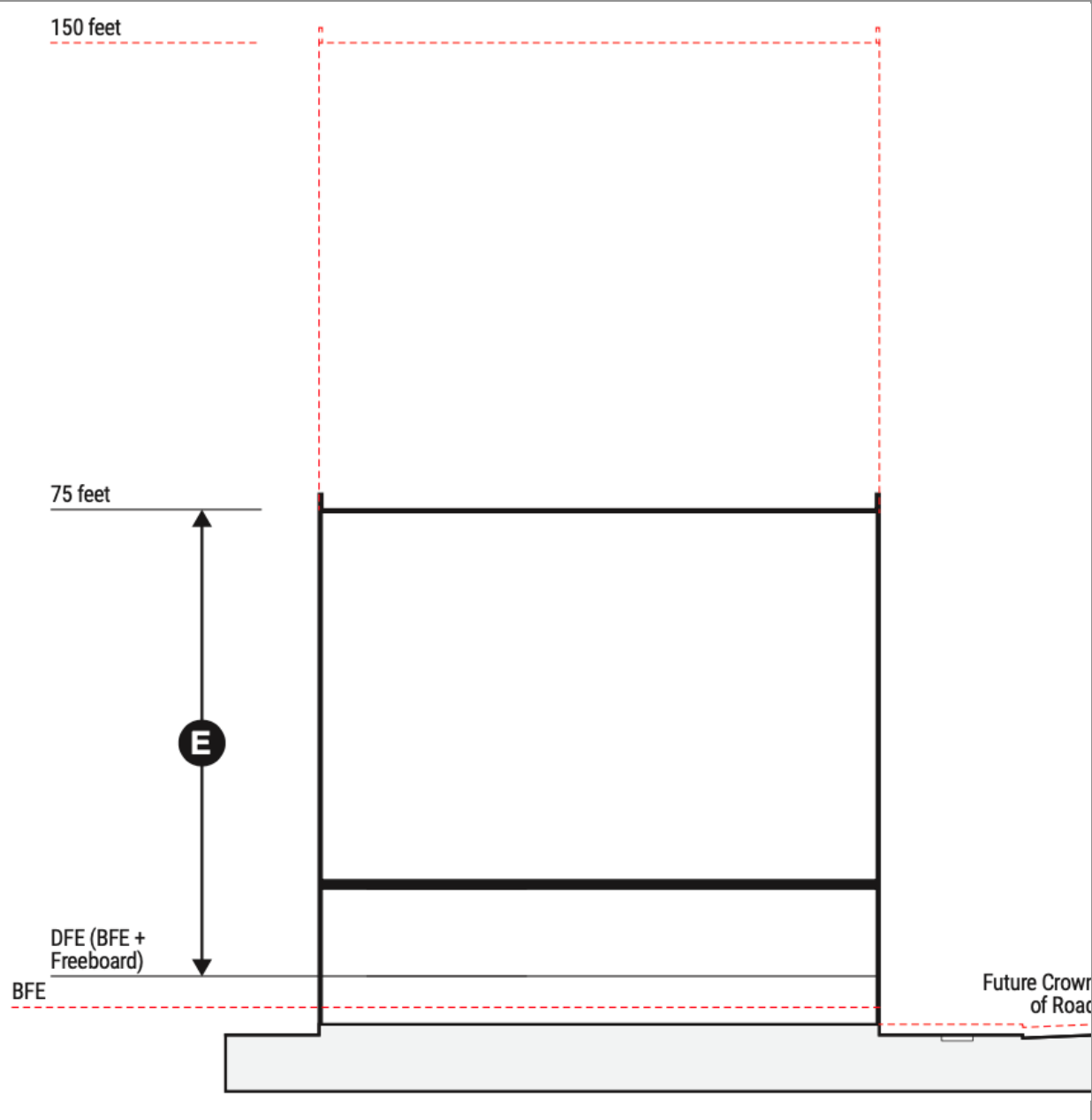
**DEVELOPMENT REGULATIONS TABLE (C-PS)**



BUILDING HEIGHT				
	C-PS1	C-PS2	C-PS3	C-PS4
Maximum Height (feet) <b>(E)</b>	40 feet (1) 75 feet (1) – for the Block 51 Properties (MAP EXHIBIT-3), the Block 51 Swap Property (MAP EXHIBIT-4). Block 52 Properties (MAP EXHIBIT-5)., and Block 1 Properties (MAP EXHIBIT-6). 75 feet - For residential and	50 feet (1) – East of Lenox Ave (MAP EXHIBIT-9) 75 feet – West of Lenox Ave (MAP EXHIBIT-10) 75 feet - For residential and mixed use buildings 75 feet – office building (7) (8) (11)	80 feet (1)	150 feet (1)

DEVELOPMENT REGULATIONS TABLE (C-PS)

	mixed use buildings			
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1. An additional 5 feet of height is allowed if the nonresidential first habitable level is at least 14 feet in height, as measured from DFE to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential district not separated by a street. However, an applicant may seek approval from the historic preservation board or design review board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017

## DEVELOPMENT REGULATIONS TABLE (C-PS)

2. All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and the pedestal side yard facing a street setback, which shall be considered as both a minimum and maximum requirements, except for the Goodman Terrace and Hinson Parcels (MAP EXHIBIT-7).
3. 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, except for those properties located in the C-PS1 district described in Section 7.2.15.3.f.i.
4. Pursuant to All R-PS2 district regulations.
5. Pursuant to all R-PS3 district regulations, except maximum height for residential and mixed use buildings shall be 75 feet.
6. Pursuant to all R-PS 4 district regulations.
7. Notwithstanding the building height regulations set forth above, for unified development sites in the C-PS2 district with a lot line on the south side of 5th Street, which are located west of Jefferson Avenue, the maximum building height for office buildings is 75 feet.
8. Notwithstanding the building height regulations set forth above, in the C- PS2 district, the maximum permitted height within 100 feet of the north side of 4th Street shall not exceed 50 feet, regardless of the use of the property. This paragraph shall not apply to unified development sites governed by note 7. above
9. The number of units may not exceed the maximum density set forth in the comprehensive plan.
10. Developments located in zoning districts that do not prohibit the short-term rental of residential apartment units shall be eligible for an exemption from the average unit size requirements established above, subject to the following conditions:
  - **Density.** The development shall not be permitted to exceed the maximum residential density established in the Comprehensive Plan or Land Development Regulations.
  - **Minimum Unit Size.** This incentive shall not be construed to permit any unit that is smaller than the minimum allowable unit size for the type of unit being proposed.
  - **Covenant.** In order to be eligible for this voluntary average unit size incentive, the property owner, at the owner's sole discretion, shall voluntarily execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that in perpetuity no residential units on the property shall be leased or rented for a period of less than six months and one day.
11. Notwithstanding the building height regulations set forth above, the following regulations shall apply to properties located from 5th Street to 6th Street, between the east side of Lenox Avenue and the west side of Washington Avenue, within the C-PS2 district, except for those lots with frontage on Lenox Avenue and Washington Avenue as of January 1, 2022; where there is a conflict within this division, the following shall control:

#### **DEVELOPMENT REGULATIONS TABLE (C-PS)**

- I. In the event a lot with frontage on Washington Avenue is unified with a lot that does not have frontage on Washington Avenue, such unified site shall therein after be subject to the regulations herein.
- II. In the event a lot with frontage on Lenox Avenue is unified with another lot, such unified site shall therein after be subject to the regulations herein.
- III. The maximum permitted height within the first 100 feet south of 6th Street shall not exceed 28 feet, regardless of property use, and the maximum permitted height between 100 feet and 140 feet south of 6th Street shall not exceed 40 feet. This height limit may be waived by the Historic Preservation Board to preserve contributing buildings or for a development whose primary use is affordable, workforce, or senior housing.
- IV. A minimum setback of five (5') feet shall be required along all front and side facing a street yards, in order to provide a clear pedestrian path that exceeds the width of the abutting sidewalk. This requirement may be waived by the Historic Preservation Board for portions of a property containing a contributing building.
- V. If an alley exists, no front or street side curb cut shall be permitted. If no alley exists, any curb-cut required shall not exceed 12 feet in width.
- VI. Notwithstanding the provisions of section 7.5.2.1 of these land development regulations, roof-top additions shall not exceed the applicable maximum building height set forth in this note.

#### **SECTION 2. REPEALER.**

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

#### **SECTION 3. CODIFICATION.**

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

#### **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 2025

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Steven Meiner, Mayor

ATTEST:

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

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

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

\_\_\_\_\_  
Date

First Reading: \_\_\_\_\_, 2025

Second Reading: \_\_\_\_\_, 2025

Verified by: \_\_\_\_\_

Thomas R. Mooney, AICP  
Planning Director

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