

Residential Use Incentives – LDR Amendments

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

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE I, ENTITLED "GENERAL TO ALL ZONING DISTRICTS," TO ESTABLISH SECTION 7.1.10, ENTITLED "RESIDENTIAL USE INCENTIVES," TO CREATE REQUIREMENTS FOR DEVELOPMENTS ELIGIBLE FOR RESIDENTIAL USE INCENTIVES; BY AMENDING ARTICLE II, ENTITLED "DISTRICT REGULATIONS," AT SECTION 7.2.5, ENTITLED "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY," TO ESTABLISH SUBSECTION 7.2.5.5 ENTITLED "MID BEACH RESIDENTIAL USE INCENTIVE AREA (RM-2)," TO PROVIDE FLOOR AREA RATIO (FAR) AND HEIGHT INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES ZONED RM-2 THAT FRONT COLLINS AVENUE BETWEEN 47<sup>TH</sup> STREET ON THE SOUTH AND 63<sup>RD</sup> STREET ON THE NORTH; BY AMENDING SECTION 7.2.6, ENTITLED "RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY," TO ESTABLISH SUBSECTION 7.2.6.4, ENTITLED "MID BEACH RESIDENTIAL USE INCENTIVE AREA (RM-3)" TO PROVIDE FAR AND HEIGHT INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES ZONED RM-3 THAT FRONT COLLINS AVENUE BETWEEN 47<sup>TH</sup> STREET ON THE SOUTH AND 63<sup>RD</sup> STREET ON THE NORTH; BY AMENDING SECTION 7.2.15, ENTITLED "PERFORMANCE STANDARD DISTRICT (PS)," SUBSECTION 7.2.15.2, ENTITLED "RESIDENTIAL PERFORMANCE STANDARDS DISTRICTS," TO PROVIDE FAR AND HEIGHT INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES ZONED R-PS4; BY AMENDING ARTICLE III, "OVERLAY DISTRICTS," SECTION 7.3.3, ENTITLED "WEST AVENUE BAYFRONT OVERLAY," AT SUBSECTION 7.3.3.4, ENTITLED "LEGAL NONCONFORMING AND OTHER TRANSIENT USES (WEST AVENUE BAYFRONT OVERLAY)," TO PROVIDE FAR, HEIGHT AND USE INCENTIVES TO ENCOURAGE THE CONVERSION OF LEGALLY ESTABLISHED TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES ZONED RM-1 AND RM-2 THAT ARE LOCATED WITHIN THE WEST AVENUE BAY FRONT OVERLAY; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, 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 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 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, entitled “Zoning Districts and Regulations,” Article I, entitled “General to All Zoning Districts,” is hereby amended to establish section 7.1.10, entitled “Residential Use Incentives” as follows:

**CHAPTER 7  
ZONING DISTRICTS AND REGULATIONS**

**ARTICLE I. GENERAL TO ALL ZONING DISTRICTS**

\* \* \*

**7.1.10 RESIDENTIAL USE INCENTIVES**

- a. **Eligible Development.** These provisions are hereby adopted as voluntary zoning incentives for non-transient residential development. Where authorized in the underlying zoning district



or overlay district, and in accordance with all applicable regulations set forth in such zoning district or overlay district, residential developments consisting solely of non-transient residential units and allowable accessory uses shall be eligible for applicable incentives set forth in such zoning district or overlay district, subject to the property owner's agreement to be bound by 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 zoning district or overlay district.
2. **Short Term Rental Conversion and Prohibition.** In order to be eligible for the voluntary residential use incentives authorized for the applicable zoning district or overlay district, 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 zoning district or overlay district, 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. **The covenant shall expressly provide that an affirmative vote of six-sevenths of all members of the city commission shall be required in order to release the covenant or to modify the covenant in such a manner as to impose a less stringent restriction after it is executed.**
4. **Certificate of Appropriateness.** If the property is located within a local historic district or site, as a condition of eligibility for the voluntary residential use incentives authorized for the applicable zoning district or overlay district, the property owner(s) shall be required to retain, preserve and restore all contributing structures on the site, as may be required by the historic preservation board and subject to certificate of appropriateness approval in accordance with chapter 2, article VIII of the land development regulations of the city code.

b. There shall be no variances from the requirements of this section for eligible developments.

**SECTION 2.** Chapter 7, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," at Section 7.2.5, entitled "RM-2 Residential Multifamily Medium Intensity" is hereby amended as follows:

## **ARTICLE II: DISTRICT REGULATIONS**

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### **7.2.5 RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY**

\* \* \*

#### **7.2.5.5 MID BEACH RESIDENTIAL USE INCENTIVE AREA (RM-2)**

**a. Location and Purpose (Mid Beach Residential Incentive Area – RM-2)**

The following regulations shall apply to properties that front Collins Avenue between 47<sup>th</sup> Street on the south and 63<sup>rd</sup> Street on the north. The purpose of the overlay shall be to incentivize the development of non-transient residential uses.

**b. Development Regulations (Mid Beach Residential Use Incentive Area (RM-2)**

For developments that comply with the requirements for “Residential Use Incentives” in section 7.1.10 of the Resiliency Code, the following regulations shall apply:

| <u>DEVELOPMENT REGULATIONS TABLE:</u>   |            |
|---|------------|
| <u>Maximum FAR</u>  | <u>2.3</u> |
| <u>BUILDING HEIGHT</u>  |            |
| <u>Maximum Height</u>   | <u>75</u>  |
| <u>Historic District</u>  | <u>65</u>  |
| <u>For properties outside a local historic district with a ground level consisting of non-habitable parking and/or amenity uses</u> | <u>80</u>  |

**SECTION 3.** Chapter 7, entitled “Zoning Districts and Regulations,” Article II, entitled “District Regulations,” at Section 7.2.6, entitled “RM-3 Residential Multifamily High Intensity” is hereby amended as follows:

#### **7.2.6 RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY**

\* \* \*

#### **7.2.6.4 MID BEACH RESIDENTIAL USE INCENTIVE AREA (RM-3)**

**a. Location and Purpose (Mid Beach Residential Incentive Area – RM-3)**

The following regulations shall apply to properties that front Collins Avenue between 47<sup>th</sup> Street on the south and 63<sup>rd</sup> Street on the north. The purpose of the overlay shall be to incentivize the development of non-transient residential uses.

**b. Development Regulations (Mid Beach Residential Incentive Area (RM-3)**

For developments that comply with the requirements for “Residential Use Incentives” in section 7.1.10 of the Resiliency Code, the following regulations shall apply:

| <u>DEVELOPMENT REGULATIONS TABLE:</u>                                |            |
|--|------------|
| <u>Maximum FAR</u>   |            |
| <u>Lot area equal to or less than 45,000 square feet</u>             | <u>2.6</u> |
| <u>Lot area greater than 45,000 square feet</u>                      | <u>3.2</u> |
| <u>Oceanfront lots with lot area greater than 45,000 square feet</u> | <u>3.5</u> |
| <u>BUILDING HEIGHT</u>   |            |
| <u>Maximum Height</u>  | <u>170</u> |



|  |            |
|--|------------|
| <u>Oceanfront Lots</u>   | <u>220</u> |
| <u>Ground floor additions (whether attached or detached) to existing structures on oceanfront lots</u> | <u>60</u>  |

**SECTION 3.** Chapter 7, entitled “Zoning Districts and Regulations,” Article II, entitled “District Regulations,” at Section 7.2.15, entitled “Performance Standard District (PS)” is hereby amended as follows:

### 7.2.15 PERFORMANCE STANDARD DISTRICT (PS)

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#### 7.2.15.2 Residential Performance Standards Districts

\* \* \*

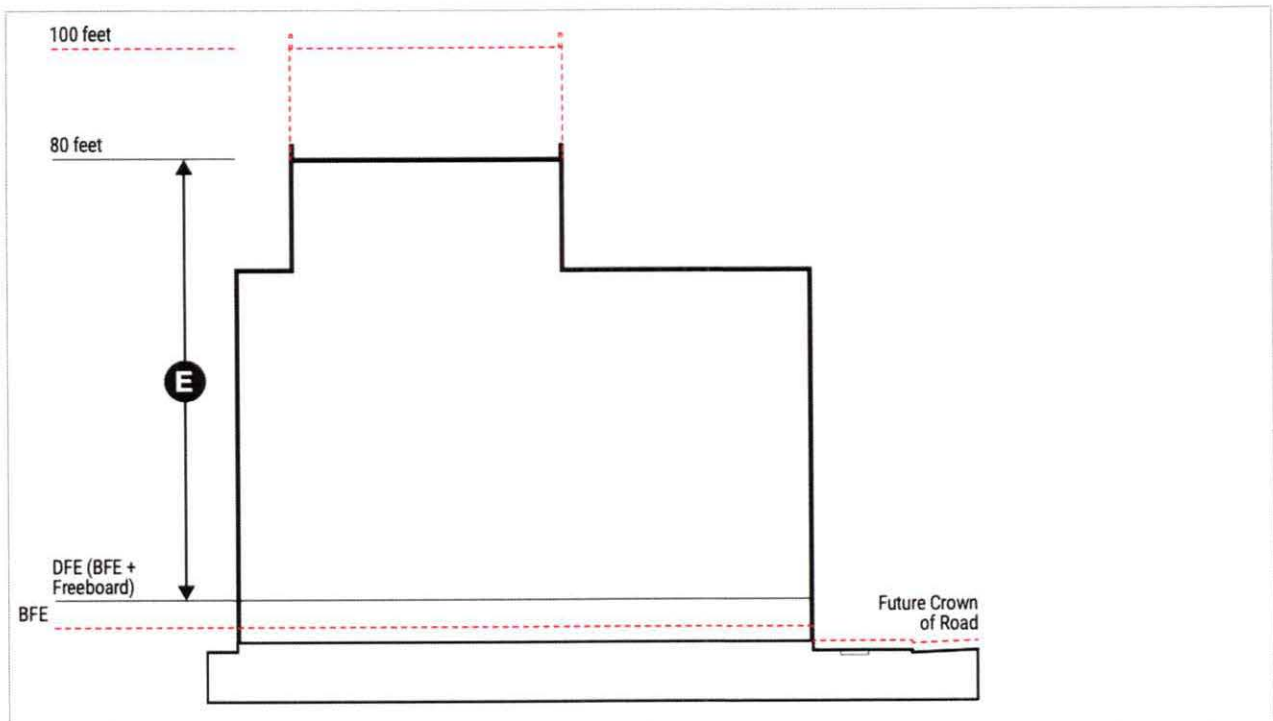
f. **Residential Performance Standard Area Requirements (R-PS).**

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

| <b>DEVELOPMENT REGULATIONS TABLE (R-PS)</b> |  |  |  |   |
|---|--|--|--|---|
|   | R-PS1  | R-PS2  | R-PS3  | R-PS4   |
| Maximum FAR                                 | 1.25   | 1.50   | 1.75   | 2.0 (8)   |
| Maximum Density (Dwelling Units per Acre)   | 57 DUA (80% bonus for workforce or affordable units) | 70 DUA (80% bonus for workforce or affordable units) | 85 DUA (80% bonus for workforce or affordable units) | 102 DUA (80% bonus for workforce or affordable units) |

\* \* \*

| BUILDING HEIGHT           | R-PS1       | R-PS2                                   | R-PS3 | R-PS4   |
|---------------------------|-------------|---|-------|---|
| Maximum Height (feet) (E) | 45 feet (5) | 40 feet - Lots 50 feet wide or less (5) |       | 80 feet – Nonooceanfront Lots (5)<br>100 feet – Oceanfront Lots (5)(9)<br>40 feet – Lots 50 feet wide or less (5) |



- (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.

\* \* \*

- (8) For developments that comply with the requirements for "Residential Use Incentives" in section 7.1.10 of the Resiliency Code, the maximum FAR shall be 2.25.

- (9) For developments that comply with the requirements for "Residential Use Incentives" in section 7.1.10 of the Resiliency Code, the maximum height shall be 115 feet.

**SECTION 4.** Chapter 7, entitled "Zoning Districts and Regulations," Article III, entitled "Overlay Districts," at Section 7.3.3, entitled "West Avenue Bayfront Overlay" is hereby amended as follows:

### ARTICLE III: OVERLAY DISTRICTS

\* \* \*

#### 7.3.3 WEST AVENUE BAYFRONT OVERLAY

\* \* \*

##### 7.3.3.4 Legal nonconforming and other transient uses (West Avenue Bayfront Overlay).

- a. Bed and breakfast inns, hotels, apartment hotels, suite hotels and hostels shall be prohibited in the subject overlay area.

\* \* \*

- d. The following regulations shall apply to the conversion of a legally established, conforming or non-conforming, bed and breakfast inn, hotel, apartment hotel, suite hotel, or hostel located in the RM-1 or RM-2 district, to a conforming residential apartment use, notwithstanding the underlying district regulations in section 7.2.4.3 and 7.2.5.3.
1. For those properties located in the RM-1 district, the maximum floor area ratio (FAR) shall not exceed 1.6 and the maximum building height shall be 65 feet.
  2. For those properties located in the RM-2 district, the maximum floor area ratio (FAR) shall not exceed 2.5 and the maximum building height shall be as follows:
    - A. Non-oceanfront lots – 75 feet.
    - B. Lots fronting Biscayne Bay less than 45,000 square feet – 125 feet.
    - C. Lots fronting Biscayne Bay over 45,000 square feet – 165 feet.
  3. In addition to the regulations in section 7.5.4.13, for those properties located in the RM-2 district, the following accessory uses may be permitted for apartment buildings:
    - A. Office, neighborhood-specific retail or neighborhood-specific personal service establishment, with access from the main lobby or from the street. Tattoo studios and massage therapy centers shall be prohibited.
  4. The development shall comply with the requirements for "Residential Use Incentives" in section 7.1.10 of the Resiliency Code.

## **SECTION 5. 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 6. 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 7. SEVERABILITY.**

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

**SECTION 8. 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

First Reading: June 26, 2024

Second Reading: October 30, 2024

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

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION



City Attorney

NK

10/20/2024  
Date