

**ADDRESS COMMON VARIANCES
LAND DEVELOPMENT REGULATIONS CHAPTERS 130 AND 142**

WHEREAS, the City of Miami Beach has the authority to enact laws which 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. That Chapter 130, entitled “Off-Street Parking,” Article III, entitled “Design Standards,” at Section 130-64, entitled “Drives,” is hereby amended as follows:

Sec. 130-64. - Drives.

Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic. Notwithstanding the foregoing, for residential buildings with fewer than 25 units, drives shall have a minimum width of 18 feet for two-way traffic. For those grade level parking areas with less than ten parking spaces, inclusive of those parking areas underneath a building or structure, the two-way curb-cut and driveway entrance shall have a minimum width of 12 feet.

Section 2. Chapter 142, entitled “Zoning Districts and Regulations,” Article II, entitled “District Regulations,” at Division 3, entitled “Residential Multifamily Districts,” is hereby amended as follows:

DIVISION 3. - RESIDENTIAL MULTIFAMILY DISTRICTS

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Subdivision II. - RM-1 Residential Multifamily Low Intensity

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Sec. 142-155. - Development regulations and area requirements.

(a) The development regulations in the RM-1 residential multifamily, low density district are as follows:

- (1) Max. FAR: 1.25; west side of Collins Avenue between 76th and 79th Streets—1.4.
- (2) Public and private institutions: Lot area equal to or less than 15,000 square feet—1.25; lot area greater than 15,000 square feet—1.4.
- (3) Exterior building and lot standards:
 - a. *Minimum yard elevation requirements.*
 1. The minimum elevation of a required yard shall be no less than five feet NAVD (6.56 feet NGVD), with the exception of driveways, walkways, transition areas, green infrastructure (e.g., vegetated swales, permeable pavement, rain gardens, and rainwater/stormwater capture and infiltration devices), and areas

where existing landscaping is to be preserved, which may have a lower elevation. When in conflict with the maximum elevation requirements as outlined in paragraph c., below, the minimum elevation requirements shall still apply.

2. Exemptions. The minimum yard elevation requirements shall not apply to properties containing individually designated historic structures, or to properties designated as "contributing" within a local historic district, or a National Register Historic District.
- b. *Maximum yard elevation requirements.* The maximum elevation of a required yard shall be in accordance with the following, however, in no instance shall the elevation of a required yard exceed the minimum flood elevation, plus freeboard:
1. *Front yard, side yard facing a street, and interior side yard.* The maximum elevation within a required front yard, side yard facing a street, and interior side yard shall not exceed 30 inches above grade, or future adjusted grade, whichever is greater. In this instance, the maximum height of any fence(s) or wall(s) in the required yard, constructed in compliance with section 142-1132(h). "Allowable encroachments within required yards" shall be measured from existing grade.
 2. *Rear yard.* The maximum elevation for a required rear yard, (not including portions located within a required side yard or side yard facing the street), shall be calculated according to the following:
 - (A) Waterfront. The maximum elevation shall not exceed the base flood elevation, plus freeboard.
 - (B) Non-waterfront. The maximum elevation shall not exceed 30 inches above grade, or future adjusted grade, whichever is greater.
- c. *Stormwater retention.* In all instances where the existing elevation of a site is modified, a site shall be designed with adequate infrastructure to retain all stormwater on site in accordance with all applicable state and local regulations.
- d. *Retaining wall and yard slope requirements.*
1. Retaining walls shall be finished with stucco, stone, or other high quality materials, in accordance with the applicable design review or appropriateness criteria.
 2. Within the required front yard and side yard facing a street, the following shall apply:
 - (A) The first four feet of the property line, the maximum height of retaining walls shall not exceed 30 inches above existing sidewalk elevation, or existing adjacent grade if no sidewalk is present.
 - (B) When setback a minimum of four feet from property line, the maximum height of a retaining wall shall not exceed 30 inches above adjacent grade.
 - (C) The maximum slope of the required front and side yard facing a street shall not exceed 11 percent (5:1 horizontal; vertical).
- e. *Lot coverage.* The maximum lot coverage for a lot or lots greater than 65 feet in width shall not exceed 45 percent. In addition to the building areas included in lot

coverage, as defined in section 114-1, impervious parking areas and impervious driveways shall also be included in the lot coverage calculations. The design review board or historic preservation board, as applicable, may waive the lot coverage requirements in accordance with the design review or certificate of appropriateness criteria, as applicable.

- f. *Ground floor requirements.* When parking or amenity areas are provided at the ground floor level below the first habitable level, the following requirements shall apply:
 - 1. A minimum height of 12 feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable, may waive this height requirement by up to two feet, in accordance with the design review or certificate of appropriateness criteria, as applicable.
 - 2. All ceiling and sidewall conduits shall be internalized or designed in such a manner as to be part of the architectural language of the building in accordance with the design review or certificate of appropriateness criteria, as applicable.
 - 3. All parking and driveways shall substantially consist of permeable materials.
 - 4. Active outdoor spaces that promote walkability, social integration, and safety shall be provided at the ground level, in accordance with the design review or certificate of appropriateness criteria, as applicable.
 - 5. At least one stair shall be visible and accessible from the building's main lobby (whether interior or exterior), shall provide access to all upper floors, shall be substantially transparent at the ground level and shall be located before access to elevators from the main building lobby along the principal path of travel from the street. Such stair, if unable to meet minimum life-safety egress requirements, shall be in addition to all required egress stairs.
- g. *Lot aggregation.* No more than two contiguous lots may be aggregated for development purposes, with the exception of projects classified as affordable and/or workforce housing.

(4) In the Flamingo Park Local Historic District, the following shall apply:

- a. Notwithstanding the provisions of section 142-1161 of these land development regulations, roof-top additions shall not be permitted on any contributing building and any stairwell or elevator bulkhead shall meet the line-of-sight requirements of section 142-1161, but not to exceed allowable building heights. The historic preservation board reserves the right to re-classify the contributing status of any structure in the district, prior to rendering a decision on any application that may contemplate a rooftop addition.
- b. Ground level additions shall be detached and separated from the main structure(s) on the site by a distance of at least ten feet. The historic preservation board may, on a case-by-case basis, allow a ground level addition to attach to the rear of an existing structure that has a flat roof and parapet, provided such addition does not exceed the height of the existing structure and that the attachment does not result in the demolition, obscuring or removal of any significant architectural features and/or finishes from the existing structure.

- c. The height of any ground level addition to an existing structure, whether attached or detached, shall be limited to one story, not to exceed 12 feet above the height of the main roof of the existing structure. In the event the existing structure is two stories in height or higher, the proposed addition shall not exceed a total of three stories and 35 feet.
- d. Ground level additions, whether attached or detached, shall follow the established lines of the interior side setbacks of the main existing structure on the site. For the first two floors of the addition, any non-conforming interior side setback may be extended, provided the minimum interior and/or street side setback is five feet; the third floor of the addition, if permitted, shall meet the minimum side yard requirements. Notwithstanding the foregoing, the historic preservation board may, on a case-by-case basis, allow ground level additions to exceed one side of the established interior side setbacks of the main existing structure on the site, provided the sum of the interior side setbacks is a minimum of 15 feet.
- e. No more than two contiguous lots may be aggregated for development purposes.
- f. For any new construction or additions, whether attached or detached, on multiple or aggregated lots, a minimum building separation of ten feet at the center of the aggregated lots shall be required. The historic preservation board may, on a case-by-case basis, allow for a connection in the rear of the property, provided the depth of such connection does not exceed 25 percent of the lot depth and that the connection does not contain any parking spaces.
- g. Only those portions of a contributing building that were not part of the original structure on site, or that have not acquired any type of architectural significance, as determined by staff or the historic preservation board, may be proposed to be demolished.
- h. For contributing buildings or properties, no building or structure shall be permitted within an existing historic courtyard. For purposes of this subsection, an historic courtyard shall be defined as a grade level space, open to the sky, which is enclosed on at least two sides by an existing building or structure on the same property and is an established architectural or historic component of the site or building design by virtue of significant features and/or finishes, including, but not limited to, paving patterns, fountains, terraces, walkways or landscaping.
- i. Each level of new construction or additions, whether attached or detached, shall have a maximum floor to floor height of 12 feet. The historic preservation board may, on a case-by-case basis, waive the maximum floor to floor height requirement and allow for loft or mezzanine space within the allowable volume of the building, provided the total floor area of any such loft space or mezzanine does not exceed one-third the total floor area in that room or story in which the loft space or mezzanine occurs.
- j. Stairwell bulkheads shall not be permitted to extend above the maximum building height.
- k. Elevator bulkheads extending above the main roofline of a building shall be required to meet the line-of-sight requirements set forth in section 142-1161 herein and such line-of-sight requirement cannot be waived by the historic preservation board.

l. If an alley exists, no front curb cut shall be permitted. If no alley exists, any curb-cut required shall not exceed 12 feet in width.

m. No variances from these provisions shall be granted.

(5) For properties located in the North Shore and Normandy Isles National Register Historic Districts, see chapter 142, article III, division 13.

(b) The lot area, lot width, unit size and building height requirements for the RM-1 residential multifamily, low density district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
5,600	50	New construction—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—400 Hotel units: 15%: 300—335 85%: 335+ For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. <u>Rooftop additions to historic buildings – 200.</u>	New construction—800 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—550 <u>Number of units may not exceed maximum density per the adopted Comprehensive Plan.</u>	Historic district—40 Flamingo Park Local Historic District—35 (except as provided in section 142-1161) Otherwise—50 For properties outside a local historic district with a ground level consisting of non-habitable parking and/or amenity uses—55

Sec. 142-156. - Setback requirements.

- (a) The setback requirements for the RM-1 residential multifamily, low density district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot except where (c) below is applicable	20 feet	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	5 feet abutting an alley, otherwise 10% of the lot depth
Subterranean and pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Sum of side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater
Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet	Sum of the side yards shall equal 16% of the lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

- (b) In the RM-1, residential district, all floors of a building containing parking spaces shall incorporate the following:
- (1) Residential uses at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.
 - (2) Residential uses above the first level along every facade facing a waterway.

- (3) For properties less than 60 feet in width, the total amount of residential space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential uses; the total amount of residential space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.
- (c) In cases where the city commission approves after public hearing a public-private parking agreement for a neighborhood based upon an approved street improvement plan, the minimum front yard setback for parking subject to the agreement shall be zero feet. The street improvement plan must be approved by the design review board if outside an historic district, or the historic preservation board if inside an historic district.

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Subdivision IV. - RM-2 Residential Multifamily, Medium Intensity

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Sec. 142-216. - Development regulations.

The development regulations in the RM-2 residential multifamily, medium intensity district are as follows:

- (1) Max. FAR: 2.0.
- (2) Exterior building and lot standards:
 - a. *Minimum yard elevation requirements.*
 1. The minimum elevation of a required yard shall be no less than five feet NAVD (6.56 feet NGVD), with the exception of driveways, walkways, transition areas, green infrastructure (e.g., vegetated swales, permeable pavement, rain gardens, and rainwater/stormwater capture and infiltration devices), and areas where existing landscaping is to be preserved, which may have a lower elevation. When in conflict with the maximum elevation requirements as outlined in paragraph b. below, the minimum elevation requirements shall still apply.
 2. Exemptions. The minimum yard elevation requirements shall not apply to properties containing individually designated historic structures, or to properties designated as "contributing" within a local historic district, or a National Register Historic District.
 - b. *Maximum yard elevation requirements.* The maximum elevation of a required yard shall be in accordance with the following, however in no instance shall the elevation of a required yard, exceed the minimum flood elevation, plus freeboard:
 1. *Front yard, side yard facing a street and interior side yard.* The maximum elevation within a required front yard, side yard facing a street and interior side yard shall not exceed 30 inches above grade, or future adjusted grade, whichever is greater. In this instance, the maximum height of any fence(s) or wall(s) in the required yard, constructed in compliance with section 142-1132(h), "allowable encroachments within required yards", shall be measured from existing grade.

2. *Rear yard.* The maximum elevation for a required rear yard, (not including portions located within a required side yard or side yard facing the street), shall be calculated according to the following:
 - (A) Waterfront. The maximum elevation shall not exceed the base flood elevation, plus freeboard.
 - (B) Non-waterfront. The maximum elevation shall not exceed 30 inches above grade, or future adjusted grade, whichever is greater.
- c. *Stormwater retention.* In all instances where the existing elevation of a site is modified, a site shall be designed with adequate infrastructure to retain all stormwater on site in accordance with all applicable state and local regulations.
- d. *Retaining wall and yard slope requirements.*
 1. Retaining walls shall be finished with stucco, stone, or other high quality materials, in accordance with the applicable design review or appropriateness criteria.
 2. Within the required front yard and side yard facing a street the following shall apply:
 - (A) The first four feet of the property line, the maximum height of retaining walls shall not exceed 30 inches above existing sidewalk elevation, or existing adjacent grade if no sidewalk is present.
 - (B) When setback a minimum of four feet from property line, the maximum height of retaining walls shall not exceed 30 inches above adjacent grade.
 - (C) The maximum slope of the required front and side yard facing a street shall not exceed 11 percent (5:1 horizontal/vertical).
- e. *Ground floor requirements.* When parking or amenity areas are provided at the ground floor level below the first habitable level, the following requirements shall apply:
 1. A minimum height of 12 feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable may waive this height requirement by up to two feet, in accordance with the design review or certificate of appropriateness criteria, as applicable.
 2. All ceiling and sidewall conduits shall be internalized or designed in such a manner as to be part of the architectural language of the building in accordance with the design review or certificate of appropriateness criteria, as applicable.
 3. All parking and driveways shall substantially consist of permeable materials.
 4. Active outdoor spaces that promote walkability, social integration, and safety shall be provided at the ground level, in accordance with the design review or certificate of appropriateness criteria, as applicable.
 5. At least one stair shall be visible and accessible from the building's main lobby (whether interior or exterior), shall provide access to all upper floors, shall be substantially transparent at the ground level and shall be located before access to elevators from the main building lobby along the principal path of travel from the street. Such stair, if unable to meet minimum life-safety egress requirements, shall be in addition to all required egress stairs.

Sec. 142-217. - Area requirements.

The area requirements in the RM-2 residential multifamily, medium intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
7,000	50	<p>New construction—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—400 Hotel units: 15%: 300—335 85%: 335+ For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. <u>Rooftop additions to historic buildings – 200.</u></p>	<p>New construction—800 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—550 Hotel units—N/A <u>Number of units may not exceed maximum density per the adopted Comprehensive Plan.</u></p>	<p>Historic district—50 (except as provided in section 142-1161) Area bounded by Indian Creek Dr., Collins Ave., 26th St., and 44th St.—75 Area fronting west side of Collins Ave. btwn. 76th St. and 79th St.—75 Area fronting west side of Alton Rd. between Arthur Godfrey Rd. and W. 34th St.—85 Otherwise—60 For properties outside a local historic district with a ground level consisting of non-habitable parking and/or amenity uses—65 Lots fronting Biscayne Bay less than 45,000 sq. ft.—100 Lots fronting Biscayne Bay over 45,000 sq. ft.—140 Lots fronting Atlantic Ocean over 100,000 sq. ft.—140 Lots fronting Atlantic Ocean with a property line</p>

				within 250 feet of North Shore Open Space Park Boundary—200
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Sec. 142-218. - Setback requirements.

The setback requirements in the RM-2 residential multifamily, medium intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot except where (b) below is applicable	20 feet	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Abutting an alley—5 feet Oceanfront lots—50 feet from bulkhead line
Subterranean and pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater
Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Same as pedestal for structures with a total height of 60 feet or less. The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet	Sum of the side yards shall equal 16% of the lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

- (b) In cases where the city commission approves after public hearing a public-private parking agreement for a neighborhood based upon an approved street improvement plan, the minimum front yard setback for parking subject to the agreement shall be zero feet. The street improvement plan must be approved by the design review board if outside an historic district, or the historic preservation board if inside an historic district.

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Subdivision V. - RM-3 Residential Multifamily, High Intensity

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Sec. 142-246. - Development regulations and area requirements.

- (a) The development regulations in the RM-3 residential multifamily, high intensity district are as follows:
- (1) Max. FAR: Lot area equal to or less than 45,000 sq. ft.—2.25; lot area greater than 45,000 sq. ft.—2.75; oceanfront lots with lot area greater than 45,000 sq. ft.—3.0.
 - (2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.
 - (3) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 sq. ft.
- (b) The lot area, lot width, unit size and building height requirements for the RM-3 residential multifamily, high intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
7,000	50	<p>New construction—550</p> <p>Non-elderly and elderly low and moderate income housing—400</p> <p>Workforce housing—400</p> <p>Rehabilitated buildings—400</p> <p>Hotel units:</p> <p>15%: 300—335</p> <p>85%: 335+</p> <p>For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for</p>	<p>New construction—800</p> <p>Non-elderly and elderly low and moderate income housing—400</p> <p>Workforce housing—400</p> <p>Rehabilitated buildings—550</p> <p>Hotel units—N/A</p> <p><u>Number of units may not exceed maximum density per the adopted Comprehensive Plan.</u></p>	<p>150</p> <p>Oceanfront lots—200</p> <p>Architectural dist.: New construction—120; ground floor additions (whether attached or detached) to existing structures on oceanfront lots—50 (except as provided in section 142-1161)</p>

		<p>the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. <u>Rooftop additions to historic buildings – 200.</u></p>		
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(c) Notwithstanding the above, for oceanfront lots located within a locally designated historic district or site, but not within the architectural district, with less than 400 feet of lineal frontage along Collins Avenue and containing at least one contributing structure, the maximum building height for ground floor additions to existing structures, whether attached or detached, shall be as follows:

- (1) For existing structures greater than five stories in height, the maximum height shall be limited to ten stories or the height of the roof line of the main structure on site, whichever is less. At the discretion of the historic preservation board, the maximum height of the ground floor addition may exceed ten stories if the existing and surrounding structures are greater than five stories in height, provided the addition is consistent with the scale and massing of the existing structure.
- (2) For existing structures five stories or less in height, the maximum height shall be limited to five stories.

Additionally, the proposed addition shall not substantially reduce existing or established view corridors, nor impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.

(d) Notwithstanding the above, for oceanfront lots located in the architectural district, the overall height of an attached addition may exceed five stories and 50 feet, but shall not exceed the height of the roof line of the structure attached to, provided all of the following conditions are satisfied:

- (1) The proposed addition shall consist of the expansion of existing hotel units only and shall not result in an increased number of units.
- (2) The proposed addition shall be for hotel units only. A restrictive covenant, running with the land, or other similar instrument enforceable against the owner(s), acceptable to and approved as to form by the city attorney, shall be required to ensure that the units remain as hotel units for a minimum of 30 years. If the applicant is unable to

provide such a covenant, this requirement may be waived by the city manager if it is demonstrated that the project provides an extraordinary public benefit to the surrounding area.

- (3) The proposed addition shall not be attached to front, street side or oceanfront elevations, nor along any other principal elevations or facades, as determined by the historic preservation board.
- (4) The proposed addition shall not substantially reduce existing or established view corridors, nor impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.
- (e) A ground floor addition relocating existing hotel units shall also meet the following conditions, in addition to subsection (d)(2)—(4) above:
 - (1) There shall be no neighborhood impact establishment, dancehall or entertainment use in the area of the proposed addition;
 - (2) No new outdoor or open air entertainment establishment shall be created on the property. Outdoor or open air entertainment establishments existing as of the effective date of this subsection (November 24, 2012) may continue but shall not be expanded if a property avails itself of this provision.
 - (3) Upon approval of the proposed addition by the historic preservation board, no building greater than two stories or 25 feet in height shall be constructed between the rear of the building and westward line of the dune overlay district. This provision shall not be subject to variance.
 - (4) Notwithstanding the provisions in subsection 142-1161(d), if the building presently contains unoccupied but built spaces enclosed on at least three sides by existing walls of a height that would conceal a new roof, such as false parapets or storage rooms, those spaces may be further enclosed as habitable floor area, up to the permitted floor area; and
 - (5) No new commercial uses shall be permitted on the rooftop or any open air decks of the existing structure or proposed addition.

Sec. 142-247. - Setback requirements.

- (a) The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	20 feet	5 feet, or 5% of lot width, whichever is greater	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—5 feet Oceanfront lots—50 feet from bulkhead line
Subterranean and pedestal	20 feet Except lots A and 1— 30 of the Amended Plat Indian Beach	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet	Sum of the side yards shall equal 16% of lot	Non-oceanfront lots—10% of lot depth Oceanfront

	Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	or 8% of lot width, whichever is greater	width Minimum—7.5 feet or 8% of lot width, whichever is greater	lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater
Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet	Sum of the side yards shall equal 16% of the lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

Notwithstanding the above, oceanfront lots located in the Miami Beach Architectural District shall be permitted to construct detached additions at a height not to exceed 25 feet and shall have setback requirements as follows:

Side, interior: Five feet.

Side, street: Five feet.

Rear: Ten percent of lot depth or the western edge of the Oceanfront Overlay, whichever is greater.

(b) In the Morris Lapidus/Mid-20th Century Historic District the following shall apply:

- (1) Roof-top additions, whether attached or detached, may follow the established lines of the interior side setbacks of the existing structure on the site, subject to the review of the historic preservation board.

Section 3. Chapter 142, entitled “Zoning Districts and Regulations,” Article II, entitled “District Regulations,” at Division 4, entitled “CD-1 Commercial, Low Intensity District,” is hereby amended as follows:

DIVISION 4. - CD-1 COMMERCIAL, LOW INTENSITY DISTRICT

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Sec. 142-276. - Development regulations.

The development regulations in the CD-1 commercial, low intensity district are as follows:

Maximum Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Apartment Unit Size (Square Feet)	Average Apartment Unit Size (Square Feet)	Maximum Building Height (Feet)
1.0	Commercial—None Residential—5,600	Commercial—None Residential—50	Commercial—N/A New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel unit: 15%: 300—335 85%: 335+ <u>Rooftop additions to historic buildings – 200.</u>	Commercial—N/A New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units—N/A <u>Number of units may not exceed maximum density per the adopted Comprehensive Plan.</u>	40 (except as provided in section 142-1161) Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. <u>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</u>

					any historic district or overlay district created after 7/26/2017
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Sec. 142-277. - Setback requirements.

(a) The setback requirements for the CD-1 commercial, low intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley— 0 feet
Subterranean, pedestal and tower (non-oceanfront)	0 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	10 feet when abutting a residential district, otherwise none Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	10 feet when abutting a residential district, unless separated by a street or waterway otherwise none Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet. Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)
Pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	Commercial uses—10 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	Commercial uses—10 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)

(b) The tower setback shall not be less than the pedestal setback.

(c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).

(d) Mixed use buildings: Calculation of setbacks and floor area ratio:

(1) Setbacks. When more than 25 percent of the total area of a building is used for residential or hotel units, any floor containing such units shall utilize the following the RM-1, 2, 3 setback-regulations-:

a. Front:

i. Subterranean: Zero feet;

ii. Ground level: Zero feet;

iii. Above the ground level up to 35 feet in height:

1. Minimum five feet for parking garages with liners; or

2. Minimum ten feet for parking garages without liners; or

3. Minimum 15 feet for all other uses.

iv. Above 35 feet in height:

1. Minimum five feet for parking garages with liners; or

2. Minimum ten feet for parking garages without liners; or

3. Minimum 30 feet for all other uses.

b. Rear:

i. Subterranean: Zero feet;

ii. Ground level: Zero feet;

iii. Above the ground level:

1. Minimum ten percent of lot depth; or

2. Minimum zero feet for parking garage floors above the minimum truck clearance.

c. Side, facing a street:

i. Subterranean: Zero feet;

ii. Non-residential uses: Zero feet;

iii. Residential uses: Sum of the side setbacks shall equal 16 percent of lot width or a minimum of 7½ feet and up to 20 feet.

d. Side, interior:

i. Subterranean: Zero feet;

ii. Non-residential uses: Zero feet;

iii. Residential uses: Sum of the side setbacks shall equal 16 percent of lot width or a minimum of 7½ feet or eight percent of lot width, whichever is greater.

(2) Floor area ratio. When more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-1 district.

Section 4. Chapter 142, entitled “Zoning Districts and Regulations,” Article II, entitled “District Regulations,” at Division 5, entitled “CD-2 Commercial, Medium Intensity District,” is hereby amended as follows:

DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

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Sec. 142-306. - Development regulations.

The development regulations in the CD-2 commercial, medium intensity district are as follows:

Maximum Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Apartment Unit Size (Square Feet)	Average Apartment Unit Size (Square Feet)	Maximum Building Height (Feet)
1.5	Commercial— None Residential— 7,000	Commercial— None Residential— 50	Commercial— N/A New construction— 550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel unit: 15%: 300— 335 85%: 335+ For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are being renovated in accordance with the Secretary of the Interior	Commercial— N/A New construction— 800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units— N/A <u>Number of units may not exceed maximum density per the adopted Comprehensive Plan.</u>	50 (except as provided in section 142-1161). Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, 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

			<p>Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration shall be permitted, provided all rooms are a minimum of 200 square feet. Additionally, existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons.</p> <p><u>Rooftop additions to historic buildings – 200.</u></p>		<p>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</p> <p>Self-storage warehouse - 40 feet, except that the building height shall be limited to 25 feet within 50 feet from the rear property line for lots abutting an alley; and within 60 feet from a residential district for blocks with no alley</p>
					<p>Mixed-use and commercial buildings that include structured parking for properties on the west side of Alton</p>

					Road from 6th Street to Collins Canal - 60 feet.
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Notwithstanding the above regulations, the maximum floor area ratio (FAR) for self-storage warehouses shall be 1.5. The floor area ratio provision for mixed use buildings in section 142-307(d)(2) shall not apply to self-storage warehouse development.

Sec. 142-307. - Setback requirements.

(a) The setback requirements for the CD-2 commercial, medium intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley— 0 feet
Subterranean, pedestal and tower (non-oceanfront)	0 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	10 feet when abutting a residential district, otherwise none Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	10 feet when abutting a residential district, unless separated by a street or waterway otherwise none Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet. Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)
Subterranean, pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-	Commercial uses—10 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	Commercial uses—10 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)

	156, 142-218 and 142-247)			
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- (b) The tower setback shall not be less than the pedestal setback.
- (c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).
- (d) Mixed use buildings: Calculation of setbacks and floor area ratio:

(1) Setbacks. When more than 25 percent of the total area of a building is used for residential or hotel units, any floor containing such units shall utilize the following the RM-1, 2, 3 setback regulations:-

a. Front:

- i. Subterranean: Zero feet;
- ii. Ground level: Zero feet;
- iii. Above the ground level up to 35 feet in height:
 - 1. Minimum five feet for parking garages with liners; or
 - 2. Minimum ten feet for parking garages without liners; or
 - 3. Minimum 15 feet for all other uses.
- iv. Above 35 feet in height:
 - 1. Minimum five feet for parking garages with liners; or
 - 2. Minimum ten feet for parking garages without liners; or
 - 3. Minimum 30 feet for all other uses.

b. Rear:

- i. Subterranean: Zero feet;
- ii. Ground level: Zero feet;
- iii. Above the ground level:
 - 1. Minimum ten percent of lot depth; or
 - 2. Minimum zero feet for parking garage floors above the minimum truck clearance.

c. Side, facing a street:

- i. Subterranean: Zero feet;
- ii. Non-residential uses: Zero feet;
- iii. Residential uses: Sum of the side setbacks shall equal 16 percent of lot width or a minimum of 7½ feet and up to 20 feet.

d. Side, interior:

- i. Subterranean: Zero feet;

ii. Non-residential uses: Zero feet;

iii. Residential uses: Sum of the side setbacks shall equal 16 percent of lot width or a minimum of 7½ feet or eight percent of lot width, whichever is greater.

- (2) Floor area ratio. When more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-2 district.
- (3) The maximum floor area ratio (FAR) for self-storage warehouses shall be 1.5. The floor area ratio provision for mixed use buildings in section 142-307(d)(2) above shall not apply to self-storage warehouse development.
- (e) Notwithstanding the above setback regulations, "self-storage warehouse" in this district shall have the following setbacks:
 - (1) Front—Five feet;
 - (2) Side facing a street—Five feet;
 - (3) Interior side—Seven and one-half feet or eight percent of the lot width, whichever is greater;
 - (4) Rear—For lots with a rear property line abutting a residential district the rear yard setback shall be a minimum of 25 feet; for lots with a rear property line abutting an alley the rear setback shall be a minimum of seven and one-half feet.

Section 5. Chapter 142, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," at Division 6, entitled "CD-3 Commercial, High Intensity District," is hereby amended as follows:

DIVISION 5. - CD-3 COMMERCIAL, MEDIUM INTENSITY DISTRICT

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Sec. 142-337. - Development regulations and area requirements.

- (a) The development regulations in the CD-3 commercial, high intensity district are as follows:
 - (1) Max FAR: Lot area equal to or less than 45,000 square feet—2.25; lot area greater than 45,000 square feet—2.75; oceanfront lots with lot area greater than 45,000 square feet—3.0.
 - (2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.
 - (3) Notwithstanding the above, lots located between Drexel Avenue and Collins Avenue and between 16th Street and 17th Street shall have a maximum FAR of 2.75.
 - (4) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 square feet with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 square feet.
- (b) However, the floor area ratio maximum for residential development, inclusive of hotels, in the architectural district shall be 2.50.

- (c) The lot area, lot width, unit size and building height requirements for the CD-3 commercial, high intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
Commercial—None Residential—7,000	Commercial—None Residential—50	Commercial—N/A New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel unit: 15%: 300—335 85%: 335+ For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are being renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration shall be permitted, provided all rooms are a minimum of 200 square feet. Additionally, existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility	Commercial—N/A New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units—N/A <u>Number of units may not exceed maximum density per the adopted Comprehensive Plan.</u>	75 feet. Lots within the architectural district: 50 feet. Lots fronting on 17th Street: 80 feet. City Center Area (bounded by Drexel Avenue, 16th Street, Collins Avenue and the south property line of those lots fronting on the south side of Lincoln Road): 100 feet. Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. <u>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</u>

		<p>regulations, provided the 200 square foot minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons.</p> <p><u>Rooftop additions to historic buildings – 200.</u></p>	<p>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</p> <p>Notwithstanding the foregoing requirement for City Center Area, the following additional shall apply:</p> <p>The height for lots fronting on Lincoln Road and 16th Street between Drexel Avenue and Washington Avenue are limited to 50 feet for the first 50' of lot depth.</p> <p>The height for lots fronting on Drexel Avenue is limited to 50 feet for the first 25' of lot depth (except as provided in section 142-1161).</p>
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Sec. 142-338. - Setback requirements.

(a) The setback requirements for the CD-3 commercial, high intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley—0 feet
Subterranean, pedestal and tower (non-oceanfront)	0 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	10 feet when abutting a residential district, otherwise none Residential	10 feet when abutting a residential district, unless separated by a street or waterway	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet. Residential

		uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	otherwise none Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)
Subterranean, pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	Commercial uses—10 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	Commercial uses—10 feet Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater Residential uses shall follow the RM-1, 2, 3 setbacks (See sections 142-156, 142-218 and 142-247)

- (b) The tower setback shall not be less than the pedestal setback.
- (c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).
- (d) Mixed use buildings: Calculation of setbacks and floor area ratio:

(1) Setbacks. When more than 25 percent of the total area of a building is used for residential or hotel units, any floor containing such units shall utilize the following the RM-1, 2, 3 setback regulations:-

a. Front:

i. Subterranean: Zero feet;

ii. Ground level: Zero feet;

iii. Above the ground level up to 35 feet in height:

1. Minimum five feet for parking garages with liners; or

2. Minimum ten feet for parking garages without liners; or

3. Minimum 15 feet for all other uses.

iv. Above 35 feet in height:

1. Minimum five feet for parking garages with liners; or

2. Minimum ten feet for parking garages without liners; or

3. Minimum 30 feet for all other uses.

b. Rear:

i. Subterranean: Zero feet;

ii. Ground level: Zero feet;

iii. Above the ground level:

1. Minimum ten percent of lot depth; or

2. Minimum zero feet for parking garage floors above the minimum truck clearance.

c. Side, facing a street:

i. Subterranean: Zero feet;

ii. Non-residential uses: Zero feet;

iii. Residential uses: Sum of the side setbacks shall equal 16 percent of lot width or a minimum of 7½ feet and up to 20 feet.

d. Side, interior:

i. Subterranean: Zero feet;

ii. Non-residential uses: Zero feet;

iii. Residential uses: Sum of the side setbacks shall equal 16 percent of lot width or a minimum of 7½ feet or eight percent of lot width, whichever is greater.

- (2) Floor area ratio. When more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-3 district.

Section 6. Chapter 142, entitled "Zoning Districts and Regulations," Article IV, entitled "Supplementary District Regulations," at Division 3, entitled "Supplementary Use Regulations," is hereby amended as follows:

Sec. 142-1132. - Allowable encroachments within required yards.

(a) *Accessory buildings.*

(1) In all districts, except single-family districts, accessory buildings which are not a part of the main building may be constructed in a rear yard, provided such accessory building does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line and 15 feet when facing a street. Areas enclosed by screen shall be included in the computation of area occupied in a required rear yard lot but an open uncovered swimming pool shall not be included.

(2) In single-family districts the following regulations shall apply to accessory buildings within a required rear yard:

a. *Lot coverage.* Accessory buildings that are not a part of the main building, shall be included in the overall lot coverage calculations for the site, and may be constructed in a rear yard, provided such accessory building (or accessory buildings) does not occupy more than 25 percent of the area of the required rear yard. Areas enclosed by screen shall be included in the computation of area occupied in a required rear yard lot but an open uncovered swimming pool shall not be included.

b. *Size.* The area of accessory buildings shall be included in the overall unit size calculation for the site. In no instance shall the total size of all accessory building(s) exceed ten percent of the size of the main home on the subject site, or 1,500 square feet, whichever is less.

c. *Two-story structures.* The second floor of an accessory building shall not exceed 50 percent of the first floor area.

d. *Building separation.* Accessory buildings shall be separated from the main home by a minimum of five feet. open to the sky with no overhead connections.

e. *Setbacks.*

1. *Single story.* A single story accessory building shall not be located closer than seven and one-half feet to an interior rear or interior side lot line, and 15 feet when facing a street. When facing a waterway, the minimum rear setback shall not be less than one-half of the required rear setback.

2. *Two-story.* A two-story accessory building shall not be located closer than ten feet to an interior side lot line, or the required side yard setback, whichever is greater, 15 feet when facing a street, and a rear setback of 15 feet. When facing a waterway, the minimum rear setback shall not be less than one-half of the required rear setback, or 15 feet, whichever is greater.

f. *Height.* Accessory buildings shall be limited to two stories. The maximum height above adjusted grade shall not exceed 12 feet for a one-story structure and 20 feet for a two-story structure. The allowable height exceptions of [Section 142-1161](#) shall not apply to accessory buildings in single-family districts.

g. *Uses.* Accessory buildings shall be limited to uses that are accessory to the main use, including, but not limited to, garage, carport, pergola, cabana, gazebo, maid's or guest's quarters. Components of the main structure, such as detached bedrooms or any habitable area of the single-family structure shall not be considered accessory uses.

h. *Utilities.* Accessory buildings may contain heating and air conditioning, washers and dryers, toilets, bar sinks and showers, but may not have full kitchen facilities. An outdoor built-in barbecue grill or similar cooking equipment shall be allowed as an accessory use, as may be permitted by the fire marshal and in accordance with the regulations contained in any applicable safety code or Florida Building Code.

(b) *Awnings.* In all districts, awnings attached to and supported by a building wall may be placed over doors or windows in any required yard, but such awnings shall not project closer than three feet to any lot line except:

(1) An awning associated with a commercial use shall be permitted to extend from the entrance door to the street line of any building except those in a single-family or townhome district;

(2) The setbacks for awnings in a locally designated historic district or in the National Register of Historic Places shall be determined under the design review procedures pursuant to [chapter 118](#), article VI, and shall be based upon the architecture of the building.

(c) *Boat, boat trailer, camper trailer or recreational vehicle storage.* In all districts, accessory storage of such vehicles shall be limited to a paved, permanent surface area within the side or rear yards, no such vehicle shall be utilized as a dwelling and such vehicles shall be screened from view from any right-of-way or adjoining property when viewed from five feet six inches above grade. Nothing in this subsection shall be construed to prohibit a dry dock facility when such facility is associated with a marina.

(d) *Canopies.* A canopy shall be permitted to extend from an entrance door to the street line of any building except those located in a single-family or townhome district. Where a sidewalk or curb exists, the canopy may extend to within 18 inches of the curb line. Such canopies shall not exceed 15 feet and 12 feet in height or be screened or enclosed in any manner and shall provide an unobstructed, clear space between the grade and the bottom of the canopy valance of at least seven feet. The location of vertical supports for the canopy shall be approved by the public works director.

(e) *Carports.* Carports shall be constructed of canvas and pipe for the express purpose of shading automobiles and shall have a minimum required interior side yard setback of four feet. The carport shall be permitted to extend into any front yard of a single-family residence, provided such carport is at least 18 inches from the property line or sidewalk, and provided it is attached to the main building. When the main entrance to a house is located on a side of the house facing the street, the carport shall be permitted to extend into the side yard facing the street, provided such carport is at least 18 inches from the property line or sidewalk and provided it is attached to the main building. The side of the carport that faces the required rear yard may be permitted to align with the walls of the existing residence, provided the residence is located a minimum of five feet from the rear property line. When a carport is detached it shall not be located in the required front or side-facing-the-street yards. Carports shall not be

permitted to exceed 20 feet in width, 20 feet in unobstructed view between the grade and the lower ceiling edge of the carport of at least seven feet shall be maintained. Only one carport shall be erected within a required yard. Carports constructed prior to the adoption of this section shall be considered as legal nonconforming structures. Such nonconforming canopies may be repaired or replaced; however, the degree of their nonconformity shall not be increased thereby.

(f) *Central air conditioners, emergency generators and other mechanical equipment.* In all districts ~~A~~accessory central air conditioners, generators and any other mechanical equipment, including attached screening elements, may occupy a required side or rear yard, ~~in single-family, townhome, or in the RM-1 residential multifamily low intensity districts,~~ provided that:

- (1) They are not closer than five feet to a rear or interior side lot line or ten feet to a side lot line facing a street.
- (2) The maximum height of the equipment including attached screening elements, shall not exceed five feet above current flood elevation, with a maximum height not to exceed ten feet above grade, as defined in subsection [114-1](#), of the lot at which they are located.
- (3) If visible from the right-of-way, physical and/or landscape screening shall be required.
- (4) Any required sound buffering equipment is located outside the minimum five-foot yard area specified in subsection (f)(1) of this section.
- (5) If the central air conditioning and other mechanical equipment do not conform to subsections (1), (2), (3), and (4) above, then such equipment shall follow the setbacks of the main structure.
- (6) Washers and dryers located in the RM-1 district, which are abutting and connected to an existing building, shall comply with the following:
 - a. Washers and dryers shall be for the sole use of building residents.
 - b. Washers and dryers may be located closer than five feet from a rear or interior side lot line, provided there are not adverse impacts on pedestrian circulation.
 - c. Washers and dryers shall be setback a minimum of 50 feet from the front property line, and shall not be located within any open courtyards.
 - d. Washers and dryers shall be physically screened, so that they are not visible from a public street or sidewalk.
 - e. The overall height of washers and dryers may exceed ten feet above grade, if required to be located at or above minimum flood elevation.

(g) *Driveways.* Driveways and parking spaces leading into a property located in single-family and townhome districts shall have a minimum setback of four feet from the side property lines. Driveways and parking spaces parallel to the front property line shall have a minimum setback of five feet from the front property line. Driveways and parking spaces located within the side yard facing the street shall have a minimum setback of five feet to the rear property line.

(h) *Fences, walls, and gates.* Regulations pertaining to materials and heights for fences, walls and gates are as follows:

(1) All districts except I-1 and WD-2:

a. Within the required front yard, fences, walls and gates shall not exceed five feet, as measured from grade. The height may be increased up to a maximum total height of seven feet if the fence, wall or gate is set back from the front property line. Height may be increased one foot for every two feet of setback. For properties zoned multifamily and located within a locally designated historic district or site, fences shall be subject to the certificate of appropriateness review procedure, and may be approved at the administrative level.

b. Within the required rear or side yard, fences, walls and gates shall not exceed seven feet, as measured from grade, except when such yard abuts a public right-of-way, waterway or golf course, the maximum height shall not exceed five feet. Within ~~RS-1 or RS-2~~ single-family districts, in the event that a property has approval for adjusted grade, the overall height of fences, walls and gates may be measured from adjusted grade, provided that the portion of such fences, walls or gates above four feet in height consists of open pickets with a minimum spacing of three inches, unless otherwise approved by the design review board or historic preservation board, as applicable.

c. All surfaces of masonry walls and wood fences shall be finished in the same manner with the same materials on both sides to have an equal or better quality appearance when seen from adjoining properties. The structural supports for wood fences, walls or gates shall face inward toward the property. In the event that a masonry wall or wood fence cannot be equally finished on both sides a affidavit may be submitted at the time of inspection signed by the affected property owner waving this requirement, this shall not apply to portions of masonry wall or fence which face the right-of-way or water.

d. Chain link fences are prohibited in the required front yard, and any required yard facing a public right-of-way or waterway (except side yards facing on the terminus of a dead end street in single-family districts) except as provided in this section and in [section 142-1134](#).

e. Chain link fences may be erected to surround vacant lots or vacant buildings to minimize the possibility of the property becoming a dumping area. Such fence shall be permitted on a temporary basis for a period not to exceed

one year and subject to its removal prior to the issuance of a certificate of use or a certificate of occupancy for a main permitted use on the property. In the architectural district, such a fence shall be vinyl coated.

f. Barbed wire or materials of similar character shall be prohibited.

g. Vacant lots in the CD-1, CD-2, CD-3, C-PS1, C-PS2, C-PS3, C-PS4, RM-1, RM-2, RM-3, R-PS1, R-PS2, R-PS3, R-PS4, RM-PS1, and MXE districts must be secured against motor vehicle entry at all entry points by a chain, hedge, fence, or other such material approved by the planning and zoning director.

(2)

In I-1 light industrial districts, within the front, rear or side yard a fence shall not exceed seven feet, as measured from grade, excluding barbed wire or materials of similar character. Barbed wire or materials of similar character shall be elevated seven feet above grade and be angled towards the interior of the lot. The combined height of a wall or fence plus barbed wire or materials of similar character shall not exceed nine feet. Vacant lots in the I-1 district must be secured against motor vehicle entry at all entry points by a chain, hedge, fence or other such material approved by the planning and zoning director.

(3)

For government facilities in GU and CCC districts, a fence surrounding the property may be located on the property line, not to exceed six feet in height, as measured from grade. The height may be increased up to a maximum total height of eight feet if the fence is set back one foot from the property line, subject to design review approval; fence(s) shall be constructed in a manner such that there is substantial visibility through the fence.

(4)

In the WD-2 districts, the following shall apply:

a.

Fences and gates shall be subject to the certificate of appropriateness review criteria, and may be reviewed for approval at the administrative level.

b.

Fences and gates shall not exceed six feet in height, as measured from the elevation of Miami Beach Drive at the center of the property.

c.

Fences and gates shall consist only of open aluminum picket, unless otherwise approved by the historic preservation board.

d.

Wood, chain link, masonry, concrete, barbed wire or materials of similar character shall be prohibited.

(5) For oceanfront properties, the following shall apply with regard to measurement of maximum height.

a. The height of allowable fences, walls and gates located in the front, interior side yard or side yards facing a street (and not also within a rear yard shall be measured from grade, as defined in [section 114-1](#)).

b. The height of allowable fences, walls and gates located within the required rear yard (including overlapping portions of interior and street side yards) shall be measured from the elevation of the beach walk (not an elevated boardwalk) at the center of the property. Where no beach walk is present, the height of allowable fences, walls, and gates shall be measured from the elevation of the erosion control line at the center of the property.

(i) *Hedges*. In all districts, there is no height limitations. Hedge material must be kept neat, evenly trimmed and properly maintained. For corner visibility regulations see [section 142-1135](#).

Cross reference— Maximum height of hedges in required front yard, [§ 126-6\(1\)b](#).

(j) *Hot tubs, showers, saunas, whirlpools, toilet facilities, swimming pool equipment, decks*. In all districts, hot tubs, showers, whirlpools, toilet facilities, decks and cabanas are structures which are not required to be connected to the main building but may be constructed in a required rear yard, provided such structure does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line. Swimming pool equipment may be located in the rear and/or side yard when it is at least two feet from a rear or interior side lot line; however, when a side yard faces a street, swimming pool equipment shall be located at least ten feet from the property line with landscaping or fencing constructed in a manner that prevents it being viewed from the street. Freestanding, unenclosed facilities including surrounding paved or deck areas shall adhere to the same setback requirements as enclosed facilities.

Cross reference— Setback requirements in RM-PRD district, [§ 142-186](#).

(k) *Lightpoles*. In all districts:

(1) Lightpoles shall have a maximum height of ten feet. Lightpoles shall be located seven and one-half feet from any property line except that when such property line abuts a public right-of-way, or waterway there shall be no required setback.

(2) All light from lightpoles shall be contained on-site or on any public right-of-way as required by the city Code.

(l) *Marine structures.* In all districts, seaward side yard setbacks for boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind shall not be less than seven and one-half feet. This requirement pertains to the enlargement of existing structures as well as to the construction of new structures. It is further provided that any boat, ship, or vessel of any kind shall not be docked or moored so that its projection extends into the required seaward side yard setback, and the mooring of any type of vessel or watercraft shall be prohibited along either side of the walkway leading from the seawall to a boat dock. Land side decks may extend to the deck associated with the marine structure. Lighting associated with, but not limited to, the deck, or marine structure shall be installed in such a manner to minimize glare and reflection on adjacent properties and not to impede navigation. The maximum projection of a marine structure shall be determined by the county department of environmental resource management. If a dock or any kind of marine structure/equipment whether it is or is not attached to a dock projects more than 40 feet into the waterway or it extends beyond the maximum projection permitted under [section 66-113](#), the review and approval of the applicable state and county authorities shall be required. In the event any dock, boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind are proposed to extend greater than 40 feet from a seawall adjacent to, or abutting the WD-1 or WD-2 district, conditional use approval from the planning board, in accordance with [chapter 118](#), article IV of the city Code, shall also be required.

(m) *Ornamental fixtures or lamps.* In all districts, requirements for ornamental fixtures and lamps shall be as follows:

(1) Ornamental fixtures and lamps are permitted to be placed on walls or fences when they are adjacent to a public street, alley, golf course or waterway. The total height of the combined structure shall not exceed the required fence or wall height by more than two feet.

(2) Ornamental fixtures and lamps shall be located with a minimum separation of eight feet on center with a maximum width of two feet.

(n) *Porte-cochere.* A porte-cochere shall be permitted to extend from an entrance door to the street line of any building except that porte-cocheres shall not be permitted in a single-family or townhome district. Where a sidewalk or curb exist, the porte-cochere may extend to within 18 inches of the sidewalk. The porte-cochere shall not exceed 30 percent of building core frontage in width or 16 feet in height or be screened or enclosed in any manner. It shall provide an unobstructed, clear space of not less than nine feet between the grade and the underside of the roof of the porte-cochere.

(o) *Projections.* In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet, unless otherwise noted.

(1) Belt courses.

- (2) Chimneys.
- (3) Cornices.
- (4) Exterior unenclosed private balconies.
- (5) Ornamental features.
- (6) Porches, platforms and terraces up to 30 inches above the adjusted grade elevation of the lot, as defined in [chapter 114](#). Within single-family districts, such projections and encroachments may be located up to the first habitable floor elevation and include stairs, steps, ADA-compliant ramps and related walkways, not exceeding five feet in width, which provide access to all porches, platforms, terraces and the first floor when elevated to meet minimum flood elevation requirements, including freeboard.
- (7) Roof overhangs.
- (8) Sills.
- (9) Window or wall air conditioning units.
- (10) Bay windows (not extending floor slab).

(11) Planters, not to exceed four (4) feet in height, when measured from the finish floor of the primary structure.

(11) Walkways: Maximum 44 inches. May be increased to a maximum of five feet for those portions of walkways necessary to provide Americans with Disabilities Act (ADA) required turn around areas and spaces associated with doors and gates. Walkways in required yards may exceed these restrictions when approved through the design review or certificate of appropriateness procedures, as applicable, and pursuant to [chapter 118](#), article VI, of the city Code. Notwithstanding the foregoing, when required to accommodate ADA access to an existing contributing building within a local historic district, or National Register District, an ADA walkway and ramp may be located within a street side or interior side yard, with no minimum setback, provided all of the following are adhered to:

- a. The maximum width of the walkway and ramp shall not exceed 44 inches and five feet for required ADA landings;
- b. The height of the proposed ramp and landing shall not exceed the finished first floor of the building(s); and
- c. The slope and length of the ramp shall not exceed that which is necessary to meet the minimum Building Code requirements.

Additionally, subject to the approval of the design review board or historic preservation board, as applicable, an awning may be provided to protect users of the ADA walkway and ramp from the weather.

(12) Electric vehicle charging stations and fixtures, located immediately next to an off-street parking space, shall be permitted where driveways and parking spaces are located.

(13) Electrical transformers and associated concrete pads, as required by Florida Power and Light (FPL) may be located up to the front or street side property line in single-family districts.

(p) *Satellite dish antennas.* In all districts, satellite dish antennas are only permitted in the rear yard or on top of multifamily or commercial buildings. Antennas shall be located and sized where they are not visible from the street. Satellite dish antennas shall be considered as an accessory structure; however the height of the equipment including its base to the maximum projection of the antenna, based upon maximum operational capabilities, to the top part of the antenna shall not exceed 15 feet. If it is attached to the main structure it may not project into a required yard.

Sec. 142-1133. - Swimming pools.

This section applies to swimming pools in all districts, except where specified. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, provided:

(1) *Rear yard setback.* ~~A six-foot minimum setback from rear property line to swimming pool deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure associated or not associated with a swimming pool, provided, however, that swimming pool decks may extend to the property line and be connected to a dock and its related decking when abutting upon any bay or canal. There shall be a minimum seven and one-half-foot setback from the rear property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool. For oceanfront properties, the setback shall be measured from the old city bulkhead line.~~

a. A six-foot minimum setback from rear property line to swimming pool deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure associated or not associated with a swimming pool.

b. Swimming pool decks may extend to the property line and be connected to a dock and its related decking when abutting upon any bay or canal.

c. There shall be a minimum seven and one-half-foot setback from the rear property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.

d. For oceanfront properties, the setback shall be measured from the old city bulkhead line.

e. In a single-family district, for properties containing a pre-1942 architecturally significant home, a five-foot setback from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.

(2) *Side yard setback.* ~~A seven and one-half-foot minimum required setback from the side property line to a swimming pool deck, or platform, the exterior face of an infinity edge pool catch basin, or screen enclosures associated or not associated with a swimming pool. Nine-foot minimum required setback from side property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.~~

a. A seven and one-half-foot minimum required setback from the side property line to a swimming pool deck, or platform, the exterior face of an infinity edge pool catch basin, or screen enclosures associated or not associated with a swimming pool.

b. Nine-foot minimum required setback from side property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.

c. In a single-family district, for properties containing a pre-1942 architecturally significant home, a five-foot setback from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.

(3) *Side yard facing a street.* For a side yard facing a street:

a. *Single-family district.* In a single-family district a ten-foot setback from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.

b. In a single-family district, for properties containing a pre-1942 architecturally significant home, a five-foot setback from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.

b.c. *All other districts.* In all other districts a 15-foot setback from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.

(4) *Walk space.* A walk space at least 18 inches wide shall be provided between swimming pool walls and fences or screen enclosure walls. Every swimming pool shall be protected by a sturdy non-climbable safety barrier and by a self-closing, self-locking gate approved by the building official.

a. The safety barrier shall be not less than four feet in height and shall be erected either around the swimming pool or around the premises or a portion thereof thereby enclosing the area entirely, thus prohibiting unrestrained admittance to the swimming pool area.

b. Where a wooden type fence is to be provided, the boards, pickets, louvers, or other such members shall be spaced, constructed and erected so as to make the fence not climbable and impenetrable.

c. The walls, whether of the stone or block type, shall be so erected to make them non-climbable.

d. Where a wire fence is to be used, it shall be composed of two-inch chainlink or diamond weave non-climbable type, or of an approved equal, with a top rail and shall be constructed of heavy galvanized material.

e. Gates, where provided, shall be of the spring lock type so that they shall automatically be in a closed and fastened position at all times. They shall also be equipped with a gate lock and shall be locked when the swimming pool is not in use.

(5) *Size.* The minimum size of all commercial swimming pools shall be 450 square feet with a minimum dimension of 15 feet and all required walkways shall have a minimum width of four feet around the swimming pool, exclusive of the coping. Commercial swimming pools shall also satisfy all applicable requirements of any governmental agency having jurisdiction.

(6) *Visual barriers for swimming pools.* Accessory swimming pools when located on any yard, facing a public street or alley, shall be screened from public view by a hedge, wall or fence not less than five feet in height. The hedge shall be planted and maintained so as to form a continuous dense row of greenery as per the requirements of this division. The maximum height of the visual barrier shall be pursuant to article IV, division 5 of this chapter.

(7) *Corner properties within single-family districts.* For corner lots with a home built prior to 2006, a ten-foot setback from the front property line and from the side lot line facing the street to the swimming pool, deck, platform or screen enclosure. For corner lots with radial corners, the front setback and the side setback facing the street shall be taken from the midpoint of the curve of the corner of the property.

(8) *Homes with two fronts, or thru lots, within single-family districts.* Lots with two fronts, as defined by [section 114-1](#) of the City Code, shall be permitted to place a pool and pool deck, with a minimum ten-foot setback from the front property line, at the functional rear of the house.

Section 7. Chapter 142, entitled “Zoning Districts and Regulations,” Article IV, entitled “Supplementary District Regulations,” at Division 4, entitled “Supplementary Use Regulations,” is hereby amended as follows:

DIVISION 5. - HEIGHT REGULATIONS

Sec. 142-1161. - Height regulation exceptions.

For all districts, except RS-1, 2, 3 and 4 (single-family residential districts).

- (b) The height of all allowable items in subsection (a) of this section, unless otherwise specified, shall not exceed 25 feet above the height of the roofline of the main structure. With the exception of items described in subsection (a)(17) and (a)(18) of this section, when any of the above items are freestanding, they shall follow the height limitations of the underlying zoning district (except flagpoles which are subject to section 138-72).
- (c) Notwithstanding other provisions of these regulations, the height of all structures and natural growth shall be limited by the requirements of the Federal Aviation Agency and any airport zoning regulations applicable to structure and natural growth.
- (d) Rooftop additions.
 - (1) *Restrictions.* There shall be no rooftop additions to existing structures in the following areas: oceanfront lots within the Miami Beach Architectural District in the RM-3 or CD-3 zoning districts; non-oceanfront lots fronting Ocean Drive in the MXE zoning district. No variance from this provision shall be granted.
 - (2) *Additional regulations.* Existing structures within an historic district shall only be permitted to have habitable one-story rooftop additions (whether attached or detached), with a maximum floor to ceiling height of 12 feet except as hereinafter provided. No variance from this provision shall be granted. The additions shall not be visible when viewed at eye level (5'—6" from grade) from the opposite side of the adjacent right-of-way; for corner properties, said additions shall also not be visible when viewed at eye level from the diagonal corner at the opposite side of the right-of-way and from the opposite side of the side street right-of-way. Notwithstanding the foregoing, the line-of-sight requirement may be modified as deemed appropriate by the historic preservation board based upon the following criteria: (i) the addition enhances the architectural contextual balance of the surrounding area; (ii) the addition is appropriate to the scale and architecture of the existing building; (iii) the addition maintains the architectural character of the existing building in an appropriate manner; and (iv) the addition minimizes the impact of existing mechanical equipment or other rooftop elements. The placement and manner of attachment of additions (including those which are adjacent to existing structures) are subject to historic preservation board approval.
 - (3) *Collins Waterfront Historic District and Morris Lapidus/Mid-20th Century Historic District.* Notwithstanding the foregoing provisions of subsection 142-1161(d)(2), certain types of existing structures located within the Collins Waterfront Historic District and Morris Lapidus/Mid-20th Century Historic District may be permitted to have habitable rooftop additions (whether attached or detached) according to the following requirements:

- a. Height of rooftop additions permitted for structures of five stories or less:
 - 1. Existing buildings of five or less stories may not have more than a one story rooftop addition, in accordance with the provisions of subsection 142-1161(d)(2). Additionally, at the discretion of the historic preservation board, pursuant to certificate of appropriateness criteria, the maximum floor to ceiling height may be increased to 15 feet within the Morris Lapidus/Mid-20th Century Historic District.
 - b. Height of rooftop additions permitted for hotel structures of greater than five stories:
 - 1. For those structures determined to be eligible by the historic preservation board for rooftop additions of greater than one story in height according to the provisions of subsection c. below, one story is allowed per every three stories of the existing building on which the addition is to be placed, to a maximum of four additional rooftop addition stories, with a maximum floor to floor height of 12 feet, and a maximum floor to roof deck height of 12 feet at the highest new story. The additional stories shall only be placed on the underlying structure creating the eligibility for an addition. Additionally, at the discretion of the historic preservation board, pursuant to certificate of appropriateness criteria, the maximum floor to ceiling height may be increased to 15 feet within the Morris Lapidus/Mid-20th Century Historic District, for up to two floors of a permitted roof-top addition.
 - 2. Rooftop additions permitted under this subsection, which are greater than one story, shall be for the sole purpose of hotel unit development. A restrictive covenant in a form acceptable to the city attorney committing the property to such hotel use, subject to release by the historic preservation board when such board determines that the restriction is no longer necessary, shall be recorded prior to the issuance of any building permit for a rooftop addition greater than one story.
- (4) *North Beach Resort Historic District.* Notwithstanding the foregoing provisions of subsection 142-1161(d)(2), existing structures located within the North Beach Resort historic district may be permitted to have habitable rooftop additions (whether attached or detached) according to the following requirements:
- a. Existing buildings of five or less stories may not have more than a one story rooftop addition, in accordance with the provisions of subsection 142-1161(d)(2).
 - b. For those structure determined to be eligible by the historic preservation board for rooftop additions of greater than one story in height, according to the provisions of subsection (5) below, existing buildings six or more stories may have a two story rooftop addition with a maximum floor to floor height of 12 feet, and a maximum floor to roof deck height of 12 feet at the highest new story. The additional stories shall only be placed on that portion of the underlying structure creating the eligibility for an addition.
- (5) *Design and appropriateness guidelines.* In determining if existing structures are eligible for rooftop additions, the historic preservation board, in addition to any and all other applicable criteria and guidelines contained in these Land Development Regulations, shall consider whether:

- a. The design of an existing structure (or part thereof) to which a new rooftop addition is to be attached is of such nature or style that it does not contain any significant original architectural crown element(s) or other designed composition of significant architectural features, nor does the overall profile of the structure including its rooftop design features have a distinctive quality that contributes to the special character of the historic district, as determined by the historic preservation board. Significant rooftop or upper facade elements or features may include but shall not be limited to towers, domes, crowns, ziggurats, masts, crests, cornices, friezes, finials, clocks, lanterns, original signage and other original architectural features as may be discovered.
- b. The proposed rooftop addition shall be designed, placed and attached to an existing structure in a manner that:
 1. Does not obscure, detract from, or otherwise adversely impact upon other significant architectural features of the existing structure, inclusive of significant features that are to be, or should be, restored or reconstructed in the future;
 2. Maintains the architectural contextual balance of the surrounding area and does not adversely impact upon or detract from the surrounding historic district;
 3. Is appropriate to the scale and architecture of the existing building;
 4. Maintains the architectural character of the existing building in an appropriate manner;
 5. Does not require major demolition and alterations to existing structural systems in such manner as would compromise the architectural character and integrity of the existing structure; and
 6. Minimizes the impact of existing mechanical equipment or other rooftop elements.
- c. The placement and manner of attachment of additions (including those which are adjacent to existing structures) are subject to the historic preservation board granting a certificate of appropriateness for any demolition that may be required as well as for the new construction.
- d. The entire structure shall be substantially rehabilitated.
- e. Notwithstanding the foregoing, the overall height of any structure located in the Collins Waterfront Historic District or the North Beach Resort Historic District may not exceed the height limitations of the underlying zoning district. No additional stories may be added under this section through height variances from the underlying zoning district regulations.
- f. No variance from this provision shall be granted.

SECTION 8. Repealer.

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

SECTION 9. 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 10. Severability.

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

SECTION 11. Effective Date.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2019.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2019

Second Reading: _____, 2019

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