

TC-C DISTRICT – HEIGHT AND PUBLIC BENEFIT CLARIFICATIONS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED “LAND DEVELOPMENT REGULATIONS,” BY AMENDING CHAPTER 142, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” ARTICLE II, ENTITLED “DISTRICT REGULATIONS,” DIVISION 21, ENTITLED “TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT,” TO MODIFY SECTION 142-747, ENTITLED “PUBLIC BENEFITS PROGRAM,” TO CLARIFY THE ADDITIONAL HEIGHT INCENTIVES PROVIDED PURSUANT TO THE PUBLIC BENEFITS PROGRAM FOR THE TC-C DISTRICT, AND TO PROVIDE ALTERNATIVE OPTIONS IN THE EVENT OF AN APPLICANT’S NON-COMPLIANCE WITH THE LEED PLATINUM CERTIFICATION PUBLIC BENEFIT OPTION; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, on November 14, 2018, the City Commission adopted Ordinance No. 2018-4224, which established the Town Center – Central Core (TC-C) district; and

WHEREAS, at the adoption hearing, modifications were made to the maximum allowable height that created some inconsistencies within the Ordinance; and

WHEREAS, the proposed amendment will provide for consistency between the maximum allowable height in the district regulations and the public benefits program; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. Chapter 142, entitled “Zoning Districts and Regulations,” Article II, entitled “District Regulations,” Division 21, entitled “Town Center-Central Core (TC-C) District,” is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

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ARTICLE II. – DISTRICT REGULATIONS

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DIVISION 21. – TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT

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Sec. 142-747. - Public benefits program.

Participation in the public benefits program shall be required for floor area that is located above 125 feet up to the maximum height. The following options or mix of options are available for participation in the public benefits program:

- (a) *Contribution to public benefits fund.* A contribution to the public benefits fund, in the amount identified in appendix A₁ shall be required for each square foot of floor area located above a building height of the 125 feet, up to the public benefit maximum height as described in section 142-743(b)(2). The payment shall be made prior to the development obtaining a building permit.
- (b) *On-site workforce or affordable housing.* Provide on-site workforce housing or housing for low and/or moderate income non-elderly and elderly persons pursuant to the requirements of articles V and VI of chapter 58 of the City Code and certified by the community development department. Two square feet of floor area may be built above a building height of 125 feet, up to the public benefit maximum height as described in section 142-743(b)(2), for each square foot of workforce housing or housing for low and/or moderate income non-elderly and elderly persons provided onsite. The following regulations shall apply to such units:
 - (1) There shall be no separate entrance or access for such units. Residents of such units shall be permitted to access the building from the same entrances as the market rate units, unless units are on the ground floor, in which case they shall have private entrances from the clear pedestrian path.
 - (2) Units shall comply with the minimum unit size requirements for affordable or workforce housing of this division.
 - (3) Only the square footage within the unit itself shall count for the square footage above the as of right height.
- (c) *Off-site workforce or affordable housing.* Provide off-site workforce housing or housing for low and/or moderate income non-elderly and elderly persons pursuant to the requirements of articles V and VI of chapter 58 of the City Code and certified by the community development department within the City of Miami Beach. One and one-half square feet of floor area may be built above a building height of 125 feet, up to the public benefit maximum height as described in section 142-743(b)(2), for each square foot of workforce housing or housing for low and/or moderate income non-elderly and elderly persons provided off-site within the City of Miami Beach. The following regulations shall apply to such units:
 - (1) Units shall comply with the minimum unit size requirements for affordable or workforce housing of this zoning district.
 - (2) Only the square footage within the unit itself shall count for the square footage above the as of right height.
 - (3) The housing shall be provided prior to the development obtaining a certificate of occupancy.
 - (4) If the housing cannot be provided prior to the development obtaining a certificate of occupancy, a contribution into the public benefits trust fund shall be made in the

amount identified in appendix A for each one-half square foot of floor area that is above the as of right height.

- (d) *LEED platinum certification.* Obtain LEED platinum certification or international living future institute living building challenge certification. ~~An additional 75 feet of height to achieve the public benefit maximum height as described in section 142-743(b)(2) above 125 feet shall be provided for this option. This option shall be regulated per the~~ To exercise this option, a participant must comply with the requirements of the green building program set forth in chapter 133, division 1 article I of this Code,; however, it subject to the following provision: the exercise of this option requires that the participant post a sustainability fee payment bond or issue full payment of the sustainability fee in the amount of ten percent of the total construction valuation of the building permit, as opposed to the five percent as required in section 133-6(a), and that the following compliance schedule be utilized:

Certification Compliance Schedule

Level of Certification Achieved	Sustainability Fee Reimbursement to Participant for Meeting Certain Green Building Certification Levels
Failure to obtain certification	Zero percent refund of bond or payment of sustainability fee
LEED certified	30% refund of bond or payment of sustainability fee
LEED silver certified	40% refund of bond or payment of sustainability fee
LEED gold certified or international living future institute petals or net zero energy certified	60% refund of bond or payment of sustainability fee
LEED platinum or international living future institute living building challenge certified	100% refund of bond or payment of sustainability fee

If this option is selected and LEED platinum or international living future institute living building challenge certification cannot be achieved prior to the development obtaining a certificate of occupancy (CO), the applicant may choose to provide a contribution into the public benefits trust fund, in the amount identified in appendix A, for each one-half square foot of floor area that is above a building height of 125 feet in height, instead of complying with the revised Certification Compliance Schedule set forth in this subsection (d). If the applicant elects to provide the contribution into the public benefits fund and the bond has already been posted or the sustainability fee has been paid, the difference between the sustainability fee identified above and the sustainability fee identified in chapter 133, division 1 shall be refunded.

- (e) *Self-sustaining electrical and surplus stormwater retention and reuse.* Provide stormwater retention that is over and above the minimum requirements in order to accommodate offsite stormwater, including the reuse of such stormwater through purple pipes throughout the building, in a manner to be reviewed and approved by public works. Additionally, the entire building shall be fully self-contained in terms of

electrical power through the use of solar panels and similar electricity generating devices. An additional 75 feet of height to achieve the public benefit maximum height as described in section 142-743 (b)(2) above 125 feet shall be provided for this option.

- (f) *Public recreation facilities.* Provide active recreation facilities that are available to the general public. Two square feet of floor area may be built above a building height of 125 feet, up to the public benefit maximum height as described in section 142-743(b)(2), for each square foot of recreation facilities provided. The facilities shall serve a recreational need for the North Beach community, and consultation with the city's parks and recreation department shall be required prior to submitting an application for land use board approval in order to determine the types of facilities that are most in need for the area. The facilities can include, but are not limited to, soccer fields, football fields, basketball courts, tennis courts, gyms, pools, and playgrounds. Such facilities can be located on ground levels, rooftops, above parking garages, or within habitable buildings. An operating agreement shall be submitted to the city and approved by the city manager or designee. The operating agreement shall contain minimum hours of operation, cost of admission to cover maintenance and operating costs, organized league information, signage to ensure the public is aware of the public nature of the facility, security requirements, reservation requirements, and other requirements as applicable. The agreement shall also ensure that residents of the building are not prioritized over the general public.
- (g) *Expedited development construction.* A contribution to the public benefits fund shall not be required for each square foot of floor area located above 125 feet, up to the public benefit maximum height as described in section 142-743(b)(2), if the following development timeframes are adhered to:
 - (1) Obtain a full building permit for a development project consisting of new construction in excess of 100,000 square feet within 21 months of the effective date of this division. The 21-month period shall not be eligible for any extension of time and cannot be tolled by extensions or modifications of board orders or state extension of development orders. If a full building permit is not obtained within 21 months, participation in an alternative option shall be required in order to achieve the additional height. Notwithstanding the foregoing, in the event that, with staffs favorable recommendation, the design review board (DRB) approval of the subject development project is continued by the board or appealed by a party other than the applicant, such 21-month period to obtain a full building permit shall be tolled until the conclusion of such action. Additionally, the city commission may toll the 21-month timeframe, at a duly noticed public hearing, by a four-sevenths affirmative vote for undue hardship. Undue hardship, does not include financial hardship, and shall require a showing by application of due diligence in processing the building permit; that the delays are not caused due to the negligence of the applicant, and/or that the extenuating circumstances are a result of a third party agency that has unduly delayed the issuance of the permit for the project.
 - (2) Obtain a temporary certificate of occupancy (TCO) or certificate of occupancy (CO) within 30 months of approval of the building permit; however, state authorized extensions for states of emergency within Miami-Dade County may be utilized for the purposes of tolling of the TCO or CO time limit with notice and proof of the state of emergency provided to the planning department.

Failure to comply with any of the aforementioned timeframes shall require payment of the balance for the full public benefits fee or participation in an alternative public benefits option prior to obtaining a CO.

SECTION 2. Repealer.

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

SECTION 3. Codification.

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

SECTION 4. Severability.

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

SECTION 5. Effective Date.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2019.

Attest:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

First Reading: May 8, 2019
Second Reading: June 5, 2019

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

220.1 4-30-19
City Attorney Date

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

[Sponsor: Commissioner John Elizabeth Alemán]