

**Adaptive Re-use and Accessory Uses in the ~~North Shore~~ and Tatum Waterway Areas
(Revised in accordance with the direction of the City Commission at first reading on
October 16, 2019 and the LUSC recommendations of January 21, 2020)**

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 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 3, ENTITLED "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION II, ENTITLED "RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY," SECTION 142-152, ENTITLED "MAIN PERMITTED AND PROHIBITED USES," AND SECTION 142-153, ENTITLED "CONDITIONAL USES," TO MODIFY USE REGULATIONS AND AMEND THE LIST OF CONDITIONAL USES FOR RM-1 PROPERTIES WITHIN THE NORTH SHORE NATIONAL REGISTER HISTORIC DISTRICT, TO INCLUDE ACCESSORY ALCOHOLIC BEVERAGE ESTABLISHMENTS AND HOTEL USES; BY AMENDING ARTICLE IV, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," DIVISION 2, ENTITLED "ACCESSORY USES," SECTION 142-902, ENTITLED "PERMITTED ACCESSORY USES," TO MODIFY THE ACCESSORY USES FOR HOTELS IN THE NORTH SHORE LOCAL HISTORIC DISTRICT AND EXPAND THE ALLOWABLE ACCESSORY USES FOR EXISTING APARTMENT BUILDINGS IN THE NORTH SHORE NATIONAL REGISTER DISTRICT TO ALLOW FOR ACCESSORY CAFÉ, OFFICE, RETAIL, PERSONAL SERVICE, AND NON-MOTORIZED WATERCRAFT RENTAL USES; AND BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE II, ENTITLED "DISTRICTS; REQUIREMENTS," SECTION 130-31, ENTITLED "PARKING DISTRICTS ESTABLISHED," TO PROVIDE FOR AN EXCEPTION TO OFF-STREET PARKING REQUIREMENTS FOR CERTAIN ACCESSORY AND CONDITIONAL USES ON RM-1 PROPERTIES IN THE NORTH SHORE NATIONAL REGISTER HISTORIC DISTRICT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, the City seeks to encourage and incentivize the retention and restoration of contributing historic waterfront structures within the North Shore National Register District in the North Beach area; and

WHEREAS, the City seeks to enhance the pedestrian-friendly allure, and promote the unique sense of place and community culture, along North Beach's historic Tatum Waterway through low-intensity and compatible mixed-uses, while providing greater accessibility to neighborhood amenities for residents; and

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

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II "District Regulations," Division 3, "Residential Multifamily Districts," Subdivision II, "RM-1 Residential Multifamily Low Intensity", is hereby amended as follows:

CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS

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ARTICLE II. – DISTRICT REGULATIONS

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DIVISION 3. – RESIDENTIAL MULTIFAMILY DISTRICTS

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Subdivision II. – RM-1 Residential Multifamily, Low Intensity

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Sec. 142-152. - Main permitted and prohibited uses.

(a) Main permitted uses. The main permitted uses in the RM-1 residential multifamily, low density district are:

- (1) single-family detached dwelling;
- (2) townhomes;
- (3) apartments;
- (4) hotels, for properties fronting Harding Avenue or Collins Avenue, from the City Line on the north, to 73rd Street on the south; and
- (5) bed and breakfast inn (pursuant to article V, division 7 of this chapter).

(b) Prohibited uses. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, of the City Code, are prohibited uses, unless otherwise specified. Moreover, all uses not listed as a main permitted or conditional use are also prohibited.

Sec. 142-153. - Conditional uses.

(a) The conditional uses in the RM-1 residential multifamily, low density district are

- (1) adult congregate living facility;
- (2) day care facility;
- (3) nursing home;
- (4) religious institutions;
- (5) private and public institutions;
- (6) schools; and
- (7) commercial or noncommercial parking lots and garages.

(b) For properties located in the Collins Waterfront Local Historic District, which are designated as a Local Historic Site, a hall for hire use within the interior of an existing building shall require conditional use approval and shall comply with the following:

- (1) The conditional use shall only be permitted within an existing structure that is on a property designated as a "Historic Site" and such limitation shall be recorded in the Public Records;

- (2) Dance halls, entertainment establishments and neighborhood impact establishments may only be permitted as part of a hall for hire;
 - (3) The hall for hire use shall close by 11:00 p.m. Sunday through Thursday, and by 12:00 a.m. Friday and Saturday;
 - (4) Events at the hall for hire shall be for the exclusive use of the property owner (and its subsidiaries) and invited guests. Events at the hall shall not be for the general public, with the exception of adjacent schools and community organizations within the Collins Park and Flamingo Drive areas, which may use the hall until 9:00 p.m.;
 - (5) Restaurants, stand-alone bars and alcoholic beverage establishments, not functioning as a hall-for-hire, shall be prohibited;
 - (6) Outdoor dining, outdoor entertainment and open-air entertainment uses shall be prohibited;
 - (7) Private or valet parking for any event at the hall shall be prohibited from using Flamingo Drive, Flamingo Place or Lake Pancoast Drive to facilitate access to the site.
 - (8) There shall be no variances from the provisions of Section 142-153(b).
- (c) For apartment buildings located north of 41st Street with a minimum of 100 apartment units, a restaurant serving alcoholic beverages shall require conditional use approval and shall comply with the following:
- (1) The restaurant shall only be open to residents of the apartment building and their invited guests. All invited guests shall be required to park on the subject property.
 - (2) The kitchen shall be limited to a maximum size of 500 square feet.
 - (3) The conditional use application for a restaurant with outdoor seating and outdoor dining areas shall specify the proposed maximum number of seats, and locations of seating in the outdoor areas, which shall be subject to Planning Board review and approval.
 - (4) A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment or entertainment establishment shall be prohibited.
 - (5) There shall only be one restaurant on the subject property.
 - (6) The hours of operation of the Restaurant may be from 8 a.m. to midnight (no orders to be taken after 11 p.m.) and for any exterior areas then only until 11p.m. (no orders to be taken after 10 p.m.)
 - (7) Without limiting the foregoing, in the outdoor areas of the restaurant there shall not be any entertainment or Special Events.

~~There shall be no variances from the provisions of Section 142-153(b).~~

- (d) For existing apartment buildings located **on lots fronting the Tatum Waterway and** within the North Shore National Register Historic District and which are classified as 'contributing,' accessory restaurants serving alcoholic beverages may be permitted as a conditional use in accordance with the following provisions:
- (1) The interior restaurant area, inclusive of all seating and back-of-house areas, shall be located at the first level of the building and shall not exceed 25 percent of the floor area of the existing structure.
 - (2) The maximum number of seats shall not exceed 40; however, the maximum number of seats may be increased to 60, subject to planning board approval.

- (3) Outdoor seating and outdoor dining shall only be permitted in buildings with internal courtyards, which are part of a unified development site under common ownership. All such outdoor seating and dining areas shall be located within the internal courtyard. The maximum number of exterior seats shall not exceed 20; however, the maximum number of seats may be increased to 40, subject to planning board approval.
 - (4) Pass-through windows shall not be permitted.
 - (5) Beer and wine may be served; however, full liquor shall not be permitted.
 - (6) A fully enclosed, air-conditioned trash room shall be required.
 - (7) The hours of operation may be from 11:00 am to 10:00 pm (no orders to be taken after 9:00 p.m.)
 - (8) A plan for loading operations shall be provided for the review and approval of the planning board and parking department. Loading shall only take place between the hours of 10:00 am and 3:00 pm.
 - (9) Exterior speakers shall be prohibited, except as may be required under the Florida Life Safety Code.
 - (10) A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment, entertainment establishment, or special event shall be prohibited.
 - (11) There shall only be one restaurant on the subject property.
 - (12) The minimum distance separation between accessory restaurants serving alcoholic beverages shall be 1,000 feet. However, the planning board may approve an accessory restaurant serving alcoholic beverages at a lesser distance than 1,000 feet, but in no event shall such use be located at a distance less than 500 feet from another accessory restaurant serving alcoholic beverages. No variances from this distance separation requirement may be granted.
- (e) For existing buildings **on lots fronting the Tatum Waterway and** classified as ‘contributing’ within the North Shore Local Historic District, hotels may be permitted as a conditional use, **in accordance with the following provisions:**
- (1) Only that portion of the existing building that is retained may contain hotel units.
 - (2) The entire building shall be substantially renovated, rehabilitated and restored in a manner to be approved by the planning director or designee and in full accordance with the Secretary of the Interior’s Guidelines and Standards for the Rehabilitation of Historic Buildings.
 - (3) The entire property shall be required to make all necessary improvements to comply with minimum applicable seawall standards, as specified in this Code or in the public works manual. At a minimum, seawalls shall be raised to a minimum elevation of 4.0 feet NAVD with the ability to raise it to 5.7 feet NAVD, prior to the issuance of a business tax receipt (BTR) for a hotel.
 - (4) A completed application to comply with the minimum applicable seawall standards, as specified in this Code or in the public works manual, shall be filed no later than June 30, 2021, and prior to a request for conditional use approval from the planning board. Such application shall include, but not be limited to, all seawall permit

documents required by the City and all outside agencies, as well as proof of submittal of such documents to all outside agencies. Failure to meet this deadline shall result in the subject property not being eligible to make application for conditional use approval.

(5) In the event that the permit for seawall improvements is issued and construction of the seawall improvements commences, but encounters unforeseen delays in the completion of the seawall, the planning board may allow for the issuance of a BTR for a hotel use prior to the completion of the seawall improvements, provided the property owner can show good cause. However, in the event that the property owner fails to diligently complete the seawall, the City reserves the right to not renew the hotel BTR.

(6) The maximum number of hotel units on lots fronting Tatum Waterway within the North Shore Local Historic District shall not exceed 100. The number of hotel units shall be applied for and allocated on a first-come, first serve basis concurrent with an a completed application for planning board approval that includes the number of desired units and meets all other zoning requirements, as determined by the planning director. The allocation of hotel units shall also be subject to the following:

1. The allocation of hotel units shall occur simultaneously with an application for planning board approval. In the event of multiple planning board applications, unit allocation shall be prioritized in accordance with the following:

- a. Properties with a building that contains legally established hotel units.
- b. Properties that have obtained a seawall permit.

2. If the allocation of hotel units occurs simultaneously with an application for planning board approval, the allocation shall expire concurrent with the expiration of the planning board approval. Upon expiration of the allocation, the units shall become available to new applicants. In the event that an application is not approved by the planning board, or in the event that an applicant with an approved planning board application fails to obtain a building permit before the board order expires, all units allocated pursuant to the filing of the planning board application shall be released to the pool and become available to new applicants.

2. If the allocation of hotel units occurs simultaneously with an application for planning board approval, and such application is withdrawn or abandoned, said allocation shall also be withdrawn or abandoned and the hotel units shall become available to new applicants. Upon the issuance of a building permit for hotel units approved pursuant to a planning board order, the allocation of such units shall remain reserved. In the event that the building permit expires or is abandoned, any hotel units allocated pursuant to the building permit shall be released to the pool and become available to new applicants. At that time, it shall be the property owners responsibility to secure a unit allocation from the Planning Department before an expired or abandoned building permit is reactivated.

3. If the hotel use approved by the planning board changes to a use that does not require an allocation of units, the allocation of hotel units shall become available to new applicants.

4. The planning director may permit an increase above the limit of 100 hotel units if an eligible building proposes hotel units and the available pool is less than 100 units. However, no additional increase in the limit on hotel units shall be permitted after an eligible building exceeds the limit of 100 hotel units.

(7) Accessory alcoholic beverage establishments (pursuant to article IV, division 2 of this chapter) associated with such hotel may also be permitted as a conditional use.

Sec. 142-154. - Accessory uses.

- (a) The accessory uses in the RM-1 residential multifamily, low density district are as required in article IV, division 2 of this chapter.

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SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article IV "Supplementary District Regulations," Division 2, "Accessory Uses," is hereby amended as follows:

CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS
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ARTICLE IV. – SUPPLEMENTARY DISTRICT REGULATIONS
* * *
DIVISION 2. – ACCESSORY USES
* * *

Sec. 142-902. - Permitted accessory uses.

The following are permitted accessory uses:

- (1) a. Hotels not located in the RM-1 or RM-2 district are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building.
- b. Hotels located in the RM-2 district are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building, except for dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air entertainment establishments.
- c. Where permitted, hotels located in the RM-1 district may have accessory uses based upon the below criteria:
1. A dining room operated solely for registered hotel visitors and their guests, located inside the building and not visible from the street, with no exterior signs, entrances or exits except as required by the South Florida Building Code.
 2. Other accessory uses customarily associated with the operation of an apartment building, as referenced in subsection 142-902(2), for the use of registered hotel visitors and their guests only.
 3. Notwithstanding the above, hotels located on lots fronting the Tatum Waterway and in the North Shore Local Historic District are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building, except for dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, or open air entertainment establishments.
- d. Hotels located in the RM-1, 2 or 3 districts are permitted to have religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.

- (2) Apartment buildings may have accessory uses based upon the below criteria:
- a. Mechanical support equipment and administrative offices and uses that maintain the operation of the building.
 - b. Washers and dryers shall be located inside a structure or not visible from a right-of-way.
 - c. A dining room which is operated solely for the residents in the building shall be located inside the building and shall not be visible from the street with no exterior signs, entrances or exits except for those required by the South Florida Building Code. However, a dining room shall not be allowed in the RM-1 district except for those dining rooms associated with adult congregate living facilities.
 - d. Public telephones and vending machines shall only be permitted to be located inside buildings; however, one public telephone may also be permitted outside, as long as it is not located in a required front yard, required side yard facing a street, or on a facade facing a street; the exact location and manner of placement of all public telephones shall be subject to design review approval. One automatic teller machine shall be permitted on the exterior walls of buildings, when associated with an accessory commercial use allowed under subsection 142-902(2)e., except in historic districts. The exact location and manner of placement for automatic teller machines shall be subject to design review approval.
 - e. Buildings in the RM-3 and R-PS4 districts may have:
 1. Commercial, office, eating or drinking uses with access from the main lobby or from the street if they are either located on the ground floor, subterranean level or on the highest floor of a building.
 2. A retail store and/or a cafe with less than 30 seats (either or both of which could be open to residents and their guests) may occupy space on the amenity level of an apartment building located within an RM-3 district.
 3. Office space, when originally constructed on the second level of an existing building may be retained or re-introduced. When located on the ground floor, office space shall be at least 50 feet from the front property line.
 - f. Solarium, sauna, exercise studio, health club or massage service for use by residents or open to the public by an individual licensed by the state or other appropriate agencies.
 - g. Any accessory commercial use as permitted herein shall be located on the lobby or first floor if there are no apartment units on such levels. This provision shall not apply to home based business offices as provided for in section 142-1411.
 - h. Family day care centers as defined in subsection 142-905(b)(1).
 - i. One property management office for the purpose of managing residential units within the building as well as residential units located in other buildings under common beneficial ownership, as long as the total number of units does not exceed a maximum of 100 units.
 - j. Buildings in the RM-2 district in the area bounded by Indian Creek Drive, Collins Avenue, 41st Street and 44th Street that face the RM-3 district may have restaurant, coffee house, sundry shops, or food market uses located in ground floor space not to exceed 70 percent of the ground floor. These uses may have direct access to the street. Dance halls, entertainment establishments, neighborhood impact

establishments, outdoor entertainment establishments, or open air entertainment establishments are not permitted. Outdoor music (including background music) is prohibited. Any outdoor uses on Indian Creek Drive shall be limited to no later than 11:00 p.m. Parking requirements for accessory commercial uses in newly constructed buildings must be satisfied by providing the required parking spaces, and may not be satisfied by paying a fee in lieu of providing parking. There shall be no variances from these provisions.

- k. Apartment buildings located in the RM-1, 2 or 3 districts are permitted to have religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.

- l. Existing apartment buildings on lots fronting the Tatum Waterway located along Tatum Waterway Drive, Byron Avenue, and Crespi Boulevard, which are also located within the North Shore National Register Historic District and which are classified as 'contributing,' may have accessory office uses and may provide for the rental of non-motorized watercraft. These accessory uses shall comply with the following regulations:

- 1. The accessory use areas shall not exceed 25 percent of the floor area of the existing structure.

- 2. The hours of operation for which the use is open to the public may be from 12:00 pm to 8:00 p.m.

- 3. No exterior speakers shall be permitted, except as may be required under the Florida Life Safety Code.

- m. For existing apartment buildings on lots fronting the Tatum Waterway and located within the North Shore National Register District, which are classified as 'contributing,' the following accessory uses may be permitted:

- 1. Café;
- 2. Retail;
- 3. Office; and
- 4. Personal services.

Notwithstanding the foregoing, the following uses shall be prohibited: tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments and tattoo studios. Additionally, all accessory uses that may be permitted under this subsection (2)(m) shall comply with the following provisions:

- i. All uses shall be located within the interior of the premises. Outside or sidewalk seating shall be prohibited.

- ii. The minimum distance separation between accessory uses shall be 500 feet. There shall be no variances from this distance separation requirement.

- iii. The accessory use areas shall not exceed 25 percent of the floor area of the structure.

- iv. The hours of operation for which the use is open to the public may be from 7:00 a.m. to 8:00 p.m. The hours of operation for any of the above noted uses may be extended to 10:00 p.m. at the discretion of the planning board.
- v. No exterior speakers shall be permitted, except as may be required under the Florida Life Safety Code.
- vi. A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment, entertainment establishment, or special event permit shall be prohibited.

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SECTION 3. Chapter 130, "Off-Street Parking," Article II, "Districts; Requirements" is hereby amended as follows:

CHAPTER 130 – OFF-STREET PARKING

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ARTICLE II. – DISTRICTS; REQUIREMENTS

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Sec. 130-31 Parking districts established.

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(b) There shall be no off-street parking requirement for main or accessory uses associated with buildings that existed prior to October 1, 1993, which are:

- (1) Located within the architectural district,
- (2) A contributing building within a local historic district, or
- (3) Individually designated historic building.

This provision shall not apply to renovations and new additions to existing buildings which create or add floor area, or to new construction which has a parking requirement.

(c) There shall be no off-street parking requirement for accessory uses associated with buildings in the RM-1 zoning district that existed prior to December 31, 2009, which are located in the North Shore National Register Historic District.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 5. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. SEVERABILITY.

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

SECTION 7 EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 2020.

Dan Gelber
Mayor

ATTEST:

Rafael E. Granado
City Clerk

First Reading: October 16, 2019
Second Reading: March 11, 2020

Verified by: _____
Thomas Mooney, AICP
Planning Director

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