Matrix Group Recommendations:
Simplification of Single-Family Regulations and DRB Administrative Review Procedures

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 114, ENTITLED "GENERAL PROVISIONS," SECTION 114-1, ENTITLED "DEFINITIONS," TO MODIFY THE DEFINITION OF LOT COVERAGE; BY AMENDING CHAPTER 118, ENTITLED "ADMINISTRATIVE AND REVIEW PROCEDURES," ARTICLE VI, ENTITLED "DESIGN REVIEW PROCEDURES," SECTION 118-260, ENTITLED "ADMINISTRATIVE REVIEW PROCEDURES," TO AMEND ADMINISTRATIVE REVIEW PROCEDURES APPLICABLE TO THE DESIGN REVIEW BOARD; BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 2, ENTITLED "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," SECTION 142-105, ENTITLED "DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," TO SIMPLIFY THE CITY'S SINGLE-FAMILY DEVELOPMENT REGULATIONS, INCLUDING THE CALCULATION OF LOT COVERAGE AND UNIT SIZE, AND TO MODIFY ALLOWABLE HEIGHT EXCEPTIONS; BY AMENDING SECTION 142-106, ENTITLED "SETBACK REQUIREMENTS FOR A SINGLE-FAMILY DETACHED DWELLING," TO MODIFY SINGLE-FAMILY SETBACK REGULATIONS; BY AMENDING ARTICLE V, ENTITLED "SPECIALIZED USE REGULATIONS," DIVISION 8, ENTITLED "HOME BASED BUSINESS OFFICE," SECTION 142-1411, ENTITLED "HOME BASED BUSINESS OFFICE," TO ELIMINATE THE FEE ASSOCIATED WITH A HOME BASED BUSINESS OFFICE; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

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 City of Miami Beach wishes to ensure that regulations and processes relating to private development projects are fair, balanced and efficient; and

WHEREAS, in 2018, the City solicited proposals from qualified firms to provide data-driven regulatory and process reviews, peer reviews and best practice recommendations, and recommendations for process improvements; and

WHEREAS, the City retained the Matrix Consulting Group ("Consultant") to review the City's regulations and processes relating to private development projects; and

WHEREAS, on June 5, 2019, the City Commission adopted Resolution No. 2019-30863, accepting and endorsing the recommendations of the Consultant's development and permitting study; and

WHEREAS, the City's goal in this comprehensive effort is to ensure that the regulations and processes affecting private development are efficient and streamlined; and

WHEREAS, the Consultant recommended that the City's Land Development Regulations relating to single-family homes be simplified to provide predictability for architects, home owners, and the development and construction industry; and

WHEREAS, the simplification of the City's single-family home regulations will allow for a more streamlined review of these projects; 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 114, entitled "General Provisions," is hereby amended as follows:

CHAPTER 114
GENERAL PROVISIONS

Section 114-1. – Definitions

* * *

Lot coverage means the percentage of the lot covered by the ground floor of all principal and accessory buildings, plus all areas covered by the roofs of such buildings including, but not limited to covered porches, covered terraces, and roof overhangs. ~~percentage of the total area of a lot that, when viewed directly from above, would be covered by all principal and accessory buildings and structures, or portions thereof; provided, however, that exterior unenclosed private balconies, and awnings shall not be included in determining the building area.~~

* * *

Section 2. Chapter 118, entitled "Administrative and Review Procedures," Article VI, entitled "Design Review Procedures," Section 118-260, entitled "Administrative Review Procedures," is hereby amended as follows:

CHAPTER 118
ADMINISTRATIVE AND REVIEW PROCEDURES

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ARTICLE VI – DESIGN REVIEW PROCEDURES

* * *

Sec. 118-260. - Administrative review procedures.

(a) The planning director or the director's designated representative, shall have the authority to approve, approve with conditions, or deny an application on behalf of the board, for the following:

(1) Ground level additions to existing structures, not to exceed ~~two stories~~ 30 feet in height, which are not substantially visible from the public right-of-way, any waterfront or public park. For those lots which are greater than 10,000 square

feet, the floor area of the proposed addition may not exceed ten percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed ~~5,000~~ 10,000 square feet.

Section 3. Chapter 142, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," Division 2, entitled "RS-1, RS-2, RS-3, RS-4 Single-Family Residential Districts," is hereby amended as follows:

CHAPTER 142
ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

Sec. 142-105. - Development regulations and area requirements.

(a) The review criteria and application requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

* * *

(3) *Application requirements for DRB or HPB review.*

a. DRB or HPB applications shall follow the application procedures and review criteria, specified in chapter 118, article VI, design review procedures or article X, historic preservation, of these land development regulations (as applicable), board by-laws, or as determined by the planning director, or designee. ~~However, the fee for applications to the DRB for non-architecturally significant homes constructed prior to 1942 and all home constructed after 1942 shall be $150.00.~~

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

* * *

(4) *Unit size requirements.*

a. Minimum unit size: 1,800 square feet.

b. For purposes of this subsection, unit size means the sum of the gross horizontal areas of the floors of a single-family home, measured from the exterior faces of exterior walls. However, the unit size of a single-family home shall not include the following, unless otherwise provided for in these land development regulations:

1. Uncovered steps.

2. Attic space, providing structural headroom of less than seven feet six inches.

3. ~~Those portions of covered terraces,~~ Open breezeways, connected to more than one structure, which consist of roof protection from the elements and are open on all sides.~~,~~ ~~or open porches that are attached to or part of the principal structure, and that do not project more than ten feet from the main home building(s).~~

4. ~~Single-story~~ ~~c~~Covered terraces and porches, which are unenclosed and open on at least one side, with the exception of roof supports and required safety railing.~~, with the exception of supporting structures, are open on at least three sides, and are part of a detached single story accessory structure located within a rear yard, provided such terrace or porch does not exceed two percent of the lot area.~~

5. Enclosed floor space used for required off-street parking spaces (maximum 500 square feet).

6. ~~Those portions of~~ ~~covered~~ Covered exterior unenclosed private balconies ~~that do not project more than six feet from the building.~~

c. For two story homes with an overall lot coverage of 25 percent or greater, the following additional requirements shall apply to the second floor (including any portion of the home above a height of 18 feet as measured from base flood elevation plus freeboard):

1. At least 35% of the ~~physical volume of the~~ second floor along the front elevation shall be set back a minimum of five (5') feet from the minimum required setback. ~~not exceed 70 percent of the first floor of the main home, inclusive of any enclosed parking structure~~.

2. At least 50% of the second floor along a side elevation facing a street shall be set back a minimum of five (5') feet from the minimum required setback.

The DRB or HPB may forego ~~this~~ these requirements, in accordance with the applicable design review or appropriateness criteria.

d. Non-airconditioned understory space located below minimum flood elevation, plus freeboard. Notwithstanding the above, for those properties located in the RS-1, RS-2, RS-3, RS-4 single-family residential districts, where the first habitable floor has been elevated above existing grade in order to meet minimum flood elevation requirements, including freeboard, the following shall apply to the understory area(s). For purposes of this subsection, 'understory' means the air-conditioned and/or non-air-conditioned space(s) located below the first elevated habitable floor.

~~1. The height of the area under the main structure may have a maximum floor to ceiling clearance of seven feet six inches from the lowest level slab provided.~~

~~2. Up to, but not exceeding, 600 square feet of segregated parking garage area may be permitted under the main structure.~~

~~3. The area under the first habitable floor of the main structure shall consist of non-air conditioned space. Such area shall not be subdivided into different rooms, with the exception of the parking garage area, and required stairs and/or elevators.~~

~~4. The parking garage area and the non-air-conditioned floor space located directly below the first habitable floor, shall not count in the unit size calculations.~~

The use of the understory ~~is~~ shall be for non-habitable purposes, ~~and~~ given that the ~~city intent is to facilitate solely non-habitable use of the area, which~~ area may be subject to flooding.

~~e. Subject to the review and approval of the design review board or historic preservation board, as applicable, the following may apply to the understory area(s):~~

1. Understory area(s) shall be used only for open air activities, parking, building access, mechanical equipment, non-enclosed restrooms and storage. Such areas shall be designed and maintained to be free of obstructions, and shall not be enclosed and/or air-conditioned at any time, with the exception of limited access areas to the first habitable floor. However, understory area(s) below the lowest habitable floor can utilize non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments, provided they are open a minimum of 50 percent on each side.

2. All unenclosed, non-air-conditioned areas located directly below the first habitable floor shall not count in the unit size calculations.

3. Understory building access. Enclosed, air-conditioned elevator and stair vestibules, for access to the first habitable level of the home, shall be permitted under the first habitable floor and shall be located as close to the center of the floor plan as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations. The total area of enclosed and air-conditioned building access shall be limited to no greater than ~~three~~ five (5%) percent of the lot area. All air-conditioned floor space located directly below the first habitable floor shall count in the total unit size calculations.

4. Enclosed, non-air-conditioned areas, for parking and storage, may be permitted and shall not count in the unit size calculations, provided such areas do not exceed 600 square feet. Any portion of such enclosed parking and storage area exceeding 600 square feet shall count in the unit size calculations.

5. All parking, including required parking, shall be provided within the understory area, and shall be clearly delineated by a different surface finish or bollards. No parking or vehicle storage shall be permitted within a required yard, unless approved by the DRB or HPB, in accordance with the applicable design review or certificate of appropriateness criteria.

6. The maximum width of all driveways at the property line shall not exceed ~~15~~ 30 percent of the lot width, and in no instance shall be less than nine feet in width and greater than 18 feet in width.

7. At least 70 percent of the required front yard and street side yard areas shall consist of sodded or landscaped pervious open space. For purposes of this section, the required front yard shall be the same as the required front setback of the principal structure ~~measured from the front setback of the principal structure to the front property line and the required street side yard shall be measured from the street side setback of the principal structure to the street side property line~~. All allowable exterior walkways and driveways within the front and street side yards shall consist of pavers set in sand or other semi-pervious material. The use of concrete, asphalt or similar material within the required front or street side yards shall be prohibited.

8. A continuous soffit shall be lowered a minimum of two feet from the lowest slab of the first level above the understory area in order to screen from view all lighting, sprinkler, piping, plumbing, electrical conduits, and all other building services, unless concealed by other architectural method(s).

9. Understory ground elevation. The minimum elevation of the understory ground shall be constructed no lower than future crown of road as defined in chapter 54, of the city Code. All portions of the understory area that are not air-conditioned shall consist of pervious or semi-pervious material, such as wood deck, gravel or pavers set in sand. Concrete, asphalt and similar material shall be prohibited within the non-air-conditioned portions of the understory area.

10. Understory edge. All allowable decking, gravel, pavers, non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments located in the understory area shall be set back a minimum of five feet from each side of the underneath of the slab of the first habitable floor above, with the exception of driveways and walkways leading to the property, and access walkways and/or steps or ramps for the front and side area. The front and side understory edge shall be designed to accommodate on-site water capture from adjacent surfaces and expanded landscaping opportunities from the side yards.

(5) *Lot coverage ~~(building footprint)~~.*

a. *General.* For lots aggregated after September 24, 2013, when a third lot is aggregated, as limited by subsection 142-105(b)(3), the calculation of lot coverage shall be determined by the two lots on which the house is located.

b. *One-story structures.* One-story structures may exceed the maximum lot coverage noted in subsection 142-105(b)(1) above, through staff level review and shall be subject to the setback regulations outlined in section 142-106, but in no instance shall the lot coverage ~~building footprint~~ exceed ~~50~~ 40 percent of the lot area. For purposes of this section, a one-story structure shall not exceed 18 feet in height for flat roof structures and 21 feet for sloped roof structures (measured to the mid-point of the slope) as measured from the minimum flood elevation. Notwithstanding the foregoing, for existing one-story structures constructed prior to 1965, the maximum lot coverage shall not exceed 50%. ~~However, for five percent of the lot coverage, the height may be increased up to 24 feet for a single flat roof structure or 27 feet for a single sloped roof structure (measured to the mid-point of the slope). The length of any wall associated with this higher height shall not exceed 25 feet.~~

c. *Calculating lot coverage.* Lot coverage shall be as defined in Section 114-1, subject to the following additional regulations: ~~For purposes of calculating lot coverage, the footprint shall be calculated from the exterior face of exterior walls and the exterior face of exterior columns on the ground floor of all principal and accessory buildings, or portions thereof.~~

1. Internal courtyards, which are open to the sky, but which are substantially enclosed by the structure on ~~three~~ four or more sides, shall be included in the lot coverage calculation.

2. Eyebrows, roof overhangs, covered porches and terraces, projecting a maximum of five (5') feet from an exterior wall, shall not be included in the lot coverage calculation. All portions of such covered areas exceeding a projection of five (5') feet shall be included in the lot coverage calculation.

~~outdoor covered areas, such as, but not limited to, loggias, covered patios, pergolas, etc., that are open on at least two sides, and not covered by an enclosed floor above, shall not be included in the lot coverage calculation in accordance with the following:~~

~~1. When attached to the main home building(s) with a projection of ten feet or less, such outdoor covered area shall not be included in the lot coverage calculation.~~

~~2. When detached from the main home building(s), or part of an attached structure projecting more than ten feet from the main home building(s), such outdoor covered areas shall not be included in the lot coverage calculation, provided, that such outdoor covered area(s) do not exceed two percent of the lot area.~~

~~For purposes of this section, a pergola shall be defined as a garden walk or terrace formed by two rows of columns or posts with an open framework or beams and cross rafters over which plants may be trained.~~

d. *Garages.* A maximum of 500 square feet of garage space shall not be counted in lot coverage if the area is limited to garage, storage and other non-habitable uses and the garage conforms to the following criteria:

1. The garage is one story in height and not covered by any portion of enclosed floor area above. Portions of the garage which are covered by enclosed floor area above shall count toward lot coverage. Enclosed floor area shall be as defined in section 114-1.

2. The vehicular entrance(s) of the garage is not part of the principal facade of the main house.

3. The garage is constructed with a vehicular entrance(s) perpendicular to and not visible from the right-of-way, or the entrance(s) is set back a minimum of five feet from the principal facade of the main house when facing a right-of-way.

e. *Nonconforming structures.* Existing single-family structures nonconforming with respect to sections 142-105 and 142-106, may be repaired, renovated, rehabilitated regardless of the cost of such repair, renovation or rehabilitation, notwithstanding the provisions of chapter 118, article IX, "nonconformance." Should such an existing structure constructed prior to October 1, 1971, be completely destroyed due to fire or other catastrophic event, through no fault of the owner, such structure may be replaced regardless of the above-noted regulations existing at the time of destruction.

f. *Demolition of architecturally significant single-family homes.* Proposed new construction that exceeds the original building footprint of a demolished architecturally significant single-family home shall follow the provisions of section 142-108.

(6) *Roof decks.* Roof decks shall not exceed six inches above the main roofline and shall not exceed a combined deck area of 25 percent of the enclosed floor area immediately one floor below, regardless of deck height. Roof decks shall be setback a minimum of ten feet from each side of the exterior outer walls, when located along a front or side elevation, and from the rear elevation for non-waterfront lots. Built in planters, gardens or similar landscaping areas, not to exceed three and one-half feet above the finished roof deck height, may be permitted immediately abutting the roof deck area. All landscape material shall be appropriately secured. The DRB or HPB may forego the required rear deck setback, in accordance with the applicable design review or appropriateness criteria.

(7) *Height exceptions.* The height regulation exceptions contained in section 142-1161 shall not apply to the RS-1, RS-2, RS-3 and RS-4 zoning districts. The following exceptions shall apply, and unless otherwise specified in terms of height and location,

shall not exceed ten feet above the roofline of the structure. In general, height exceptions that have not been developed integral to the design intent of a structure shall be located in a manner to have a minimal visual impact on predominant neighborhood view corridors as viewed from public rights-of-way and waterways.

a. Chimneys and air vents, not to exceed five feet in height.

b. Decorative structures used only for ornamental or aesthetic purposes such as spires, domes, and belfries~~,~~. ~~and covered structures, which are open on all sides, and are not intended for habitation or to extend interior habitable space. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below, and shall be setback a minimum of ten feet from the perimeter of the enclosed floor below.~~

c. Radio and television antennas.

d. Parapet walls, only when associated with a habitable roof deck or when used to screen roof top mechanical equipment.~~,~~ When associated with a habitable roof deck, the parapet shall not ~~to~~ exceed three and one-half feet above the finished roof deck height, and shall be set back a minimum of ten feet from the perimeter of the enclosed floor below. When used to screen mechanical equipment, the parapet walls shall not exceed the height of the equipment being screened.

e. Rooftop curbs, not to exceed one foot in height.

f. Elevator bulkheads shall be located as close to the center of the roof as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations.

g. Skylights, not to exceed five feet above the main roofline, and provided that the area of skylight(s) does not exceed ten percent of the total roof area of the roof in which it is placed.

h. Air conditioning and mechanical equipment not to exceed five feet above the main roofline and shall be required to be screened in order to ensure minimal visual impact as identified in the general section description above.

i. Rooftop wind turbines, not to exceed ten feet above the main roofline.

j. Covered structures, which are open on all sides, and do not extend interior habitable space. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below, and shall be set back a minimum of ten feet from the perimeter of the enclosed floor below.

(8) *Exterior building and lot standards.* The following shall apply to all buildings and properties in the RS-1, RS-2, RS-3, RS-4 single-family residential districts:

a. ~~*[Exterior bars.]*~~ Exterior bars on entryways, doors and windows shall be prohibited on front and side elevations, which face a street or right-of-way.

b. *Minimum yard elevation requirements.*

1. The minimum elevation of a required yard shall be no less than five (5) 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 single-family homes individually designated as historic structures, or to properties with single-family homes designated as "contributing" within a local historic district.

c. *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.* The maximum elevation within a required front yard shall not exceed adjusted grade, 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 front yard, constructed in compliance with Section 142-1132(h), "Allowable encroachments within required yards", shall be measured from existing grade.

2. *Interior Side Yards* (located between the front setback line and rear property line). The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater, except:

(A) When the average grade of an adjacent lot along the abutting side yard is equal or greater than adjusted grade, the maximum elevation within the required side yard shall not exceed 30 inches above adjusted grade.

(B) When abutting a vacant property, the maximum elevation within the required side yard shall not exceed 30 inches above adjusted grade.

(C) Notwithstanding the above, when abutting property owners have jointly agreed to a higher elevation, both side yards may be elevated to the same higher elevation through the submission of concurrent building permits, not to exceed the minimum required flood elevation. In this instance the maximum height of any fences or walls along the adjoining property lines, constructed in accordance with Section 142-1132(h). Allowable encroachments within required yards shall be measured from the new average grade of the required side yards.

3. *Side Yard Facing a Street.* The maximum elevation within a required side yard facing a street shall not exceed adjusted grade, 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 side yard facing a street, constructed in compliance with Section 142-1132(h), "Allowable encroachments within required yards", shall be measured from existing grade.

4. *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 adjusted grade, or 30 inches above grade, whichever is greater, except:

i. When the average grade of an adjacent lot along the abutting rear yard is equal or greater than adjusted grade, the maximum elevation within the required rear yard shall not exceed 30 inches above adjusted grade.

ii. When abutting a vacant property, the maximum elevation within the required rear yard shall not exceed 30 inches above adjusted grade.

iii. Notwithstanding the above, when abutting property owners have jointly agreed to a higher elevation, both rear yards may be elevated to the same higher elevation through the submission of concurrent building permits, not to exceed the minimum required flood elevation. In this instance the maximum height of any fences or walls along the adjoining property lines, constructed in accordance with Section 142-1132(h). Allowable encroachments within required yards shall be measured from the new average grade of the required rear yards.

5. *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, as determined by the Public Works Department.

6. *Retaining wall and yard slope requirements.* Within the required front yard and within the required side yard facing a street the following shall apply:

(A) Within 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) Retaining walls shall be finished with stucco, stone, or other high quality materials, in accordance with the applicable design review or appropriateness criteria of section 142-105.

(D) The maximum slope of the required front and side yard facing a street shall not exceed 11 percent (5:1 horizontal:vertical).

(9) *Lot split.* All new construction for homes on lots resulting from a lot split application approved by the planning board shall be subject to the review and approval of the design review board (DRB) or historic preservation board (HPB), as applicable. The following shall apply to all newly created lots, when the new lots created do not follow the lines of the original platted lots and/or the lots being divided contain an architecturally significant, pre-1942 home that is proposed to be demolished.

a. The maximum lot coverage for a new one-story home shall not exceed 40 percent of the lot area, and the maximum lot coverage for a new two-story home shall not exceed 25 percent of the lot area, or such lesser number, as determined by the planning board.

b. The maximum unit size shall not exceed 40 percent of the lot area for both one story, and two-story structures, or such less numbers, as determined by the planning board.

Sec. 142-106. - Setback requirements for a single-family detached dwelling.

(a) The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) *Front yards:* The minimum front yard setback requirement for these districts shall be as follows: ~~20 feet.~~

a. One-story structures: 20 feet, provided that any portion of a 2-story attached structure shall be setback a minimum of 40 feet. ~~may be located at the minimum front yard setback line.~~

b. Two-story structures: 30 feet, provided (a)(1)(a) above does not apply. ~~shall be set back a minimum of ten additional feet from the required front yard setback line.~~

c. [Reserved.]

d. At least 50 percent of the required front yard area shall be sodded or landscaped pervious open space. With the exception of driveways and paths leading to the building, paving may not extend any closer than five feet to the front of the building.

e. In the event that an existing single-family home has an abutting street raised pursuant to an approved city project, and such home was previously permitted with less than 50 percent of the required front yard area consisting of sodded or landscaped pervious open space, such property may retain the most recent, previously permitted pervious open space configuration, provided the front yard is raised to meet the new street elevation. However, in no instance shall less than 30 percent of the required front yard be sodded or landscaped pervious open space.

(2) *Side yards:*

a. The sum of the required side yards shall be at least 25 percent of the lot width.

b. Side, facing a street.

1. Each required side yard facing a street shall be no less than ten percent of the lot width or 15 feet, whichever is greater.

2. At least 50 percent of the required side yard area facing a street shall be sodded or landscaped pervious open space. With the exception of driveways and paths leading to the building, paving may not extend any closer than five feet to the front of the building.

3. In the event that an existing single family home has an abutting street raised pursuant to an approved city project, and such home was previously permitted with less than 50 percent of the required side yard area facing a street consisting of sodded or landscaped pervious open space, such property may retain the most recent, previously permitted pervious open space if the side yard area facing a street is raised to meet the new street elevation. However, in no instance shall less than 30 percent of the required side yard area facing a street be sodded or landscaped pervious open space.

c. Interior sides.

1. For lots greater than ~~60~~ 65 feet in width each interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater.

2. For lots ~~60~~ 65 feet in width or less each interior side yard shall have a minimum of seven and one-half feet.

d. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than one percent of the lot area. ~~The open space provided along a side elevation in accordance with this subsection, whether required or not, shall not be included in the lot coverage calculation provided that the combined depth of the open space, as measured from the required side setback line(s), is less than 30 percent of the maximum developable building width of the property, as measured from the interior setback lines, and the total open space provided does not exceed five percent of the lot area. Any portions of the interior side yard open space in excess of five percent of the lot area shall be included in the total lot coverage calculation.~~ The elevation (height) of the open space provided shall not exceed the elevation of the first habitable floor ~~maximum permitted elevation height of the required side yard~~, and at least ~~75~~ 50 percent of the required interior open space area shall be sodded or landscaped previous open space. The additional open space may contain mechanical equipment. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from the minimum requirements of this provision may be granted only through historic preservation board, or design review board approval, as may be applicable, in accordance with the applicable design review or appropriateness criteria.

e. Nonconforming yards.

1. If a single-family structure is renovated in excess of 50 percent of the value determination, as determined by the building official pursuant to the standards set forth in the Florida Building Code, any new construction in connection with the renovation shall meet all setback regulations existing at the time, unless otherwise exempted under chapter 118, article IX of these land development regulations.

2. When an existing single-family structure is being renovated less than 50 percent of the value determination, as prescribed by the building official pursuant to the standards set forth in the Florida Building Code, and the sum of the side yards is less than 25 percent of the lot width, any new construction, whether attached or detached, including additions, may retain the existing sum of the side yards, provided that the sum of the side yards is not decreased.

3. When an existing single-family structure is being renovated less than 50 percent of the value determination, as prescribed by the building official pursuant to the standards set forth in the Florida Building Code, and has a nonconforming interior side yard setback of at least five feet, the interior side yard setback of new construction in connection with the existing building may be allowed to follow the existing building lines. The maintenance of this nonconforming interior side yard setback shall only apply to ~~the construction of a second floor addition to single-family homes constructed prior to September 6, 2006, and to~~ the linear extension of a single story building, provided such linear extension does not exceed 20 feet in length ~~as long as the addition~~ and does not exceed 18 feet in height for a flat roof structure and 21 feet for a sloped roof structure (measured to the mid-point of the slope), as measured from the

minimum flood elevation. ~~If the linear extension is two-stories, the second floor shall meet the minimum required yards and the recessed area created by this setback shall not be accessible or habitable. Notwithstanding the foregoing, if an existing interior side yard is less than five feet, the minimum side yard for any new construction or addition on that side shall be ten percent of the lot width or seven and one-half feet, whichever is greater.~~

(3) *Rear:* The rear setback requirement shall be 15 percent of the lot depth, 20 feet minimum, 50 feet maximum. At least 70 percent of the required rear yard shall be sodded or landscaped pervious open space; when located at or below adjusted grade, the water portion of a swimming pool may count toward this requirement, when located above adjusted grade, the water portion of a swimming pool may count towards 50% of this requirement, provided adequate infrastructure is incorporated into the design of the pool to fully accommodate on-site stormwater retention.

* * * *

Section 4. Chapter 142, entitled "Zoning Districts and Regulations," Article V, entitled "Specialized Use Regulations," Division 8, entitled "Home Based Business Office," is hereby amended as follows:

ARTICLE V. – SPECIALIZED USE REGULATIONS

* * *

DIVISION 8. – HOME BASED BUSINESS OFFICE

Sec. 142-1411. - Home based business office.

* * *

(c) All home based business offices shall be required to obtain and maintain a business tax receipt ~~an occupational license~~ from the city~~, at an annual fee of $25.00~~.

* * *

SECTION 5. Repealer.

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

SECTION 6. Codification.

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

SECTION 7. Severability.

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

SECTION 8. Exceptions.

This ordinance shall not apply to:

1. Any applicant who has filed an application for a Land Use Board Approval with the Planning Department on or before August 25, 2020.
2. Any applicant who has obtained a Building Permit Process Number from the Building Department on or before August 25, 2020.

SECTION 9. 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

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

_____
City Attorney Date

First Reading:
Second Reading:

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