

DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT^[3]

Footnotes:

--- (3) ---

Cross reference— Businesses, ch. 18.

Sec. 142-301. - Purpose.

The CD-2 commercial, medium intensity district provides for commercial activities, services, offices and related activities which serve the entire city.

(Ord. No. 89-2665, § 6-7(A)(1), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-302. - Main permitted uses.

The main permitted uses in the CD-2 commercial, medium intensity district are commercial uses (including, for example, personal service establishments); apartments; apartment hotels, hotels, hostels, and suite hotels (pursuant to section 142-1105 of this chapter); religious institutions with an occupancy of 199 persons or less and alcoholic beverages establishments pursuant to the regulations set forth in chapter 6; Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:

- (a) *Alton Road corridor.* Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road.
- (b) *Sunset Harbour neighborhood.* The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

(Ord. No. 89-2665, § 6-7(A)(2), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2000-3257, § 2, 7-12-00; Ord. No. 2001-3328, § 4, 10-17-01; Ord. No. 2004-3445, § 1, 5-5-04; Ord. No. 2012-3786, § 4, 12-12-12; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2016-4014, § 2, 5-11-16; Ord. No. 2016-4046, § 1, 10-19-16; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2020-4339, § 2, 5-13-20)

Sec. 142-303. - Conditional uses.

- (a) *Generally.* The conditional uses in the CD-2 commercial, medium intensity district include the following:
 - (1) Reserved;
 - (2) Funeral home;
 - (3) Reserved;
 - (4) Religious institutions;

- (5) Pawnshops;
 - (6) Video game arcades;
 - (7) Public and private institutions;
 - (8) Schools;
 - (9) Any use selling gasoline;
 - (10) New construction of structures 50,000 square feet and over (even when divided by a district boundary line), which review shall be the first step in the process before the review by any of the other land development boards;
 - (11) Outdoor entertainment establishment;
 - (12) Neighborhood impact establishment; however, for properties that front Washington Avenue from 6th Street to 16th Street, a restaurant with a full kitchen that serves full meals may have entertainment without obtaining conditional use approval, subject to the following additional requirements:
 - a. Entertainment shall be restricted to an interior enclosed area; and
 - b. Occupancy shall not exceed 299 persons; and
 - (13) Open air entertainment establishment; and
 - (14) Storage and/or parking of commercial vehicles on a site other than the site at which the associated commerce, trade or business is located. See section 142-1103.
- (b) *Sunset Harbour neighborhood.* All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the Sunset Harbour neighborhood, generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall include those conditional uses listed at section 142-303(a), but shall exclude subsection 142-303(a)(11) outdoor entertainment establishments, subsection 142-303(a)(12) neighborhood impact establishments, and subsection 142-303(a)(13) open air entertainment establishments, as these specific uses are prohibited in the Sunset Harbour neighborhood pursuant to section 142-305. The following additional uses shall require conditional use approval in the Sunset Harbour neighborhood:
- (1) Main use parking garages; and
 - (2) Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons and a floor area in excess of 3,500 square feet.
- (c) *North Beach neighborhood.* All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the North Beach neighborhood (located north of 65th Street) shall include those listed at section 142-303(a), and shall also include the following:
- (1) Alcoholic beverage establishments (not also operating as a full restaurant with a full kitchen, serving full meals);
 - (2) Dance halls; and
 - (3) Entertainment establishments.
- (d) *South Alton Road corridor.* All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the South Alton Road corridor, which includes properties located along Alton Road between 6th and 11th Street, shall include those listed at section 142-303(a), and shall also include the following:
- (1) Self storage warehouse, provided the minimum distance separation between self-storage warehouses shall be 300 feet and self-storage warehouses shall follow the development

regulations for "self-storage warehouse" in section 142-305 and setback requirements in section 142-307.

(e) *Additional requirements.* Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:

- (1) *Alton Road corridor.* Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue, and Alton Road.
- (2) *Sunset Harbour neighborhood.* The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

(Ord. No. 89-2665, § 6-7(A)(3), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 97-3083, § 4, 6-28-97; Ord. No. 99-3179, § 3, 3-17-99; Ord. No. 2007-3546, 1-17-07; Ord. No. 2012-3786, § 5, 12-12-12; Ord. No. 2013-3791, § 5, 2-6-13; Ord. No. 2013-3799, § 1, 5-8-13; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2014-3916, § 1, 12-18-14; Ord. No. 2016-4014, § 2, 5-11-16; Ord. No. 2016-4046, § 1, 10-19-16; Ord. No. 2018-4175, § 1, 3-7-18; Ord. No. 2019-4312, § 1, 10-16-19)

Sec. 142-304. - Accessory uses.

The accessory uses in the CD-2 commercial, medium intensity district are as required in article IV, division 2 of this chapter; and accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m. Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:

- (a) *Alton Road corridor.* Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road.
- (b) *Sunset Harbour neighborhood.* The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

(Ord. No. 89-2665, § 6-7(A)(4), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2016-4014, § 2, 5-11-16; Ord. No. 2016-4046, § 1, 10-19-16)

Sec. 142-305. - Prohibited uses.

The prohibited uses in the CD-2 commercial, medium intensity district are accessory outdoor bar counters, except as provided in section 142-310, or in article IV, division 2 of this chapter and in chapter 6. Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district also include the following:

- (a) In the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, also include hostels, outdoor entertainment establishments,

neighborhood impact establishments, open air entertainment establishments, bars, dance halls, and entertainment establishments (as defined in section 114-1 of this Code).

- (b) Along Normandy Drive and 71st Street, tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, and tattoo studios.

(Ord. No. 89-2665, § 6-7(A)(5), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2012-3786, § 6, 12-12-12; Ord. No. 2015-3983, § 1, eff. 12-19-15; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2020-4339, § 2, 5-13-20; Ord. No. 2020-4358, § 1, 9-16-20)

Sec. 142-306. - Development regulations.

- (a) 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	None	None	<p>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 the Collins Park District, generally bounded by the erosion control line on the east, the east side of Washington Avenue on the west, 23rd Street on the north, and 17th Street on the south, hotel units shall be a minimum of 200 square feet. 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 regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. In addition, the minimum hotel unit size for a property formerly zoned HD is 250 square feet, provided that the property does not exceed 25,000 square feet as of March 23, 2019. Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings—200.</p>	<p>New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units—N/A. The number of units may not exceed the maximum density set forth in the comprehensive plan.</p>	<p>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, not to exceed a maximum height of 55 feet. In order to utilize the additional height, the first floor shall provide at least 12 feet in height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. 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. Mixed-use and commercial buildings that include structured parking for properties on the west side of Alton Road from 6th Street to Collins Canal - 60 feet.</p>

- (b) 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.
- (c) Subject to conditional use approval from the planning board, as of January 1, 2019, sites which (i) are located outside of historic districts, (ii) are greater than 50,000 square feet in area, and (iii) that contain an existing building that is nonconforming as to height (hereinafter "existing building"), may be redeveloped with a new building, which new building shall not exceed the existing building's height. The portion of any new building exceeding 60 feet in height may be placed on a pedestal and shall not exceed 2.25 times the footprint area for the existing building, and may be located on any portion of the site. Additionally, open space not less than the 25 percent of the square feet of the non-conforming building footprint (i.e. the formerly existing building) shall be provided at around level, and shall be directly accessible from a public sidewalk. Such open space may be located in different areas on the site. Under no circumstance shall the redevelopment of the site exceed the maximum floor area ratio permitted under the zoning district regulations.

(Ord. No. 89-2665, § 6-7(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2005-3483, § 6, 5-18-05; Ord. No. 2011-3744, § 8, 10-19-11; Ord. No. 2013-3799, § 2, 5-8-13; Ord. No. 2014-3851, § 1, 4-23-14; Ord. No. 2016-3992, § 1, 1-27-16; Ord. No. 2016-4007, § 4, 4-13-16; Ord. No. 2017-4124, § 2, 7-26-17; Ord. No. 2017-4148, § 9, 10-18-17; Ord. No. 2017-4149, § 8, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2019-4237, § 1, 2-13-19; Ord. No. 2019-4244, § 1, 2-13-19; Ord. No. 2019-4275, § 4, 6-5-19; Ord. No. 2019-4315, § 3, 10-30-19)

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	10 feet when abutting a residential district, otherwise none. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	10 feet when abutting a residential district, unless separated by a street or waterway otherwise none	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.
Subterranean, pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50	Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing	10 feet	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

	feet, to a maximum of 50 feet, then shall remain constant.	nonconforming rear pedestal setbacks.		
--	--	---------------------------------------	--	--

- (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 floor area ratio:
 - (1) 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.
 - (2) 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.

(Ord. No. 89-2665, §§ 6-7(C), 6-9, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 95-3027, eff. 12-16-95; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2013-3799, § 3, 5-8-13; Ord. No. 2018-4160, § 2, 1-17-18; Ord. No. 2019-4315, § 3, 10-30-19)

Sec. 142-308. - Additional regulations for new construction.

- (a) In the CD-2 district, all floors of a building containing parking spaces shall incorporate the following:
 - (1) Residential or commercial uses, as applicable, 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 or commercial uses above the first level along every facade facing a waterway.
 - (3) For properties less than 60 feet in width, the total amount of commercial 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 or commercial uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.
- (b) In the CD-2 district, each side of the first floor frontage of a self-storage warehouse building facing a street or sidewalk, shall include office, retail or commercial uses. Not less than 60 percent of each

street frontage shall consist of office, retail or commercial uses, and the remaining portion of each street front shall consist of noncommercial, recessed display areas or similar treatment. The design review board or historic preservation board, as applicable, may permit a lesser amount of office, retail or commercial frontage, if it is determined that site conditions warrant a reduction. In the event a lesser portion of office, retail or commercial space is permitted, the remaining portion of each street front shall consist of noncommercial, recessed display areas or similar treatment.

(Ord. No. 2006-3510, § 6, 3-8-06; Ord. No. 2013-3799, § 4, 5-8-13)

Sec. 142-309. - Washington Avenue development regulations and area requirements.

The following regulations shall apply to properties that front Washington Avenue between 6th Street and 16th Street; where there is conflict within this division, the criteria below shall apply:

- (1) The maximum building height shall be as follows:
 - a. Fifty-five feet, unless otherwise specified below;
 - b. Lots that have a frontage equal to or greater than 200 feet: 75 feet;
 - c. Main use parking garages: 55 feet, regardless of lot frontage.
- (2) For lots that have a frontage that is equal to or less than 100 feet, the setbacks shall be pursuant to section 142-307. For lots that have a frontage that is greater than 100 feet, the setbacks shall be as follows:
 - 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. Nonresidential uses: Zero feet;
 - iii. Residential and hotel uses: Seven and one-half feet.

- d. Side, interior:
 - i. Subterranean: Zero feet;
 - ii. Nonresidential uses: Zero feet;
 - iii. Residential and hotel uses: Seven and one-half feet or eight percent of lot width, whichever is greater, up to ten feet. When abutting a nonresidential or non-hotel use, the minimum interior side setback shall be seven and one-half feet.
- (3) The maximum frontage for nightclubs and dance halls, located at the ground level shall not exceed 25 feet in width unless such a space has a certificate of use for nightclub or dance hall, or unless a valid license was issued after January 1, 2011, and before the date of adoption of the ordinance codified in this section for the use of such space as a nightclub or dance hall.
- (4) For new hotel construction or conversion to hotel use, the minimum hotel room unit size may be 175 square feet, provided that:
 - a. A minimum of 20 percent of the gross floor area of the hotel consists of hotel amenity space that is physically connected to and directly accessed from the hotel. Hotel amenity space includes the following types of uses, whether indoor or outdoor, including roof decks: restaurants; bars; cafes; hotel business center; hotel retail; screening rooms; fitness center; spas; gyms; pools; pool decks; and other similar uses customarily associated with a hotel. Bars and restaurants shall count no more than 50 percent of the total hotel amenity space requirements.
 - b. Windows shall be required in all hotel rooms and shall be of dimensions that allow adequate natural lighting, as determined by the historic preservation board.
- (5) Co-living or micro residential units are permitted subject to the following regulations:
 - a. For co-living or micro residential units, the minimum unit size may be 275 square feet, provided that a minimum of 20 percent of the gross floor area consists of amenity space on the same unified development site. Amenity space includes the following types of uses: Common area kitchens; club rooms; business center; retail; screening rooms; fitness center; wellness center; spas; gyms; pools; pool decks; roof decks, restaurant, bar or cafe above the ground floor; and other similar uses whether operated by a condominium or cooperative association or another operator. Fitness centers, wellness centers, spas, and gyms located on the ground floor shall be open to the public. Restaurants, bars, or cafes on the ground floor shall not count toward the amenity space requirements set forth herein. These amenities may be combined with the amenities for hotel units on the same unified development site, provided that residents and hotel guests have access to such amenities.
 - b. Within the same unified development site, office uses are provided with a minimum of 10,000 square feet shall be provided.
 - c. Each unit shall be fully furnished and shall have an individual bathroom.
 - d. All one-bedroom co-living units shall have a washer and dryer machine located within the unit, and co-living units with two or more bedrooms shall, at a minimum, install a washer and dryer in the common area of the unit.
 - e. Each co-living unit may contain a maximum of six bedrooms.
 - f. Co-living units may only be located on the west side of Washington Avenue. In addition, the western lot line of the unified development site must front on a street with an RM-1 or RO zoning designation.
 - g. A maximum of 50 percent of the floor area within the unified development site may consist of co-living or micro units.

- h. The owner must obtain a building permit for the co-living or micro residential units by March 1, 2023.
- i. Formula commercial establishments and formula restaurants, as defined in section 114-1, are prohibited on a unified development site with co-living or micro units.
- j. The owner/operator shall submit a covenant running with the land, in a form acceptable to the city attorney, agreeing that any owner/operator of co-living or micro units within the unified development site shall be obligated to clean and maintain (or arrange to have cleaned and maintained) each unit.
- k. The owner/operator shall submit a covenant running with the land, in a form acceptable to the city attorney, agreeing that any owner/operator of co-living or micro units within the unified development site shall be required to perform background screening investigations of all tenants of co-living or micro units.
- l. Any owner/operator of co-living or micro units must provide onsite security guards 24 hours a day, seven days a week.
- m. All exterior windows in any hotel, co-living, or micro units on the unified development site shall contain double-pane glass.
- n. Ground floor uses fronting on Washington Avenue shall be limited to retail, restaurant, bar, or gym/fitness center. Residential uses fronting Washington Avenue shall be prohibited on the ground floor, except for the lobby and any required vertical circulation.
- o. Each co-living unit must include a dining, kitchen, and living area, unless a dining, kitchen, and living area is provided on the same floor.
- p. A rooftop seating area, pool, and garden shall be provided within the unified development site.
- q. A wellness center shall be provided within a unified development site containing co-living or micro units, which wellness center shall have both self-service and personal training offerings such as strength training, yoga, stretching, recovery, mindfulness, cardiovascular equipment, and nutritional planning.

No variances shall be permitted from the provisions of this subsection (5).

(6) For lots that have a frontage that is greater than 100 feet, the following shall apply:

- a. Maximum building length. Unless otherwise approved by the historic preservation board at its sole discretion, no plane of a building, above the ground floor façade facing Washington Avenue, shall continue for greater than 100 feet without incorporating an offset of a minimum five feet in depth from the setback line. The total offset widths shall total no less than 20 percent of the entire building frontage.
- b. Physical separation between buildings. Unless otherwise approved by the historic preservation board at its sole discretion, a physical separation must be provided between buildings greater than 200 feet in length and at/or above 35 feet in height from the ground floor. Notwithstanding the foregoing, for building sites with a lot frontage in excess of 500 feet, no physical separation is required if: (i) the length of the building at/or above 35 feet in height from the ground floor does not exceed 50 percent of the length of the frontage of the property; and (ii) the offsets required in subsection (a), above, are a minimum of 20 feet in depth from the setback line and the combined offset widths total no less than 30 percent of the entire building frontage.

(Ord. No. 2015-3974, § 1, eff. 10-24-15; Ord. No. 2019-4231, § 1, 1-16-19; Ord. No. 2019-4312, § 1, 10-16-19; Ord. No. 2020-4346, § 1, 7-29-20)

Sec. 142-310. - Special regulations for alcohol beverage establishments.

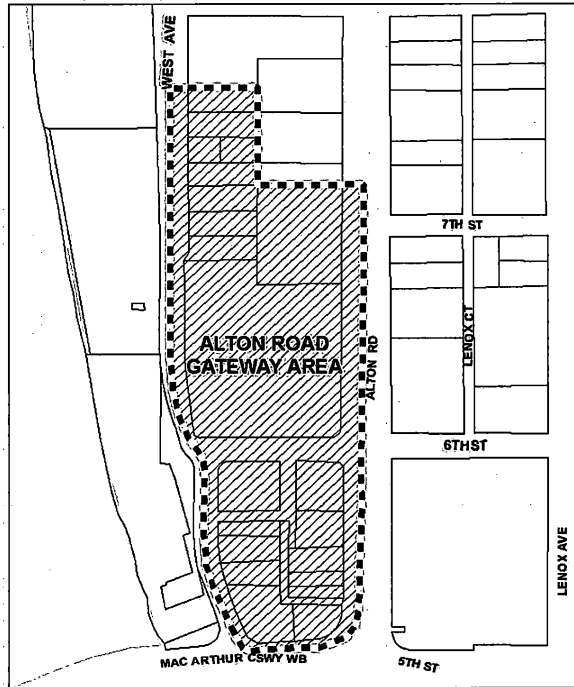
- (a) *Alton Road corridor.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road:
- (1) Operations shall cease no later than 2:00 a.m.
 - (2) Establishments with sidewalk cafe permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served in the restaurant, shall cease sidewalk cafe operations at 12:00 a.m., and shall not be permitted to have outdoor speakers.
 - (3) Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.
 - (4) Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
 - (5) Outdoor bar counters shall be prohibited.
 - (6) No special event permits shall be issued.
 - (7) This subsection (a) above shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that (i) is in application status prior to April 14, 2015; or (ii) issued prior to May 21, 2015; or (iii) to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to May 21, 2015. Any increase to the approved hours of operation shall meet the requirements of this subsection (a).
 - (8) Notwithstanding the foregoing, outdoor motion picture theaters with accessory outdoor bar counters may be permitted, including on rooftops, subject to conditional use approval pursuant to chapter 118, article IV, and subject to the following operational limitations:
 - a. The outdoor motion picture theater use shall front on Alton Road.
 - b. No television, radio, and/or recorded background music may exceed an ambient volume level (i.e. a volume that does not interfere with normal conversation). On rooftops, audio from motion picture presentations shall only be delivered to patrons through individually-worn headphones.
 - c. Movie projectors and related equipment, as well as all theater screens or displays, shall be oriented away from immediately neighboring residential areas, and projections may not be substantially visible from the right-of-way. The projection system shall be designed so as not to negatively impact adjacent residential areas.
 - d. Outdoor motion picture theaters shall be limited to no more than one (1) screen or display per establishment.
 - e. Outdoor motion picture theaters shall commence operations no earlier than 4:30 p.m., and shall cease operations no later than 12:00 a.m. on weekdays and 1:00 a.m. on weekends. Any accessory bar counter shall commence operations no earlier than 4:30 p.m., and shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends. The accessory bar counter may be open and operational only during times when the theater use is operational.
 - f. Outdoor motion picture theaters shall have no more than three (3) movie showings per night.

- g. Any outdoor bar counter shall be located away from immediately neighboring residential areas and shall not be substantially visible from the right-of-way.
 - h. The area surrounding any bar counter in which alcoholic beverages may be served shall be segregated to comply with the applicable requirements of chapter 6 of this Code. Additionally, this bar area, as well as any area that allows for the congregation of non-seated patrons, shall incorporate sound attenuation devices in order to reduce the level of noise. Such sound attenuation devices must be submitted as part of a sound study prepared by a licensed acoustical engineer, peer reviewed, and presented to the planning board as part of the review of the CUP application. The sound study shall include methods of absorbing and or re-directing sound and noise generated by ambient music and patron conversation.
 - i. Theater seats shall be required at all times and shall not be removed from the movie viewing areas during all times the business is open. This shall not preclude the temporary removal of seats for cleaning and maintenance purposes.
- (b) *Sunset Harbour neighborhood.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.
- (1) Operations shall cease no later than 2:00 a.m., except that outdoor operations (including sidewalk cafe operations) shall cease no later than 12:00 a.m.
 - (2) Alcoholic beverage establishments may not operate any outside dining areas or accessory bar counters above the ground floor of the building in which they are located; however, outdoor restaurant seating, associated with indoor venues, not exceeding 40 seats, may be permitted above the ground floor until 8:00 p.m. Notwithstanding the foregoing, the provisions of this subsection (b)(2) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016.
 - (3) Except as may be required by any applicable fire prevention code or building code, outdoor speakers shall not be permitted. Notwithstanding the foregoing, the provisions of this subsection (b)(3) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016.
 - (4) Special events shall not be permitted in any alcoholic beverage establishment.

(Ord. No. 2016-2014, § 2, 5-11-16; Ord. No. 2016-4046, § 1, 10-19-16; Ord. No. 2020-4338, § 1, 5-13-20; Ord. No. 2020-4358, § 2, 9-16-20)

Sec. 142-311. - Alton Road Gateway Area Development Regulations.

- (a) The Alton Road Gateway Area incorporates the parcels in the area bounded by 8th Street on the north, Alton Road on the east, 5th Street/MacArthur Causeway/SR A1A on the south, and West Avenue on the west; excluding lots 15 through 22 of the Amended Fleetwood Subdivision, according to the plat thereof recorded in Plat Book 28, page 34, of the Public Records of Miami-Dade County, Florida; as depicted in the map below:



- (2) **Setbacks.** The setbacks established in section 142-307 are modified as follows:
 - a. Minimum setback from Alton Road: Ten feet for residential and non-residential buildings; zero feet for elevated open walkways.
 - b. Minimum setback from West Avenue: 20 feet; zero feet for elevated open walkways.
 - c. Minimum setback from 5th Street/Mac Arthur Causeway: 17 feet; zero feet for elevated open walkways.
- (3) **Clear pedestrian path.** A "clear pedestrian path," free from obstructions including, but not limited to, outdoor cafes, sidewalk cafes, landscaping, signage, utilities, and lighting, shall be maintained along all frontages as follows:
 - a. The clear pedestrian path may only utilize public sidewalk and setback areas. The clear pedestrian path shall be a minimum of ten feet wide, except along the portions of West Avenue, Alton Road, and 5th Street/MacArthur Causeway south of 6th Street, where it shall be a minimum of five feet wide. The clear pedestrian path may be reduced by up to five feet for the sole purpose of accommodating the trunk diameter of canopy street trees when adjacent to a building.
 - b. Pedestrians shall have 24-hour access to "clear pedestrian paths."
 - c. Clear pedestrian paths shall be well lit and consistent with the city's lighting policies.
 - d. Clear pedestrian paths shall be designed as an extension of the adjacent public sidewalk.
 - e. Clear pedestrian paths shall be delineated by in-ground markers that are flush with the path, differing pavement tones, pavement type, or other method to be approved by the planning director.
 - f. An easement to the city providing for perpetual public access shall be provided for portions of clear pedestrian paths that fall within the setback area.
- (4) **Height.** The maximum height for a main use residential building: 519 feet. The maximum height for non-residential structures: 40 feet. Height shall be measured from the base flood elevation, plus freeboard, provided that the height of the first floor shall be tall enough to allow the first floor

to eventually be elevated to base flood elevation, plus freeboard, with a future minimum interior height of at least 12 feet as measured from the height of the future elevated adjacent right-of-way as provided under the city's public works manual.

- (5) *Floor plate.* The maximum floor plate size for the tower portion of a residential building is 17,500 square feet, including projecting balconies, per floor.
 - (6) *Residential buildings containing parking.* Main use residential buildings containing parking, are not required to provide residential or commercial uses at the first level along every façade facing a street or sidewalk as required in subsection 142-308(a). However, the first level shall be architecturally treated to conceal parking, loading, and all internal elements, such as plumbing pipes, fans, ducts, and lighting from public view.
 - (7) *Green space.* A minimum of three acres of open green space shall be located within the Alton Road Gateway Area. For purposes of this section, green space shall mean open areas that are free from buildings, structures, pavilions, driveways, parking spaces, and underground structures (except non-habitable utility structures). However, sun shade structures, open on all sides, and elevated pedestrian walks may be permitted. Open green space areas shall consist primarily of landscaped open areas, pedestrian and bicycle pathways, plazas, playgrounds, and other recreational amenities.
- (b) The following regulations shall apply to the properties located within the Alton Road Gateway Area; where there is conflict within this division, the regulations below shall apply:
- (1) *Prohibited uses.* In addition to the prohibited uses identified in section 142-305, the following uses shall also be prohibited: accessory outdoor bar counters, hostels, hotels, apartment hotels, suite hotels, outdoor entertainment establishments, neighborhood impact establishments, open air entertainment establishments, bars, dance halls, entertainment establishments (as defined in section 114-1), exterior alcoholic beverage service after 12:00 a.m., interior alcoholic beverage service after 2:00 a.m., package stores, any use selling gasoline, storage and/or parking of commercial vehicles on site other than the site at which the associated trade or business is located (in accordance with section 142-1103), pawnshops, secondhand dealers of precious metals/precious metals dealers, check cashing stores, convenience stores, occult science establishments, souvenir and t-shirt shops, tattoo studios, and tobacco/vape dealers.

(Ord. No. 2108-4228, § 1, 12-12-18; Ord. No. 2019-4255, § 1, 4-10-19; Ord. No. 2019-4269, § 2, 6-5-19)

Secs. 142-312—142-330. - Reserved.