

Discussion: Ocean Terrace MXE District

Attached Documents:

**Chapter 142, Article II, Division 13
MXE Mixed Use Entertainment District
LDR Regulations**

**Chapter 142, Article III, Division 11
Ocean Terrace Overlay
LDR Regulations**

Aerial/Zoning Map

DIVISION 13. MXE MIXED USE ENTERTAINMENT DISTRICT¹

Sec. 142-540. Purpose.

The MXE mixed use entertainment district is designed to encourage the substantial restoration of existing structures and allow for new construction.

(Ord. No. 89-2665, § 6-16(A)(1), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96)

Sec. 142-541. Main permitted uses.

The main permitted uses in the MXE mixed use entertainment district are apartments; apartment hotels, hotels, hostels, and suite hotels (pursuant to section 142-1105 of this chapter); commercial development as specified in section 142-546, and religious institutions with an occupancy of 199 persons or less.

(Ord. No. 89-2665, § 6-16(A)(2), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2021-4421, § 2, 5-12-21)

Sec. 142-542. Conditional uses.

The conditional uses in the MXE mixed use entertainment district are:

- (1) Major cultural dormitory facilities as specified in section 142-1332;
- (2) Public and private cultural institutions open to the public;
- (3) Religious institutions with an occupancy greater than 199 persons;
- (4) Banquet facilities; For purposes of this section, banquet facilities shall be defined as an establishment that provides catering and entertainment to private parties on the premises and are not otherwise accessory to another main use;
- (5) 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;
- (6) Outdoor entertainment establishment;
- (7) Neighborhood impact establishment;
- (8) Open air entertainment establishment; and
- (9) Artisanal retail with off-site sales as an accessory use to a hotel.

¹Cross reference(s)—Businesses, ch. 18.

(Ord. No. 89-2665, § 6-16(A)(3), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 2004-3447, § 1, 5-26-04; Ord. No. 2007-3546, 1-17-07; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2021-4421, § 2, 5-12-21)

Sec. 142-543. Accessory uses.

The accessory uses in the MXE mixed use entertainment district are as follows:

- (1) Those uses permitted in article IV, division 2 of this chapter.
- (2) Uses that serve alcoholic beverages are also subject to the regulations set forth in chapter 6.
- (3) Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6, 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.
- (4) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the restriction on the hours of operation, set forth in subsection (1) of this section, provided the accessory outdoor bar counter is located in the rear yard and set back 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.
- (5) Accessory uses shall be subject to the supplemental accessory use regulations in section 142-543.1.

(Ord. No. 89-2665, § 6-16(A)(4), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2021-4421, § 2, 5-12-21)

Sec. 142-543.1. Supplemental accessory use regulations.

- (a) *General provisions.* Accessory uses in the MXE district shall comply with the following mandatory criteria in addition to the regulations contained in sections 142-901 and 142-902:
 - (1) All structures shall conform to the Florida Building Code, the city's property maintenance standards, the Florida Fire Prevention Code, and the Life Safety Code.
 - (2) Both existing buildings and new improvements shall be built in a manner that is substantially consistent with the design recommendations in any applicable neighborhood or master plan, and the Secretary of the Interior's Standards and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as may be amended from time to time.
 - (3) The minimum and average unit size requirements as set forth in this article shall be satisfied.
 - (4) If the building or plans do not indicate compliance with subsections (a)(1), (a)(2) and (a)(3) of this section, then accessory uses shall not be permitted.
- (b) *Permitted accessory uses.* The following are permitted accessory uses in the mixed-use entertainment district:
 - (1) *Permitted accessory uses in hotels.*
 - a. Those accessory uses that are customarily associated with the operation of a hotel, as determined by the planning director. A hotel's total amount of retail space shall not exceed 75 square feet per hotel unit.

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- b. Hotels may have offices not associated with the operation of a hotel. The floor space associated with offices shall not exceed 35 square feet per hotel unit; provided, however, that medical and dental offices shall be prohibited.
 - c. Restaurants, outdoor cafes, sidewalk cafes.
 - d. Solarium, sauna, exercise studio, health club or massage service which is operated by an individual licensed by the state (if such a license is required).
 - e. Antiques, bookstore, art/craft galleries, artist studios.
 - f. Sale of alcoholic beverages pursuant to chapter 6.
 - g. Uses located on the porch, terrace, or patio of a building are limited to table seating for eating and drinking establishments, which have their fixtures and cooking facilities located in the interior of the building.
 - h. The sale of cigars and cigarettes on the porch, terrace or patio of a building, or in permitted sidewalk café areas to seated patrons, by a vendor licensed on the premises with the consent of the restaurant and sidewalk café permittee, is permitted provided that such sale or transaction shall only occur on such premises, and not on other city rights-of-way. Any solicitation of passersby or obstruction of the right-of-way shall be prohibited. Goods and merchandise transported from one location to another shall be covered and obscured from view. Vendors shall not use flashing lights, signs, markings, or other devices to call attention to themselves or the goods and merchandise, and shall not otherwise violate the provisions of section 74-1 of this Code. The following civil fines and penalties shall be imposed for violations of this subsection (b)(1)(h):
 - 1. If the offense is the first offense, \$100.00 fine.
 - 2. If the offense is the second offense within six months of the first offense, \$250.00 fine.
 - 3. If the offense is the third offense within 12 months of the first offense, one seven-consecutive-day suspension.
 - 4. If the offense is the fourth offense within 12 months of the first offense, one 30-consecutive-day suspension.
 - 5. If the offense is the fifth offense within 12 months of the first offense, the vendor shall be considered a habitual offender, and the city manager shall issue an administrative complaint for suspension or revocation of a business tax receipt as provided in section 102-383.

For purposes of this section, suspension or revocation of a business tax receipt shall apply to all business tax receipts held by a principal or all individuals with a controlling financial interest in the business entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm.

In the event of a revocation, as a condition of being permitted to resume operation under the business tax receipt, the city manager may impose conditions or restrictions as deemed appropriate to assure compliance with the city Code.

A vendor who has been served with a notice of violation shall be subject to enforcement provisions as set forth in chapter 30 of the Code. If the special master finds that a violation has occurred, the applicable penalty set forth above shall be imposed.

- i. Artisanal retail for on-site sales only.

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- j. Artisanal retail with off-site sales subject to conditional use approval.
 - k. Experiential retail.
- (2) *Permitted accessory uses in apartment buildings.* The following are permitted accessory uses in apartment buildings:
- a. Office, subject to the requirement that office uses must be located at least 50 feet from the front property line;
 - b. Retail;
 - c. Personal services; and
 - d. Restaurants, outdoor cafes, and sidewalk cafés with sale of alcoholic beverages pursuant to chapter 6, with access to the street, on the first level, subterranean level or in the highest floor of a building.
- No more than 25 percent of the floor area of the subterranean and/or first level shall be used for accessory uses unless approved by the historic preservation board.
- (3) *Permitted accessory uses in apartment hotels.* Apartment hotels shall be subject to the same accessory use regulations as apartment buildings. Notwithstanding the foregoing, apartment hotels may be subject to the same accessory use regulations as hotels if a minimum of 75 percent of the total number of units are hotel units.
- (c) Additional requirements. In addition to the regulations and accessory uses listed in subsections (a) and (b) of this section, permitted accessory uses for properties on both sides of Collins Avenue from Sixth to 15th Streets, on the west side of Collins Avenue from 15th to 16th Streets, and on Ocean Terrace must additionally comply with the following requirements:
- (1) Medical and dental offices shall be prohibited.
 - (2) Offices are only allowed in existing structures, otherwise, they are prohibited.
 - (3) If a building has a lobby or was originally constructed with a lobby, the lobby shall be retained or reconstructed. Such lobby may be used for a reception area with no partitions. Offices shall be prohibited in the lobby.
- (d) No variances shall be granted from the requirements of this section.
- (Ord. No. 2021-4421, § 2, 5-12-21)

Sec. 142-544. Prohibited uses.

The prohibited uses in the MXE mixed use entertainment district are:

- (1) Accessory outdoor bar counters, except as provided in this chapter;
- (2) Package stores; and package sales of alcoholic beverages by any retail store or alcoholic beverage establishment. Additionally, entertainment uses shall be prohibited in package stores;
- (3) Medical and dental offices; and
- (4) Stand-alone bars and stand-alone drinking establishments, unless as an accessory use to a hotel and located within a hotel lobby.

(Ord. No. 89-2665, § 6-16(A)(5), eff. 10-1-89; Ord. No. 2016-4047, § 2, 10-19-16; Ord. No. 2021-4421, § 2, 5-12-21)

Sec. 142-545. Development regulations.

The development regulations in the MXE mixed use entertainment district are as follows:

Maximum Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
All uses—2.0 Except convention hotel development (as set forth in section 142-841)—3.5	N/A	N/A	Existing structures: Apartment units—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units—in a local historic district/site—200 Otherwise: 15%: 300—335 85%: 335+ New construction: Apartment units—550 Hotel units: 15%: 300—335 85%: 335+. Hotel units within rooftop additions or within ground level additions to contributing structures in a historic district and individually designated historic buildings—200.	Existing structures: Apartment units—550 Hotel units—N/A New construction: Apartment units—800 Hotel units—N/A	Architectural district: Oceanfront—150 Non-oceanfront—50 (except as provided in section 142-1161) All other areas—75 (except as provided in section 142-1161) Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab.

(Ord. No. 89-2665, § 6-16(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2830, eff. 1-16-93; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 96-3052, § 1, 9-11-96; 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. 2017-4124, § 2, 7-26-17; Ord. No. 2017-4148, § 11, 10-18-17; Ord. No. 2017-4149, § 10, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2019-4315, § 5, 10-30-19; Ord. No. 2020-4342, § 1, 6-24-20)

Sec. 142-546. Additional regulations.

- (a) In the MXE mixed use entertainment district, permitted uses shall comply with the following regulations:
- (1) Sidewalk café permits shall only be permitted for restaurants and cafes with full kitchen facilities.

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- (2) Alcoholic beverage establishments with sidewalk café permits shall only serve alcoholic beverages at sidewalk cafés during hours when food is served in the restaurant and shall not be permitted to have outdoor speakers anywhere within the public right-of-way.
 - (3) Commercial uses on rooftops shall be limited to restaurants only and shall only be permitted in accordance with the following:
 - a. The building shall be fully renovated including all guest rooms;
 - b. The building shall have central air conditioning or flush-mounted wall units; however, no air conditioning equipment may face a street;
 - c. All non-impact resistant windows and doors shall be replaced with impact resistant windows and doors;
 - d. Any contributing building shall be renovated in accordance with the Secretary of Interior's Standards for Rehabilitation, including public interior spaces.
 - (4) Buildings existing as of October 1, 1989, with two stories or less fronting on Ocean Drive or Ocean Terrace may contain offices, retail, personal service, food service establishments, food service establishments serving alcohol, and residential uses or any combination thereof.
 - (5) The entire building shall be substantially renovated and comply with the South Florida Building Code, Fire Prevention Code, Life Safety Code, and the city's property maintenance standards. If the building is a historic structure, the plans shall substantially comply with the Secretary of the Interior Standards and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior (revised 1983), as amended.
 - (6) Buildings fronting on Collins Avenue from Sixth Street to 16th Street may contain offices, retail, food service establishments, personal service, food service establishments serving alcohol, and residential uses or any combination thereof.
 - (7) No existing building, constructed prior to December 31, 1966, shall be internally reconstructed to change the number of stories except that 20 percent of each floor plate may be removed to create an open area or atrium.
 - (8) For existing buildings with two stories or less fronting on Ocean Drive or Ocean Terrace, the addition of a story shall require that commercial uses comply with all provisions of section 142-904 for accessory uses. For purposes of example only, in buildings described in the foregoing sentence, the existence of commercial uses on the ground floor which exceed 25 percent of the floor area shall not, upon the addition of one story, be deemed grandfathered in, and the percentage of commercial uses on the ground floor, upon the addition of one story, must comply with the requirements of section 142-904.
 - (9) No variances shall be granted from the requirements of this section 142-546.
 - (b) Speaker regulations.
 - (1) Commercial establishments fronting on Ocean Drive, except retail establishments, may only place or install outdoor speakers within 20 feet of the property boundary facing Ocean Drive or a side street, if such speakers are played at ambient levels.
 - (2) Retail establishments shall be prohibited from placing or installing speakers outdoors. Any music played indoors at retail establishments must be inaudible from the exterior of the premises at all times.
 - (3) No variances shall be granted from the requirements of this section 142-546(b).
 - (c) Penalties and enforcement.
 - (1) A violation of subsection (b) shall be subject to the following civil fines and penalties:

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- a. If the violation is the first violation, a person or business shall receive a written warning or a civil fine of \$250.00;
 - b. If the violation is the second violation within the preceding 12 months, a person or business shall receive a civil fine of \$1,000.00;
 - c. If the violation is the third violation within the preceding 12 months, a person or business shall receive a civil fine of \$2,000.00;
 - d. If the violation is the fourth violation within the preceding 12 months, a person or business shall receive a civil fine of \$3,000.00; and
 - e. If the violation is the fifth or subsequent violation within the preceding 12 months, a person or business shall receive a civil fine of \$5,000.00, and the city shall suspend the business tax receipt.
- (2) Enforcement. The code compliance department shall enforce this section. This shall not preclude other law enforcement agencies from any action to assure compliance with this section and all applicable laws. If a violation of this section is observed, the enforcement officer will be authorized to issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special magistrate within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.
- (3) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.
- a. A violator who has been served with a notice of violation must elect to either:
 - 1. Pay the civil fine in the manner indicated on the notice of violation; or
 - 2. Request an administrative hearing before a special magistrate to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.
 - b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. A request for administrative hearing must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.
 - c. If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special magistrate, the special magistrate may be informed of such failure by the code compliance officer. The failure of the named violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
 - d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the 61st day following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien.
 - e. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.

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- f. The special magistrate shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.
 - g. The special magistrate shall not have discretion to alter the penalties prescribed in subsection (c)(1).

Section 46-151 et seq. establishes noise exceptions for a specific area as described in those sections.

(Ord. No. 89-2665, § 6-16(C), eff. 10-1-89; Ord. No. 92-2830, eff. 1-16-93; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2017-4079, § 1, 3-1-17; Ord. No. 2017-4085, § 1, 4-26-17; Ord. No. 2019-4243, § 1, 2-13-19; Ord. No. 2021-4421, § 2, 5-12-21; Ord. No. 2021-4431, 7-28-21)

Sec. 142-547. Setback requirements.

(a) The setback requirements for the MXE mixed use entertainment district are as follows:

(1) *Front.*

- a. Oceanfront: Pedestal and tower, 50 feet; however, sculptures, fountains or architectural features when approved by the design review board are permitted in the required front yard.
- b. Non-oceanfront:
 - 1. Pedestal, ten feet.
 - 2. Lots 100 feet in width or greater, 20 feet; for buildings with a ten-foot-deep covered front porch running substantially the full width of the building front, the front setback shall be five feet. Furthermore, for lots 100 feet in width or greater, the front setback shall be extended to include at least one courtyard, open to the sky, with a minimum width of ten feet and a minimum area of three square feet for every linear foot of lot frontage.
 - 3. Tower, 50 feet.

(2) *Side, interior.*

- a. Oceanfront: Pedestal and tower, 15 percent of the lot width.
- b. Nonoceanfront:
 - 1. Architectural district, five feet.
 - 2. All other areas:
 - i. Pedestal, five feet.
 - ii. Tower, 7.5 feet.

(3) *Side, facing a street.*

- a. Oceanfront: Pedestal and tower, 15 percent of the lot width, plus five feet.
- b. Nonoceanfront: Ten percent of the lot width plus five feet, not to exceed 25 feet. However, lots less than 100 feet in width shall have a setback of five feet.
 - 1. Nonoceanfront structures may comply with these requirements or have the option of the following:
 - i. Pedestal, five feet.
 - ii. Tower, 7.5 feet.

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2. Provided that nonoceanfront lots 100 feet or greater in width shall incorporate the following:

- i. A ten-foot-deep porch running substantially the full side length of the building, with a minimum floor-to-ceiling height of 12 feet; and
- ii. One courtyard, open to the sky, with a minimum of 1,000 square feet and a minimum average depth of 20 feet. The long edge of the courtyard shall be along the side property line. The area of the courtyard shall be increased by an additional 50 square feet for every one foot of building height above 30 feet as measured from grade.

(4) *Rear.*

- a. Oceanfront: 25 percent of the lot depth or 75 feet minimum from the bulkhead line, whichever is greater.
 - b. Nonoceanfront:
 1. Architectural district, zero feet if abutting an alley, otherwise ten feet.
 2. All other areas, ten feet.
- (b) Existing structures which are being substantially renovated are permitted to retain the existing setback areas; however, the setback area shall not be reduced. When additional floors are constructed, they shall be permitted to retain the same setbacks as the existing floors. The provisions of section 118-398 relating to bulk shall not be applicable to the foregoing setback requirements.

(Ord. No. 89-2665, § 6-16(D), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3052, § 1, 9-11-96)

Sec. 142-548. Reserved.

Editor's note(s)—Ord. No. 98-3150, § 1, adopted Nov. 4, 1998, repealed § 142-548, which pertained to additional maximum height regulations, and derived from Ord. No. 89-2665, § 6-16(e), eff. 10-1-89; Ord. No. 92-2830, eff. 1-16-93; and Ord. No. 96-3052, § 1, adopted 9-11-96.

Sec. 142-549. Noise overlay district.

Section 46-151 et seq. establishes noise exceptions for a specific area as described in those sections.

(Ord. No. 89-2665, § 12C, eff. 10-1-89)

Sec. 142-550. Additional regulations for new construction.

In the MXE 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 residential or 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.

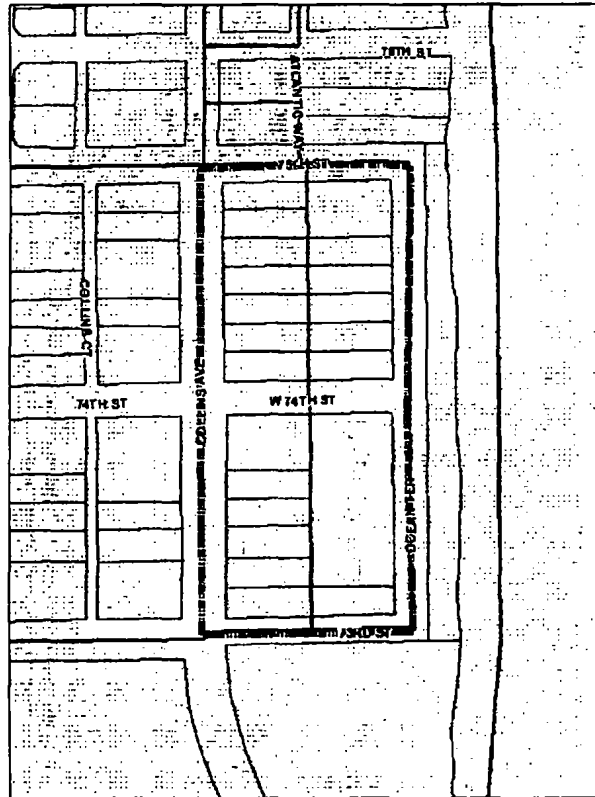
(Ord. No. 2006-3510, § 8, 3-8-06)

Secs. 142-551—142-570. Reserved.

DIVISION 11. OCEAN TERRACE OVERLAY

Sec. 142-870. Location and purpose.

The overlay regulations of this division shall apply to the properties identified in the map below:



(b) The purpose of this overlay district is to:

- (1) Stimulate neighborhood revitalization and encourage new development and renovation of important historic buildings within the Ocean Terrace/Collins Avenue corridor.
- (2) Encourage private property owners to assemble and redevelop properties comprehensively rather than in a piecemeal fashion.
- (3) Improve the pedestrian environment of the neighborhood.
- (4) Maintain the scale, massing and character of the existing building typology adjacent to the public sidewalks.

(Ord. No. 2016-4021, § 1, 6-8-16)

Sec. 142-870.1. Compliance with regulations.

The following overlay regulations shall apply to the Ocean Terrace Overlay. All development regulations in the underlying regulations shall apply, except as follows:

(a) *Setbacks.*

- (1) When a lot or combination of lots abuts two (2) or more streets, the required yards shall be classified as follows:
 - a. *Front.* The areas abutting Collins Avenue and Ocean Terrace.
 - b. *Side, Street.* The areas abutting either 73rd, 74th or 75th Streets.
 - c. *Side, Interior.* The areas abutting an adjacent property. For a lot or combination of lots that have two front setbacks as defined in this section, the remaining yards not facing a street shall be classified as a side interior.
- (2) *Pedestal.* Pedestal shall mean that portion of a building or structure which is equal to or less than 40 feet in height. The Historic Preservation Board may allow for an increase in the pedestal height not to exceed 45 feet in height in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.
 - a. *Front:*
 1. For buildings situated on properties with an underlying designation of CD-2, zero feet for the first 25 feet of building height, or the height of the existing building, whichever is greater. Five feet for those portions of new buildings within the remaining pedestal height.
 2. For buildings situated on properties with an underlying designation of MXE, five feet for the first 20 feet of building height, or the height of the existing building, whichever is greater, 20 feet for those portions of new buildings within the remaining pedestal height.
 - b. *Side street.* For properties fronting 75th Street, zero feet, regardless of the underlying zoning designation. For properties fronting 73rd or 74th Street, regardless of the underlying zoning designation, zero (0) feet for the first 20 feet of building height, or the height of the existing building, whichever is greater and 20 feet for those portions of new buildings within the remaining pedestal height.
 - c. *Side interior.*
 1. For buildings situated on properties with an underlying designation of CD-2, zero feet.
 2. For buildings situated on properties with an underlying designation of MXE, 7.5 feet.
- (3) *Tower.* Tower means that portion of a building or structure which exceeds 40 feet in height. Notwithstanding the foregoing, should the Historic Preservation Board allow for an increase in the pedestal height not to exceed 45 feet in height, in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations, the tower height shall be measured from the pedestal height approved by the Historic Preservation Board.
 - a. *Front.*

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1. For buildings situated on properties with an underlying designation of CD-2, 30 feet.
 2. For buildings situated on properties with an underlying designation of MXE, 55 feet.
- b. *Side street.* Twenty-five feet for the first 125 feet of building height, 50 feet for those portions of new buildings within the remaining tower height, regardless of the underlying zoning designation.
 - c. *Side interior.* Twenty feet regardless of the underlying zoning designation.
- (4) *Subterranean.* Zero feet for all yards regardless of the underlying zoning designation.
- (5) *[Exceptions.]* The historic preservation board may allow for a decrease in the above noted minimum setback requirements, but no less than the minimum setback requirements in the underlying zoning district regulations, in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.
- (b) *Allowable encroachments and projections, consistent with section 142-1132(o), within required yards.*
- (1) Exterior unenclosed private balconies and pool decks.
 - a. For buildings situated on properties with an underlying designation of CD-2, allowable encroachment is 7.5 feet into any required yard.
 - b. For buildings situated on properties with an underlying designation of MXE:
 1. Allowable front yard encroachments are:
 - i. Twelve feet for the pedestal, and
 - ii. Ten feet for the tower.
 2. Allowable side interior yard encroachment is six (6) feet.
 - (2) Ground level porches, platforms and terraces (up to 30 inches above the elevation of the lot) are allowed to project into a required yard for a distance not to exceed 50 percent of the required yard up to a maximum projection of five (5) feet.
- (c) *Height.*
- (1) For main use residential buildings: Lot area less than 20,000 square feet—The maximum height is based on the underlying zoning regulations; lot area equal to or greater than 20,000 square feet and having frontage on both Collins Avenue and Ocean Terrace—235 feet.
 - (2) For main use hotel buildings: Lot area less than 20,000 square feet—The maximum height is based on the underlying zoning regulations; lot area equal to or greater than 20,000 square feet and having frontage on both Collins Avenue and Ocean Terrace—125 feet.
 - (3) All other buildings the maximum height is as provided in the underlying zoning regulations.
- (d) *Floor plate.* The maximum floor plate size for the tower portion of a building is 10,000 square feet, including balconies, per floor. The historic preservation board may allow for an increase in the overall floor plate, up to a maximum of 15,000 square feet, including balconies, per floor, in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.
- (e) *Building separation.* All new construction shall comply with the following, as applicable:

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- (1) For any portion of new construction greater than 60 feet in height, the minimum horizontal separation between the tower portion of two buildings, including balconies, is 60 feet.
 - (2) Two buildings used as a hotel may be connected in the tower portion of the buildings by a one-story, enclosed pedestrian bridge, for circulation purposes only, if approved by the historic preservation board in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.
 - (3) The separation requirement between two existing contributing structures, or between an existing contributing structure and a new building, may be waived by the historic preservation board in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.
- (f) *Permitted uses.*
- (1) The main permitted uses in the Ocean Terrace Overlay District are:
 - a. Apartments;
 - b. Apartment/hotels;
 - c. Hotels;
 - d. Commercial;
 - e. Uses that serve alcoholic beverages as listed in chapter 6 (alcoholic beverages) or as specified elsewhere in the land development regulations.
 - (2) The conditional uses in the Ocean Terrace Overlay District are:
 - a. Public and private cultural institutions open to the public;
 - b. Banquet facilities, defined as an establishment that provides catering and entertainment to private parties on the premises and are not otherwise accessory to another main use;
 - c. Outdoor entertainment establishments;
 - d. Neighborhood impact establishments;
 - e. Open air entertainment establishments;
 - f. Main use parking garages;
 - g. Public and private institutions;
 - h. Food store selling alcoholic beverages.
- (g) *Prohibited uses.*
- (1) Package alcohol store.
- (h) *Additional development regulations.* Buildings with frontage on Collins Avenue shall have either retail or restaurant uses (which may include neighborhood impact establishment uses) on the front 50 feet of depth of the ground floor with an entrance that opens onto Collins Avenue. Buildings with frontage on Ocean Terrace shall have active uses on the ground floor with an entrance that opens onto Ocean Terrace.

(Ord. No. 2016-4021, § 1, 6-8-16; Ord. No. 2017-4098, § 1, 5-17-17; Ord. No. 2018-4158, § 2, 1-17-18)

Secs. 142-870.2—142-870.9. Reserved.

Ocean Terrace Overlay

Zoning Map

