

Sunset Harbour CD-2 and I-1 Development Overlay

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," AT DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," (1) BY AMENDING SECTION 142-305, "PROHIBITED USES," TO PROHIBIT HOTELS, APARTMENT HOTELS AND SUITE HOTELS IN THE SUNSET HARBOUR AREA; AND (2) BY ESTABLISHING SECTION 142-312, "SUNSET HARBOUR DEVELOPMENT REGULATIONS," AND BY AMENDING DIVISION 11, "I-1 LIGHT INDUSTRIAL DISTRICT," BY ESTABLISHING SECTION 142-489, "SUNSET HARBOUR DEVELOPMENT REGULATIONS," TO MODIFY HEIGHT LIMITS, HEIGHT EXCEPTIONS, AND REGULATIONS FOR SPECIAL EVENTS AND OUTDOOR SPEAKERS, ESTABLISH LIMITATIONS FOR LOT SIZE AND LOT AGGREGATION, MODIFY REQUIREMENTS FOR CLEAR PEDESTRIAN PATHS, AND ESTABLISH LIMITATIONS FOR ESTABLISHMENTS OVER 25,000 SQUARE FEET IN THE SUNSET HARBOUR NEIGHBORHOOD; AND (3) BY AMENDING CHAPTER 130, "OFF-STREET PARKING," ARTICLE II, "DISTRICTS; REQUIREMENTS," AT SECTION 133-33, "OFF-STREET PARKING REQUIREMENTS FOR PARKING DISTRICTS NOS. 2, 3, 4, 5, 6, 7, 8, AND 9," TO MODIFY PARKING REQUIREMENTS FOR NON-RESIDENTIAL USES ABOVE THE GROUND FLOOR IN PARKING DISTRICT NUMBER 5; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, APPLICABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Sunset Harbour neighborhood 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; and

WHEREAS, Sunset Harbour is a neighborhood that has successfully evolved from a primarily industrial neighborhood into a vibrant mixed-use residential neighborhood that is characterized by its unique combination of residential, commercial, and industrial uses; and

WHEREAS, economic trends indicate that demand has increased for Class A office space within the City as businesses relocate from other states to Miami Beach; and

WHEREAS, as defined by the Building Owners and Managers Association International (BOMA), Class A Office Space consists of buildings offering office spaces that are designed based on current work place design criteria, with high quality finishes, state of the art systems, defined presence, exceptional accessibility and top of market rents for the area; and

WHEREAS, Class A office space tends to require higher floor-to-ceiling heights than other classes of office space; and

WHEREAS, the development of Class A office space will promote the growth, diversification, and resiliency of the City's economy; and

WHEREAS, in late 2020, a group of Sunset Harbour residents proposed a Neighborhood Vision Plan, which would apply to future development and streetscape improvements in the Sunset Harbour neighborhood; and

WHEREAS, the proposed changes in this Ordinance are intended to serve as the initial implementation of the Sunset Harbour Neighborhood Vision Plan, creating updated development regulations within the Sunset Harbour neighborhood to reflect the current market conditions and neighborhood identity; and

WHEREAS, additionally, the proposed changes are necessary in order to promote the development of Class A office space within the City; and

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

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 5, "CD-2 Commercial, Medium Intensity District," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

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ARTICLE II. DISTRICT REGULATIONS

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DIVISION 5. CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

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Sec. 142-305. Prohibited uses.

(a) 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.

(b) Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district also include the following:

(a) (1) In the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, ~~are the following prohibited uses~~ also include the following:

- a. Hotels, apartment hotels, suite hotels and hHostels;
- b. Outdoor entertainment establishments;
- c. Neighborhood impact establishments;
- d. Open air entertainment establishments;
- e. Bars;
- f. Dance halls; and
- g. Entertainment establishments (as defined in section 114-1 of this Code).;
- h. Pawnshops;
- i. Tobacco and vape dealers;
- j. Check cashing stores;
- k. Convenience stores;
- l. Occult science establishments;
- m. Souvenir and T-shirt shops;
- n. Tattoo studios.

(c)(b)

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Sec. 142-312. Sunset Harbour Development Regulations.

- (a) The Sunset Harbour Neighborhood incorporates the parcels in the area bounded by 20th Street on the north, Alton Road on the east, Dade Boulevard on the south, and Purdy Avenue on the west as depicted in the map below:



(b) The following regulations shall apply to CD-2 properties within the Sunset Harbour Neighborhood:

(1) Clear pedestrian path. The applicable standards for a "clear pedestrian path" established in sections 133-61 and 133-62 shall apply to new development, except as follows:

- a. The clear pedestrian path shall be at least ten (10') feet wide.
- b. The design review board may approve the reduction of the clear pedestrian path requirement to no less than five (5) feet in order to accommodate street trees, required utility apparatus, or other street furniture, subject to the design review criteria.

(2) Height. Notwithstanding the requirements of Sec. 142-306, the following maximum building height regulations shall apply to the Sunset Harbour Neighborhood:

- a. The maximum building height shall be 55 feet, except as noted below.
- b. The design review board may approve development at a maximum building height of 65 feet on the following properties:
 - 1. Properties fronting Dade Boulevard between Alton Road and Bay Road.
 - 2. Properties fronting Alton Road between 20th Street and Dade Boulevard.
 - 3. Properties fronting Purdy Avenue between 18th Street and Dade Boulevard.
- c. The design review board may only approve development at a height greater than 55 feet subject to the design review criteria and the following regulations:
 - 1. The property shall have a minimum lot size of 10,000 square feet.
 - 2. The development shall consist solely of office use above the ground level of the structure, and provided that residential uses may be permitted on such properties up to a maximum FAR of 2.0 pursuant to Section 142-307(d)(1), but only if the first 1.5 FAR of development is dedicated to office use and ground floor commercial use.
 - 3. The ground floor shall contain retail, personal service, restaurant and similar types of active uses fronting the clear pedestrian path.
 - 4. Portions of the building exceeding 55 feet in height that abut a residential use shall be set back a minimum of ten (10) feet from the residential use.
 - 5. Portions of the building exceeding 55 feet in height that are located on Alton Road shall be set back a minimum of 150 feet from 20th Street.
 - 6. Portions of the building exceeding 55 feet in height that are located on Dade Boulevard shall be set back a minimum of 100 feet from Bay Road.

7. Portions of the building exceeding 55 feet in height that are located along 18th Street between Bay Road and Purdy Avenue shall be set back a minimum of 12 feet from the property line.

(3) *Height Exceptions.* In general, rooftop elements that are exempt from a building's maximum building height pursuant to this subsection (b)(3) shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways. The height regulation exceptions contained in section 142-1161 shall not apply to the Sunset Harbour Neighborhood. Instead, only the following height exceptions shall apply to the Sunset Harbour Neighborhood and, unless otherwise specified, shall not exceed ten feet above the main roof of the structure:

- a. Roof-top operational and mechanical equipment. This exception shall be limited to essential, non-habitable, building elements such as mechanical rooms/devices, air conditioning and cooling equipment, generators, electrical and plumbing equipment, as well as any required screening. The height of such elements shall not exceed 25 feet above the roof slab. The foregoing operational and mechanical equipment shall require the review and approval of the Design Review Board and shall be set back from the building perimeter by no less than 25 feet from roof parapets on street facing facades.
- b. Roof-top elevator towers, including code required vestibules, and stair towers, with the height of such structures not exceeding 25 feet above the roof slab. Projecting overhangs at the doorways to elevator vestibules and stair towers required by the Florida Building Code may be permitted, provided the projection does not exceed the minimum size dimensions required under the Florida Building Code. The foregoing elements shall require the review and approval of the Design Review Board and shall be set back from the building perimeter by no less than 25 feet from roof parapets on street facing facades. Notwithstanding the foregoing, the requirement for Design Review Board approval, as well as the perimeter setback, shall not apply to private elevator and/or private stairs from a residential unit to a private roof deck.
- c. Satellite dishes, antennas, sustainable roofing systems, solar panels and similar elements. Such elements shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.
- d. Decks located more than six inches above the top of the roof slab, and not exceeding three feet above the roof slab, may be permitted provided the deck area is no more than 50 percent of the enclosed floor area immediately one floor below.
- e. Rooftop areas that are accessible only to the owners or tenants of residential units may have trellises, pergolas or similar structures that have an open roof of cross rafters or latticework. 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 20 feet from the property line and no less than 10 feet from the roof parapets on street-facing facades.
- f. Roof-top pools, not to exceed five feet above the roof slab, shall be limited to main use residential buildings, or mixed use/office buildings where at least 25% of the floor area is dedicated to non-transient residential units. Such pools may have up to a four-foot-wide walkway around the pool. Additionally, bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Florida Building Code, may be permitted provided such bathrooms are set back a minimum of 20 feet from the property line and no less than 10 feet from the roof

parapets on street-facing facades and shall not exceed 13 feet in height measured from the finished elevation of the roof deck or 16 feet in height measured from the roof slab, whichever is less.

- g. Parapets shall not exceed four feet in height above the main roof.
- h. Exterior speakers required to meet applicable requirements of the Life Safety or Florida Building Code.
- i. Allowable height exceptions located within 25 feet of the property line along a street facing façade of the building, or within 20 feet of an interior lot line abutting a residential use, shall not exceed 10 feet in height measured from the finished elevation of the roof deck or 13 feet in height measured from the roof slab, whichever is less. The Design Review Board may waive this minimum setback along a street facing façade of the building, but in no instance shall the setback be less than 15 feet from the property line.

(4) Lot Aggregation. Except for office or residential development, no more than six (6) platted lots may be aggregated.

(5) Lot Size. Except for office or residential development, the maximum lot size shall not exceed 36,000 square feet. Notwithstanding the foregoing, the provisions of this paragraph shall not apply to any lot larger than 36,000 square feet that existed prior to January 1, 2021.

(6) Number of Large Establishments and Conditional Use Permit (CUP) Requirements. Conditional use approval from the Planning Board shall be required for retail, personal service, and/or restaurant uses within a development that is greater than 25,000 square feet in size. Additionally, no more than two such developments shall be permitted within the Sunset Harbour Neighborhood.

(7) Special Events. City approved special events shall be prohibited at alcoholic beverage establishments. Notwithstanding the foregoing, permitted special events at venues not meeting the definition of an alcoholic beverage establishment shall cease no later than 9:00 p.m., seven days a week.

(8) Outdoor Speakers. Outdoor speakers shall be prohibited on all levels of the exterior of a building, including roof tops, unless such speakers are required pursuant to the Life Safety or Florida Building Code.

SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 11, "I-1 Light Industrial District," is hereby amended as follows:

DIVISION 11. I-1 LIGHT INDUSTRIAL DISTRICT

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Sec. 142-489. Sunset Harbour Development Regulations.

- (a) The Sunset Harbour Neighborhood incorporates the parcels in the area bounded by 20th Street on the north, Alton Road on the east, Dade Boulevard on the south, and Purdy Avenue on the west as depicted in the map below:



- (b) The following regulations shall apply to I-1 properties within the Sunset Harbour Neighborhood:

- (1) Clear pedestrian path. The applicable standards for a “clear pedestrian path” established in sections 133-61 and 133-62 shall apply to new development, as follows:

- a. The clear pedestrian path shall be at least ten (10') feet wide.
- b. The design review board may approve the reduction of the clear pedestrian path requirement to no less than five (5) feet in order to accommodate street trees, required utility apparatus, or other street furniture, subject to the design review criteria.

- (2) Height. Notwithstanding the requirements of Sec. 142-486, the following maximum building height requirements shall apply to the Sunset Harbour Neighborhood:

- a. The maximum height shall be 55 feet.

(3) Height Exceptions. In general, rooftop elements that are exempt from a building's maximum building height pursuant to this subsection (b)(3) shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways. The height regulation exceptions contained in section 142-1161 shall not apply to the Sunset Harbour Area. Instead, only the following height exceptions shall apply to the Sunset Harbour Area, and unless otherwise specified, shall not exceed ten feet above the main roof of the structure:

- a. Roof-top operational and mechanical equipment. This exception shall be limited to essential, non-habitable, building elements such as mechanical rooms/devices, air conditioning and cooling equipment, generators, electrical and plumbing equipment, as well as any required screening. The height of such elements shall not exceed 25 feet above the roof slab. The foregoing operational and mechanical equipment shall require the review and approval of the Design Review Board and shall be set back from the building perimeter by no less than 25 feet from roof parapets on street facing facades.
- b. Roof-top elevator towers, including code required vestibules, and stair towers, with the height of such structures not exceeding 25 feet above the roof slab. Projecting overhangs at the doorways to elevator vestibules and stair towers required by the Florida Building Code may be permitted, provided the projection does not exceed the minimum size dimensions required under the Florida Building Code. The foregoing elements shall require the review and approval of the Design Review Board and shall be set back from the building perimeter by no less than 25 feet from the roof parapets on street facing facades.
- c. Satellite dishes, antennas, sustainable roofing systems, solar panels and similar elements. Such elements shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.
- d. Decks located more than six inches above the top of the roof slab, and not exceeding three feet above the roof slab, may be permitted provided the deck area is no more than 50 percent of the enclosed floor area immediately one floor below.
- e. Rooftop areas that are accessible only to the owners or tenants of residential units may have trellises, pergolas or similar structures that have an open roof of cross rafters or latticework. 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 20 feet from the property line and no less than 10 feet from the roof parapets on street-facing facades.
- f. Roof-top pools, not to exceed five feet above the roof slab, shall be limited to main use residential buildings, or mixed use/office buildings where at least 25% of the floor area is dedicated to non-transient residential units. Such pools may have up to a four-foot-wide walkway around the pool. Additionally, bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Florida Building Code, may be permitted provided such bathrooms are set back a minimum of 20 feet from the property line and no less than 10 feet from the roof parapets on street-facing facades and shall not exceed 13 feet in height measured from the finished elevation of the roof deck or 16 feet in height measured from the roof slab, whichever is less.
- g. Parapets shall not exceed four feet in height above the main roof.

- h. Exterior speakers required to meet applicable requirements of the Life Safety or Florida Building Code.
 - i. Allowable height exceptions located within 25 feet of the property line along a street facing façade of the building, or within 20 feet of an interior lot line abutting a residential use, shall not exceed 10 feet in height measured from the finished elevation of the roof deck or 13 feet in height measured from the roof slab, whichever is less. The Design Review Board may waive this minimum setback along a street facing façade of the building, but in no instance shall the setback be less than 15 feet from the property line.
- (4) Lot Aggregation. Except for office development, no more than six (6) platted lots may be aggregated.
 - (5) Lot Size. Except for office development, the maximum lot size shall not exceed 36,000 square feet. Notwithstanding the forgoing, the provisions of this paragraph shall not apply to any lot larger than 36,000 square feet that existed prior to January 1, 2021.
 - (6) Number of Large Establishments and Conditional Use Permit (CUP) Requirements. Conditional use approval from the Planning Board shall be required for retail, personal service, and/or restaurant uses within a development that is greater than 25,000 square feet in size. Additionally, no more than two such developments shall be permitted within the Sunset Harbour Neighborhood.
 - (7) Special Events. City approved special events shall be prohibited at alcoholic beverage establishments. Notwithstanding the foregoing, permitted special events at venues not meeting the definition of an alcoholic beverage establishment shall cease no later than 9:00 p.m., seven days a week.
 - (8) Outdoor Speakers. Outdoor speakers shall be prohibited on all levels of the exterior of a building, including roof tops, unless such speakers are required pursuant to the Life-Safety or Florida Building Code.

SECTION 3. Chapter 130, "Off-Street Parking" Article II, "District Requirements," at Section 133-33, "Off-street parking requirements for parking districts nos. 2, 3, 4, 5, 6, 7, 8, and 9," is hereby amended as follows:

CHAPTER 130

OFF-STREET PARKING

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ARTICLE II. DISTRICTS; REQUIREMENTS

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Sec. 130-33. Off-street parking requirements for parking districts nos. 2, 3, 4, 5, 6, 7, 8, and 9.

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- (b) [Parking district no. 5.] Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 5, off-street parking spaces shall be provided for the building, structure or additional floor area as follows. For uses not listed below, the off-street parking requirement shall be the same as for parking district no. 1 in section 130-32.
- (1) Restaurant with alcoholic beverage license or other establishment for consumption of food or beverages: No parking requirement for an individual establishment of less than 100 seats that does not exceed 3,500 square feet of floor area. To the extent that an establishment exceeds 100 seats and/or 3,500 square feet of floor area, one parking space per four seats and one parking space per 60 square feet of floor area not used for seating shall be required. Such parking may be satisfied by paying an annual fee in lieu of providing the required parking in accordance with section 130-132.
 - (2) Retail store, or food store, or personal service establishment: There shall be no parking requirement for individual establishments of 3,500 square feet or less. An establishment over 3,500 square feet shall provide one space per 300 square feet of floor area for retail space that exceeds 3,500 square feet of floor area. Such parking may be satisfied by paying an annual fee in lieu of providing the required parking in accordance with section 130-132.
 - (3) Developments greater than 10,000 square feet of new construction: For new construction that is between 10,000 to 15,000 square feet, in lieu of providing required parking on site, a one-time fee may be paid prior to the issuance of the building permit, for that portion of new construction between 10,000 and 15,000 square feet. All portions of new construction that is greater than 15,000 square feet shall provide all the required parking on site.
 - (4) There shall be no parking requirement for non-residential uses located above the ground floor, regardless of square footage. Notwithstanding the foregoing, required parking for office uses may be provided on-site, pursuant to the regulations for parking district no. 1. Such required parking, if provided for office uses, shall be exempt from FAR, in accordance with the regulations in chapter 114 of these land development regulations.
 - (5) Removal of existing parking spaces: No existing required parking space may be eliminated, except through the provisions of section 130-35, or through the payment of the one-time fee in lieu of providing the parking in effect at the time, which shall be paid prior to the approval of a building permit, provided such elimination of parking spaces does not result in an FAR penalty (exceeding permitted floor area ratio)
 - (5) (6) Modifications to existing structures to meet raised street and sidewalk levels: There shall be no parking requirement for existing structures that raise the entire ground or first floor of the structure to meet or exceed the height of the abutting sidewalk(s). The parking requirement for any addition, up to 10,000 square feet, may be satisfied by paying an annual fee in lieu of providing the required parking in an amount equal to two percent of the total amount due for all of the uses within the proposed building. Additionally, any existing required parking spaces, which are located at the first level or open to the sky at the roof level, may be eliminated, without paying a fee in lieu of parking).

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SECTION 4. REPEALER.

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

SECTION 5. 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 re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 6. SEVERABILITY.

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

SECTION 7. APPLICABILITY.

The provisions of this Ordinance shall not apply to a Design Review Board application that has been submitted and assigned a file number prior to January 1, 2021. Any such development, if approved by the Design Review Board, shall be deemed a "nonconforming building" or "nonconforming structure" as defined in City Code Section 114-1, and shall be subject to the provisions of Chapter 118 of the City Code, at Article IX, entitled "Nonconformances."

Additionally, the provisions of this Ordinance shall not apply to a Design Review Board application that has been filed and assigned a file number prior to April 27, 2021, as it pertains solely to hotel, suite hotel or apartment-hotel use. Any such development, if approved by the Design Review Board, shall be deemed a "non-conforming use" as defined in City Code Section 114-1, and shall be subject to the provisions of Chapter 118 of the City Code, at Article IX, entitled "Nonconformances."

SECTION 8. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 2021.

ATTEST:

Rafael E. Granado, City Clerk

First Reading: May 12, 2021
Second Reading: June 23, 2021

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

Dan Gelber, Mayor

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

 5-4-21

City Attorney NK Date