

Chapter 142 - MXE Use Regulations

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED, "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 114, ENTITLED "GENERAL PROVISIONS," AT SECTION 114-1, ENTITLED "DEFINITIONS," TO ESTABLISH A DEFINITION FOR EXPERIENTIAL RETAIL; BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 13, ENTITLED "MXE MIXED USE ENTERTAINMENT DISTRICT," BY AMENDING SECTION 142-542, ENTITLED "CONDITIONAL USES," TO AMEND THE LIST OF CONDITIONAL USES TO INCLUDE ~~ENTERTAINMENT ESTABLISHMENT AND ARTISANAL RETAIL~~ WITH OFF-SITE SALES AS AN ACCESSORY USE TO A HOTEL; AMENDING SECTION 142-543, ENTITLED "ACCESSORY USES," TO ALLOW FOR ACCESSORY USES SUBJECT TO THE SUPPLEMENTAL ACCESSORY USE REGULATIONS IN SECTION 142-543.1; CREATING SECTION 142-543.1, ENTITLED "SUPPLEMENTAL ACCESSORY USE REGULATIONS," TO CLARIFY AND CONSOLIDATE REGULATIONS FOR ACCESSORY USES, AND ALLOW FOR ARTISANAL RETAIL FOR ON-SITE SALES ONLY, EXPERIENTIAL RETAIL, AND RELATED USES AS PERMITTED ACCESSORY USES; AMENDING SECTION 142-544, ENTITLED "PROHIBITED USES," TO PROHIBIT MEDICAL AND DENTAL OFFICES, STAND ALONE BARS, AND RELATED USES; AND AMENDING SECTION 142-546, ENTITLED "ADDITIONAL RESTRICTIONS FOR LOTS FRONTING ON OCEAN DRIVE, OCEAN TERRACE AND COLLINS AVENUE," TO RENAME THE SECTION, PROVIDE THAT COMMERCIAL USES ON ROOFTOPS SHALL BE LIMITED TO RESTAURANTS, AND CLARIFY EXISTING REGULATIONS; AND AMENDING ARTICLE IV, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," DIVISION 2, ENTITLED "ACCESSORY USES," TO REPEAL SECTION 142-904, ENTITLED "ADDITIONAL MIXED USE ENTERTAINMENT DISTRICT REGULATIONS," AND AMEND AND RELOCATE THE PROVISIONS THEREIN TO SECTION 142-543.1; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

**WHEREAS**, properties fronting Ocean Drive and Collins Avenue that have a zoning designation of MXE Mixed Use Entertainment are located in the Ocean Drive/Collins Avenue Historic District, as well as the Miami Beach Architectural National Register Historic District; and

**WHEREAS**, Ocean Drive and Collins Avenue are two of the premier streets in Miami Beach, which provide residents and visitors with unique cultural, retail, and dining experiences that are vital to Miami Beach's economy, especially the tourism industry; and

**WHEREAS**, in recent years, Ocean Drive and the surrounding MXE district has been impacted by a heavy concentration of entertainment establishments which, when not properly controlled, can negatively impact public safety and quality of life for neighboring residents; and

**WHEREAS**, it is the intent of the City Commission to adopt regulations that mitigate negative impacts of these establishments on the surrounding neighborhood; and

**WHEREAS**, due to the advent of online retailing, economic conditions are changing, impacting traditional retailers and transforming experiences that tourists and residents are seeking; and

**WHEREAS**, the City of Miami Beach seeks to encourage uses with long-term viability, in light of changing economic conditions, which will also serve as unique draws for tourists and residents alike; and

**WHEREAS**, the City of Miami Beach has the authority to enact laws which promote the public health, safety, and welfare of its citizens; 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 114, entitled "General Provisions," at Section 114-1, entitled "Definitions," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

## **Chapter 114. GENERAL PROVISIONS**

### **Sec. 114-1. Definitions.**

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*Artisanal retail for on-site sales only* shall mean a retail establishment where consumer-oriented goods, services, or foodstuffs are produced; including, but not limited to, works of art, clothing, personal care items, dry-cleaning, walk-in repairs, and alcoholic beverages production, for sale to a consumer for their personal use or for consumption on the premises only. Such facilities use moderate amounts of partially processed materials and generate minimal noise and pollution.

*Artisanal retail with off-site sales* shall mean a retail establishment where consumer-oriented goods, services, or foodstuffs are produced; including, but not limited to, works of art, clothing, personal care items, dry-cleaning, walk-in repairs, and alcoholic beverages production, for sale to a consumer for their personal use or for consumption on the premises and concurrently for sale to vendors and retailers off the premises. Such facilities use moderate amounts of partially processed materials and generate minimal noise and pollution.

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*Experiential Retail* means a retail establishment that engages the public through the use of performing arts (including, but not limited to, music, dance and theater), visual arts (including, but

not limited to, painting, sculpture, video and photography), culinary education, cultural education, or other cultural offerings. Such facilities shall not include dance halls and may only serve alcohol while cultural offerings are taking place.

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**Section 2.** Chapter 142, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," at Division 13, entitled "MXE Mixed Use Entertainment District," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

## CHAPTER 142

### ZONING DISTRICTS AND REGULATIONS

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### ARTICLE II. DISTRICT REGULATIONS

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### DIVISION 13. MXE MIXED USE ENTERTAINMENT DISTRICT

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#### **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.

#### **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) ~~Entertainment establishment; and~~
- (10) Artisanal retail with off-site sales as an accessory use to a hotel.

**Sec. 142-543. Accessory uses.**

(a) 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.

**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.
- 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.
- 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:
- a. Medical and dental offices shall be prohibited.
  - b. Offices are only allowed in existing structures, otherwise, they are prohibited.
  - c. 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.

#### **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.

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#### **Sec. 142-546. ~~Additional regulations~~ restrictions for lots fronting on Ocean Drive, Ocean Terrace and Collins Avenue.**

- (a) In the MXE mixed use entertainment district, permitted uses in existing buildings at the time of adoption of this section with two stories or less fronting on Ocean Drive or Ocean Terrace and any building fronting on Collins Avenue from Sixth Street to 16th Street shall comply with the following regulations:
- (1) Sidewalk café permits shall only be permitted for restaurants and cafes with full kitchen facilities.
  - (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 safety 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) ~~The 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, alcoholic beverage establishments, and residential uses or any combination thereof. ~~Medical and dental offices shall be prohibited uses in the MXE districts. Commercial uses located above the ground floor shall only have access from the interior of the building; no exterior access shall be permitted, unless a variance from this requirement is granted.~~
- ~~(3) Required parking may be satisfied through participation in the parking impact fee program as set forth in chapter 130, article V, where applicable under the regulations contained therein.~~
- (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, ~~except if a variance is granted.~~
- (9) No variances shall be granted from the requirements of this section 142-546, ~~except as specified in subsection 142-546(a)(2).~~
- (b) ~~Speaker regulations for lots fronting on Ocean Drive.~~
  - (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 fronting on Ocean Drive~~ shall be prohibited from placing or installing speakers outdoors. Any music played indoors at retail establishments ~~fronting on Ocean Drive~~ 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:
    - 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 master 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 master.
- a. A violator who has been served with a notice of violation must elect to either:
    - i. Pay the civil fine in the manner indicated on the notice of violation; or
    - ii. Request an administrative hearing before a special master 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 master, the special master 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 master, 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 master may appeal that decision to a court of competent jurisdiction.
  - f. The special master 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 master 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.

**Section 3.** Chapter 142, entitled "Zoning Districts and Regulations," Article IV, entitled "Supplementary District Regulations," Division 2, entitled "Accessory Uses," at Section 142-904 of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:



**Sec. 142-904. -- Additional mixed use entertainment district regulations.**

- (a) ~~General provisions.~~ Accessory uses 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 South Florida Building Code, the city property maintenance standards and the fire prevention and safety code.~~
  - (2) ~~The existing building and the proposed improvements shall be built in a manner that is substantially consistent with the design recommendations in neighborhood plans for the area if one exists, and the Secretary of the Interior Standards for Rehabilitation and Guidelines for Historic Structures, U.S. Department of the Interior, as may be amended from time to time.~~
  - (3) ~~The minimum and average floor area requirements for the units as set forth in article II, division 13 of this chapter shall be met.~~
  - (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 are not 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 and zoning director. The amount of retail space shall not exceed 75 square feet per hotel unit.~~
    - 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; medical or dental related offices are prohibited.~~
    - c. ~~Restaurants, outdoor cafes, sidewalk cafes.~~
    - d. ~~Solarium, sauna, exercise studio, health club or massage service which are located in either the subterranean, ground, mezzanine or roof levels only and are operated by an individual licensed by the state or other appropriate agencies.~~
    - e. ~~Antiques, bookstore, art/craft galleries, artist studios.~~
    - f. ~~Sale of alcoholic beverages as per article V, division 4 of this chapter.~~
    - 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, and the sale of flowers when conducted from a movable stand that is placed inside the building at the close of business.~~
    - 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 licensee, is permitted provided that such sale or transaction shall only occur on such premises, and not on other city rights-of-way. Soliciting passersby and obstructing the right-of-way are 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:~~
      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 an occupational license and certificate of use as provided in section 102-383.~~

~~For purposes of this section, suspension or revocation of a license shall apply to all licenses 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 occupational license, the city manager may impose conditions or restrictions as deemed appropriate to assure compliance with all city codes. A vendor who has been served with a notice of violation shall be subject to enforcement provisions as set forth in chapter 30[, code enforcement,] of the Code. If the special master finds that a violation has occurred, the applicable penalty set forth above shall be imposed.~~

- ~~(2) Permitted accessory uses in apartment buildings. The following are permitted accessory uses in apartment buildings:~~
  - ~~a. Apartment buildings may have commercial, office, or eating or drinking uses r, with access to the street, on the first level ground floor and subterranean level or in the highest floor of a building; however, no more than 25 percent of the floor area of the subterranean or first level ground floor shall be used for commercial uses. Office space, when located on the ground floor, shall be located at least 50 feet from the front property line.~~
  - ~~b. Restaurants, outdoor cafes, sidewalk cafés with sale of alcoholic beverages as per article V, division 4 of this chapter.~~
  - ~~c. Solarium, sauna, exercise studio, health club or massage service by an individual licensed by the state or other appropriate agencies.~~
- ~~(3) Permitted accessory uses in apartment hotels. Apartment hotels may have 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, structures located in the below areas shall comply with the following:~~
  - ~~(1) Permitted accessory uses for properties on Collins Avenue from Sixth to 15th Streets and on the west side of Collins Avenue from 15th to 16th Streets and Ocean Terrace include the above accessory uses but must comply with the following requirements:~~
    - ~~a. Offices that are medical or dental related are prohibited.~~
    - ~~b. Notwithstanding the prohibited uses in Sec. 142-544, offices are only allowed in existing structures, otherwise, they are prohibited.~~
    - ~~c. If a lobby is present or was originally constructed it shall be retained or reinstated. Such lobby may be used for a reception area with no partitions; however, offices are not permitted in the lobby.~~
    - ~~d. Commercial uses, apartments, or hotel units either as a main permitted use or in any combination.~~
  - ~~(2) Permitted accessory uses for properties that front on Ocean Terrace:~~

- ~~a. Commercial uses.~~
  - ~~b. Offices. If the office space is located on the ground floor shall be 50 feet from any front property line facing a street and be consistent with subsections (c)(1)a and (c)(1)b of this section.~~
  - ~~c. At least 50 percent of the total floor area shall be used as hotel or apartment, the floor area for hotel or apartment units shall meet the minimum area requirements established for the zoning district.~~
- ~~(d) No variances shall be granted from the requirements of this section 142-904.~~

#### **SECTION 4. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same 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 renumbered or relettered 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. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED** and **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021.


#### **ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Dan Gelber, Mayor

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

First Reading: April 21, 2021  
Second Reading: May 12, 2021

 5-3-21  
\_\_\_\_\_  
City Attorney NK Date

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director