C-PS2 Development Regulations – 4th Street Overlay

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 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 18, ENTITLED "PS PERFORMANCE STANDARD DISTRICT," BY AMENDING SECTION 142-693, ENTITLED "PERMITTED USES," TO MODIFY AND AMEND PERMITTED, ACCESSORY AND CONDITIONAL USES WITHIN THE C-PS2 ZONING DISTRICT SOUTH OF FIFTH STREET; BY AMENDING SECTION 142-698, ENTITLED "COMMERCIAL PERFORMANCE STANDARD AREA REQUIREMENTS," BY AMENDING MAXIMUM PERMITTED HEIGHT WITHIN THE C-PS2 ZONING DISTRICT LOCATED SOUTH OF FIFTH STREET; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, on February 9, 2022, the Mayor and City Commission adopted Ordinance No. 2022-4471 which established height incentives for the purpose of developing Class A office buildings in an effort to diversify the City's economy; and

WHEREAS, the height incentives are most appropriate for the portions of properties that are located closest to 5th Street; and

WHEREAS, the City seeks to provide for an appropriate transition between the higher intensity commercial corridor along 5th Street and the lower intensity multifamily areas to the south; and

WHEREAS, the City seeks to insulate the residential areas to the south of Fourth Street from the potential impacts of transient and entertainment uses; and

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety, general welfare, and morals of its citizens; and

WHEREAS, the amendment set forth below is 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," at Article II, entitled "District Regulations," at Division 18, entitled "PS Performance Standard 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

* * *

ARTICLE II. DISTRICT REGULATIONS

* * *

DIVISION 18. PS PERFORMANCE STANDARD DISTRICT

* * *

Sec. 142-693. Permitted uses.

(a) The following uses are permitted in the performance standard districts:

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
Single-family; townhome; apartment; apartment hotel pursuant to section 142-1105 of this chapter	P Apartment hotel not permitted	P	P	P Apartment hotel not permitted
Hotel and suite hotels pursuant to section 142-1105 of this chapter	N	P	P	N
Hostel, pursuant to section 142-1105 of this chapter	N	N	Not permitted in C-PS1, C-PS2; Permitted in C-PS3 and C-PS4	N
Commercial	N	N	P	P 8% of floor area
Institutional	C	C	C	C 1.25% of floor area
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized	N	N	P* North of 5th Street only	N

between 8:00 p.m. and 8:00 a.m.				
Entertainment establishments, outdoor entertainment establishments, and open air entertainment establishments	N	N	N	N
Neighborhood impact establishments	N	N However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a conditional use. Access to the establishment entrance shall be only from the interior lobby of the hotel and not from the street. In addition, in the R-PS4 district, this use is also permitted as an accessory use to an oceanfront apartment building with more than 300 units that is adjacent to a park, as a conditional use, provided that the accessory use is located in a separate building from the primary use, and the accessory use is a minimum of 8,000 square feet in size.	C	N
Accessory	P* Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 are prohibited in the RPS-1 district, unless	P*	P*	P*

	otherwise specified.			
Convenience stores, tobacco/vape dealers, package stores and the retail sale of alcohol for off-premises consumption			Not permitted in that portion of the C-PS2 district south of Fifth Street	

P—Main permitted use C—Conditional use N—Not permitted

* — Accessory use only

Floor area in the RM-PS1 district refers to total floor area in project. Commercial uses in RM-PS1 limited to stores and restaurants.

(b) For purposes of this section, a car wash, filling station and any use that sells gasoline, automobiles or automotive or related repair uses are considered as industrial uses and are not permitted within any PS district ~~in the redevelopment area~~.

(c) For purposes of this section, pawnshops and dance halls and entertainment establishments are not permitted as a main permitted or accessory use within any PS district ~~south of Fifth Street~~.

* * *

(j) *Reserved.*

(k) The following additional regulations shall apply to properties located within the C-PS2 district that are within 100 feet of the north side of 4th Street. In the event of a conflict within this division, the following provisions shall control:

(1) Outdoor music and television sets shall be prohibited within 100 feet of the north side of 4th Street, unless approved by the Planning Board as a conditional use, pursuant to chapter 118, article IV of this Code. Outdoor music and television sets shall not exceedan ambient volume level (i.e. a volume that does not interfere with normal conversation).

(2) Entrances/exits to/from hotels, apartment hotels, and suite hotels, as well as food and beverage establishments serving alcohol, shall be limited to side streets only, and shall not be permitted on 4th Street. Additionally, a minimum setback of 25 feet from the north side of 4th Street, for all public entrances to the aforementioned uses, shall be required. Notwithstanding the foregoing, this subsection shall not be applicable to existing contributing structures.

* * *

Sec. 142-698. Commercial performance standard area requirements.

* * *

(b) The commercial performance standard area requirements are as follows:

	Commercial Subdistricts			
Performance Standard	C-PS1	C-PS2	C-PS3	C-PS4
Minimum lot area	6,000 square feet	6,000 square feet	6,000 square feet	6,000 square feet
Minimum lot width	50 feet	50 feet	50 feet	50 feet
Maximum building height	40 feet; 75 feet for the Block 51 Properties, the Block 51 Swap Property, Block 52 Properties, and Block 1 Properties	50 feet—East of Lenox Avenue 75 feet—West of Lenox Avenue	Non-oceanfront—80 feet Oceanfront—100 feet	150 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. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential district not separated by a

				street. However, an applicant may seek approval from the historic preservation board or design review board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017
Maximum floor area ratio	1.0; 1.5 for the Block 51 Properties and Block 52 Properties, and 2.0 for the Block 1 Properties	2.0	2.5	2.5
Residential and/or hotel development	Pursuant to all R-PS2 district regulations, except maximum building height for residential and mixed use buildings shall be 75 feet	Pursuant to all R-PS3 district regulations, except maximum building height for residential and mixed use buildings shall be 75 feet	Pursuant to all R-PS4 district regulations except maximum floor area ratio shall be 2.5; on the Goodman Terrace and Hinson Parcels, the FAR shall be that necessary to achieve 305,500 sq. ft. (estimated at 3.2 FAR), and 300 ft. height maximum for the Goodman Terrace and Hinson Parcels, and open space ratio 0.60	Pursuant to all R-PS4 district regulations, except maximum floor area ratio shall be 2.5, and open space ratio 0.60 measured at or above grade

			measured at or above grade	
Minimum apartment unit size (square feet)	New construction—650 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—600 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400
Average apartment unit size (square feet)	New construction—900 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—850 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate housing—400 Workforce housing—400	New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate housing—400 Workforce housing—400
Minimum floor area per hotel unit (square feet)	15% = 300—335 square feet; 85% = 335 + square feet in all districts.			
Minimum parking requirements	Pursuant to chapter 130 and section 142-702 requirement.			
Minimum off-street loading	Pursuant to chapter 130.			
Signs	Pursuant to chapter 138.			

(c) Notwithstanding the above height restrictions, existing structures within a local historic district are subject to section 142-1161.

(d) Notwithstanding the above floor area ratio limits, 75 spaces of required parking located on Block 51 for the Retail Parcel pursuant to a covenant under section 130-36, shall not be counted as permitted floor area. Further, the floor area on the Block 51 Properties and the Block 51 Swap Property may be distributed among such properties by covenant in lieu of unity of title; and the floor area on the Block 1 Properties may be distributed among such properties within the block by covenant in lieu of unity of title.

(e) Notwithstanding the building height regulations set forth above, for unified development sites in the CPS-2 district with a lot line on the south side of 5th Street, which are located west of Jefferson Avenue, the maximum building height for office buildings is 75 feet.

(f) Notwithstanding the building height regulations set forth above, in the C-PS2 district, the maximum permitted height within 100 feet of the north side of 4th Street shall not exceed 50 feet, regardless of the use of the property. This paragraph shall not apply to unified development sites governed by subsection 142-698(e).

SECTION 2. 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 3. 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 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE,

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2022.

_____
Dan Gelber, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk.

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

_____ 8-11-22
City Attorney NK Date

First Reading: September 14, 2022
Second Reading: October 26, 2022

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