

**Prohibited Uses Amendment – North Beach**

**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,” TO AMEND THE PROHIBITED USE REGULATIONS IN THE CD-1, CD-2, TC-1, TC-2, TC-3, TC-C, RM-2 AND RM-3 ZONING DISTRICTS NORTH OF 63<sup>RD</sup> STREET; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City’s Land Development Regulations include definitions pertaining to allowable uses; and

**WHEREAS**, the City’s land development regulations include regulations for permitted, accessory, conditional, and prohibited uses in the CD-1, CD-2, TC-1, TC-2, TC-3, TC-C, RM-2 and RM-3 districts; and

**WHEREAS**, provisions for certain types of uses within the CD-1, CD-2, TC-1, TC-2, TC-3, TC-C, RM-2 and RM-3 districts in North Beach are necessary and desirable; and

**WHEREAS**, the City seeks to encourage the revitalization of the North Beach area by providing residents and visitors with a unique cultural, retail, and dining experience and are vital to Miami Beach’s economy, especially the tourism industry; and

**WHEREAS**, tobacco and vape dealers, check cashing stores, pawnshops, souvenir and t-shirt shops, tattoo studios, fortune tellers (occult science establishments), vitamin stores, convenience stores and package liquor stores are uses which negatively affect surrounding areas and detract from the unique cultural, retail, and dining experiences which are envisioned for the North Beach area; and

**WHEREAS**, the aforementioned uses limit the attractiveness of an area to other retail and restaurant uses which are more desirable for the North Beach area; and

**WHEREAS**, it is the intent of the City to limit the proliferation of establishments which may negatively affect surrounding areas in the North Beach area where revitalization is sought; and

**WHEREAS**, the proposed changes are necessary in order to promote sustainable mixed-use development within the CD-1, CD-2, TC-1, TC-2, TC-3, TC-C, RM-2 and RM-3 districts in North Beach.

**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," is hereby amended as follows:

## **CHAPTER 142 - ZONING DISTRICTS AND REGULATIONS**

\* \* \*

### **ARTICLE II. – DISTRICT REGULATIONS**

\* \* \*

#### **DIVISION 3. - RESIDENTIAL MULTIFAMILY DISTRICTS**

\* \* \*

##### **Subdivision IV. RM-2 Residential Multifamily, Medium Intensity**

\* \* \*

###### **Sec. 142-215. Prohibited uses.**

The prohibited uses in the RM-2 residential multifamily, medium intensity district are accessory outdoor entertainment establishment, accessory open air entertainment establishment, as set forth in article V, division 6 of this chapter; and accessory outdoor bar counter; For properties located north of 63<sup>rd</sup> Street, tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, tattoo studios, convenience stores, vitamin stores, pawn shops, and souvenir and T-shirt stores. For properties located within the Palm View and West Avenue corridors, hostels; and for properties located within the Palm View, and West Avenue corridors, hotels and apartment-hotels, except to the extent preempted by F.S. § 509.032(7), and unless they are a legal conforming use. Properties that voluntarily cease to operate as a hotel for a consecutive three-year period shall not be permitted to later resume such hotel operation. Without limitation, (a) involuntary hotel closures due to casualty, or (b) cessation of hotel use of individual units of a condo-hotel, shall not be deemed to be ceasing hotel operations pursuant to the preceding sentence.

\* \* \*

##### **Subdivision V. RM-3 Residential Multifamily, High Intensity**

\* \* \*

###### **Sec. 142-245. Prohibited uses.**

The prohibited uses in the RM-3 residential multifamily, high intensity district are accessory outdoor bar counter, except as provided in section 142-244; For properties located north of 63<sup>rd</sup> Street, tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, tattoo studios, convenience stores, vitamin stores, pawn shops, and souvenir and T-shirt stores. For properties located within the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road, and Dade Boulevard, hostels; for property located within the West Avenue corridor, hostels; for properties located within the West Avenue

corridor, hotels and apartment hotels, except to the extent preempted by F.S. § 509.032(7), and unless a legal conforming use. Properties that voluntarily cease to operate as a hotel for a consecutive three-year period shall not be permitted to later resume such hotel operation. Without limitation, (a) involuntary hotel closures due to casualty, or (b) cessation of hotel use of individual units of a condo-hotel, shall not be deemed to be ceasing hotel operations pursuant to the preceding sentence.

\* \* \*

#### **DIVISION 4. CD-1 COMMERCIAL, LOW INTENSITY DISTRICT**

\* \* \*

##### **Sec. 142-275. Prohibited uses.**

The prohibited uses in the CD-1 commercial, low intensity district are accessory outdoor bar counter; outdoor entertainment establishment; open air entertainment establishment, dance hall, and entertainment establishment. Except as otherwise provided in these land development regulations, prohibited uses in the CD-1 commercial low intensity district along the Alton Road corridor, generally bounded by West Avenue, Michigan Avenue, 5th Street, and 20th Street include package liquor stores. For properties located north of 63<sup>rd</sup> Street, prohibited uses in the CD-1 commercial low intensity district include tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, tattoo studios, convenience stores, vitamin stores, pawn shops, and souvenir and T-shirt stores.

\* \* \*

#### **DIVISION 5. CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT**

\* \* \*

##### **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:

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

- a. Hotels, apartment hotels, suite hotels and hostels;
- b. Outdoor entertainment establishments;
- c. Neighborhood impact establishments;
- d. Open air entertainment establishments;
- e. Bars;
- f. Dance halls;
- 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.

(2) For properties located north of 63<sup>rd</sup> Street, tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, tattoo studios, convenience stores, vitamin stores, pawn shops, and souvenir and T-shirt stores.

(c) Except as otherwise provided in these land development regulations, prohibited uses along Normandy Drive and 71st Street are the following:

- (1) Tobacco and vape dealers;
- (2) Package liquor stores;
- (3) Check cashing stores;
- (4) Occult science establishments;
- (5) Tattoo studios.

(d) Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district along the Alton Road corridor, generally bounded by West Avenue, Michigan Avenue, 5th Street, and 20th Street include the following:

- (1) Package liquor stores.

\* \* \*

## DIVISION 20. TC NORTH BEACH TOWN CENTER DISTRICTS

\* \* \*

### **Sec. 142-736. Main permitted uses, conditional uses, accessory uses, and prohibited uses.**

(a) Land uses in the TC-1 town center core district shall be regulated as follows:

(1) The main permitted uses in the TC-1 district are commercial uses; alcoholic beverage establishments pursuant to the regulations set forth in chapter 6; apartments; apartments/hotels; hotels. The ground story frontage along 71st Street and Collins Avenue shall be governed by subsection 142-737(c). The provisions of chapter 6 concerning distance separation for consumption of alcoholic beverages on-premises in restaurants shall not apply to this district.

(2) The conditional uses in the TC-1 district are 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; outdoor entertainment establishment, neighborhood impact establishment, open air establishment, religious institution; video game arcades; public and private institutions; and schools and major cultural dormitory facilities as specified in section 142-1332.

(3) The accessory uses in the TC-1 district are those uses permitted in article IV, division 2 of this chapter; alcoholic beverage establishments and 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, accessory outdoor bar counters located within 100 feet of an apartment unit may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

(4) The prohibited uses in the TC-1 district are tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, tattoo studios, convenience stores, vitamin stores, souvenir and T-shirt stores, pawnshops, and alcoholic beverage establishments located in any open area above the ground floor (any area that is not included in the FAR calculations), except as provided in this division. However, outdoor restaurant seating, not exceeding 40 seats, associated with indoor venues may be permitted in any open area above the ground floor until 8:00 p.m. with no background music (amplified or nonamplified).

(b) Land uses in the TC-2 town center mixed-use district shall be regulated the same as for uses in the TC-1 town center core district, including all prohibited uses.

(c) Land uses in the TC-3 town center residential office district shall be regulated as follows:

(1) The main permitted uses in the TC-3 district are single-family detached dwelling, townhomes, apartments and offices.

(2) The conditional uses in the TC-3 district are apartment hotel, hotel, and suite hotel (pursuant to section 142-1105 of this chapter); adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; and commercial or noncommercial parking lots and garages (with accessory commercial uses) in accord with subsection 130-68(9).

a. In areas designated TC-3(c) on the zoning map, the following uses may be permitted as conditional uses in addition to the uses in paragraph (2) above: neighborhood-oriented retail and services uses, limited to 2,500 square feet or less per establishment, located on the ground floor of buildings. Such neighborhood-oriented retail and service uses shall be limited to antique stores; art/craft galleries; artist studios; bakery or specialty food stores; barber shops and beauty salons; coffee shop or juice bar; dry cleaner or laundry with off-site processing (dry cleaning receiving station); newspapers, magazines and books; photo studio; shoe repair; tailor or dressmaker; and food service establishments with 30 seats or less (including outdoor café seating) pursuant to the regulations set forth in chapter 6, with alcohol limited to beer and wine and closing no later than 12 midnight subject to limitations established in the conditional use process. In addition, full service restaurants serving alcoholic beverages pursuant to the regulations set forth in chapter 6, and with 30 seats or more may be permitted only on waterfront properties with a publicly accessible waterfront walkway in the area located south of 71st Street.

(3) The accessory uses in the TC-3 district are those uses customarily associated with the district purpose, as set forth in article IV, division 2 of this chapter, except that apartment hotels, hotels, and suite hotels may have accessory uses based upon the criteria below:

a. Hotels, apartment hotels, and suite hotels in the TC-3 district may include a dining room operated solely for registered hotel visitors and their guests, located inside the building and not visible from the street, with no exterior signs, entrances or exits except as required by the Florida Building Code.

b. Hotels, apartment hotels, and suite hotels in the TC-3(c) district may include accessory restaurants or alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 when approved as part of the conditional use. Such accessory restaurants or bars that serve alcohol shall be limited to a maximum of 1.25 seats per hotel or apartment unit for the entire site. The patron occupant load, as determined by the planning director or designee, for all accessory restaurants and alcoholic beverage establishments on the entire site shall not exceed 1.5 persons per hotel and/or apartment unit. For a hotel or apartment property of less than 32 units, the restaurant or bar may have a maximum of 40 seats in the aggregate on the site. The number of units shall be those that result after any renovation. Accessory restaurants and bars shall be permitted to sell alcoholic beverages for consumption only on the premises and shall be limited to closing no later than 12 midnight subject to limitations established in the conditional use process.

c. Hotels and suite hotels located in the TC-3 or TC-3(c) districts may have other accessory uses customarily associated with the operation of an apartment building, as referenced in subsection 142-902(2), for the use of registered hotel visitors and their guests only.

(4) The prohibited uses in the TC-3 district are tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, tattoo studios, convenience stores, vitamin stores, pawn shops, souvenir and T-shirt stores, hostels, accessory dance halls, accessory entertainment establishments, accessory neighborhood impact establishments, accessory outdoor entertainment establishment; accessory open air or outdoor entertainment

establishment as set forth in article V, division 6 of this chapter, accessory outdoor bar counter and alcoholic beverage establishments located in any open area above the ground floor (any area that is not included in the FAR calculations). However, outdoor restaurant seating, not exceeding 40 seats, associated with indoor venues may be permitted in any open area above the ground floor until 8:00 p.m. with no background music (amplified or nonamplified).

(5) There shall be no variances to these provisions.

\* \* \*

## **DIVISION 21. - TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT**

\* \* \*

**Sec. 142-741. - Main permitted uses, accessory uses, exception uses, special exception uses, conditional uses, and prohibited uses and supplemental use regulations.**

Land uses in the TC-C district shall be regulated as follows:

(a) The main permitted, accessory, conditional, and prohibited uses are as follows:

General Use Category	
<b>Residential Uses</b>	
Apartments and townhomes	P
Co-living	P
Live-work	P
Single-family detached dwelling	P
<b>Hotel Uses</b>	
Hotel	P
Micro-hotel	P
<b>Commercial Uses</b>	
Alcoholic beverage establishments	P
Artisanal retail for on-site sales only	P
Grocery store	P
Indoor entertainment establishment	P
Neighborhood fulfillment center	P
Offices	P
Restaurants	P
Retail	P
Outdoor café	P
Outdoor bar counter	A
Sidewalk café	A
Artisanal retail with off-site sales	C
Day care facility	C
Public and private institutions	C
Religious institution	C
Schools	C
Commercial establishment over 25,000 SF	C
Retail establishment over 25,000 SF	C
Neighborhood impact establishment	C
Outdoor and open air entertainment establishment	C
Pawnshop, <u>tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, tattoo studios, convenience stores, vitamin stores, and souvenir and T-shirt stores.</u>	N

P = Main Permitted Use,  
 C = Conditional Use,  
 N = Prohibited Use,  
 A = Accessory only

**SECTION 4. Repealer.**

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith be and the same are hereby repealed.

**SECTION 5. Codification.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida, as amended. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 6. Severability.**

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**SECTION 7. Effective Date.**

This Ordinance shall take effect the \_\_\_\_ day of \_\_\_\_\_, 2023.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2023.

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

ATTEST:

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

APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: \_\_\_\_\_, 2023

Second Reading: \_\_\_\_\_, 2023

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

M:\\$CMB\CCUPDATES\Land Use and Sustainability Committee\2023\1 Jan 2023\Nuisance Uses in North Beach -  
ORD Jan 25 2023 LUSC.docx