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 OF THE CITY CODE ENTITLED "DEFINITIONS" BY CREATING AND DEFINING "RESIDENTIAL OFFICE UNIT," AND BY AMENDING CHAPTER 142 OF THE CITY CODE ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 5, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," BY AMENDING SECTION 142-307, ENTITLED "SETBACK REQUIREMENTS," TO CLARIFY THAT RESIDENTIAL OFFICE UNITS ARE AMONG THE RESIDENTIAL USES THAT QUALIFY FOR THE FLOOR AREA RATIO AS SET FORTH IN THE RM-2 DISTRICT, AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

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

WHEREAS, the CD-2 commercial, medium intensity district provides for commercial activities, services, offices and related activities which serve the entire city; and

WHEREAS, diverse combinations of residential lifestyles and unique commercial services are encouraged in mixed use development and in certain neighborhoods and town center districts in furtherance of the City's public policy; and

WHEREAS, in the case of mixed use buildings in the CD-2 commercial, medium intensity district, section 142-307(d)(1) of the City's code provides that when more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-2 district; and

WHEREAS, the City's code presently provides no definition for "residential office unit" that refers to a residential dwelling unit that contains a commercial or office component which is limited to a maximum of 65 percent of the dwelling area; and

WHEREAS, in order to encourage dynamic mixed use development and avoid possible uncertainty and ambiguity, the creation of "residential office unit" and confirmation that residential office units are residential units for purposes of FAR calculation in the CD-2 commercial, medium intensity district, is necessary and desirable; and

WHEREAS, the amendments set forth below are necessary to clarify that residential office units are residential units for purposes of section 142-307 in accordance with 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, "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:

Sec. 114-1. –Definitions.

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * * *

Residential office unit shall mean a residential dwelling unit that contains a commercial or office component which is limited to a maximum of 65 percent of the dwelling unit area.

SECTION 2. Chapter 142, "Zoning Districts and Regulations," at Article II, entitled "District Regulations," at Division 5, entitled "CD-2 Commercial, Medium Intensity District" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-307. – Setback requirements.

(a) The setback requirements for the CD-2 commercial, medium intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley—0 feet
Subterranean, pedestal and tower (non-oceanfront)	0 feet	10 feet when abutting a residential district, otherwise none. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings	10 feet when abutting a residential district, unless separated by a street or waterway otherwise none	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet. Notwithstanding the foregoing, rooftop additions to non-

		may follow existing nonconforming rear pedestal setbacks.		oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.
Subterranean, pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant.	Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	10 feet	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

(b) The tower setback shall not be less than the pedestal setback.

(c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).

(d) Mixed use buildings: Calculation of floor area ratio:

(1) Floor area ratio. When more than 25 percent of the total area of a building is used for residential, residential office, or hotel units, the floor area ratio range shall be as set forth in the RM-2 district. New development or redevelopment that includes residential office units may only be eligible for the floor area ratio range as set forth in the RM-2 district in the event that the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney affirming that, in perpetuity, none of the residential office units on the property shall be leased or rented for a period of less than six months and one day.

(2) The maximum floor area ratio (FAR) for self-storage warehouses shall be 1.5. The floor area ratio provision for mixed use buildings in section 142-307(d)(2) above shall not apply to self-storage warehouse development.

(e) Notwithstanding the above setback regulations, "self-storage warehouse" in this district shall have the following setbacks:

(1) Front—Five feet;

(2) Side facing a street—Five feet;

(3) Interior side—Seven and one-half feet or eight percent of the lot width, whichever is greater;

(4) Rear—For lots with a rear property line abutting a residential district the rear yard setback shall be a minimum of 25 feet; for lots with a rear property line abutting an alley the rear setback shall be a minimum of seven and one-half feet.

SECTION 3. REPEALER.

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

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. 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 Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect on 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: April 25, 2023

Second Reading: May 17, 2023

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

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