

**Bed & Breakfast Prohibition Exception – West Avenue Overlay**

**ORDINANCE NO. 2023-\_\_\_\_\_**

**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 III, ENTITLED “OVERLAY DISTRICTS,” DIVISION 5, ENTITLED “WEST AVENUE BAY FRONT OVERLAY,” TO PROVIDE AN EXCEPTION FOR BED AND BREAKFAST INNS IN THE WEST AVENUE BAY FRONT OVERLAY; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the West Avenue neighborhood is primarily comprised of residential uses; and

**WHEREAS**, Objective RLU 1.3, entitled “Land Use Compatibility,” of the Resilient Land Use and Development Element of the City’s 2040 Comprehensive Plan provides that “[l]and development regulations will be used to address the location, type, size, and intensity of land uses and to ensure adequate land use compatibility between residential and non-residential land uses”; and

**WHEREAS**, the Mayor and City Commission desire to encourage uses that are compatible with the low-scale character of the West Avenue neighborhood; and

**WHEREAS**, Division 5 of Article III of Chapter 142 of the City Code sets forth zoning regulations for the West Avenue Bay Front Overlay district; and

**WHEREAS**, on September 17, 2021 the City Commission adopted Ordinance No. 2021-4443, which prohibited any future bed and breakfast inns within the Overlay; and

**WHEREAS**, the amendments set forth below are necessary to accomplish 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, entitled “Zoning Districts and Regulations” is amended, as follows:

**CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS**

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**ARTICLE III. - OVERLAY DISTRICTS**

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**DIVISION 5. - WEST AVENUE BAY FRONT OVERLAY**

**Sec. 142-842. - Location and purpose.**

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- (d) The overlay regulations of this division relating to residential offices shall only apply to existing low scale properties, which were designed and constructed to be no more than three stories in height and are located in the subject overlay district.

**Sec. 142-843. - Compliance with regulations.**

- (a) The following overlay regulations shall apply to those areas of the subject district which have an underlying zoning designation of (RM-1) Residential Multifamily Low Intensity and (RM-2) Residential Multifamily Medium Intensity. In particular, the overlay regulations shall allow the additional main permitted uses specified in this division, in the RM-1 and RM-2 of the subject area only if all the required criteria herein have been satisfied.
- (b) As specified in chapter 118, article VI, design review regulations, applications for a building permit shall be reviewed and approved in accordance with design review procedures.
- (c) Residential offices may only be permitted in structures that have been rehabilitated in general accordance with the U.S. Secretary of the Interior's standards for rehabilitation of historic buildings as determined by the planning director or his designee, or in buildings that have been substantially rehabilitated or where a request for a building permit will result in the building being substantially rehabilitated.
- (d) All development regulations and setback requirements in the underlying land-use zoning district shall remain. However, a residential office may only be established where:
- (1) Demolition to the original building envelope does not exceed ten percent of the area of the original building lot coverage. At-grade additions that demolish or conceal primary facades (i.e., main entry porticoes and facades facing a street) shall not be permitted.
  - (2) The area of rooftop additions to existing multi-family structures does not exceed 50 percent of the area of the original floor immediately below. Such rooftop additions shall be set back a minimum of 15 feet from the facade of the existing building fronting a primary public-right-of-way with an established street wall.
  - (3) The area of rooftop additions to existing single-family structures does not exceed 50 percent of the area of the original lot coverage of the structure. The maximum height of the altered main structure shall not exceed  $\frac{1}{2}$  the original lot width up to a maximum of 33 feet.
  - (4) On sites where unity of title has combined two or more lots, the original rear setbacks for the main structure shall conform to the underlying zoning regulations. However, building additions may encroach into side setbacks which have become internal to the parcel. In addition to the allowable encroachments as outlined in section 142-1132, loggias

(covered walkways), gazebo structures and pools may encroach into original rear and/or side setbacks that have become internal to the assembled lot.

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**Sec. 142-845. - Legal Non-Conforming and Other Transient Uses.**

- (a) Bed and breakfast inns, suite hotels and hostels shall be prohibited in the subject overlay area.
- (b) Existing, legal non-conforming suite hotels and bed and breakfast inns, located within the overlay, shall not be permitted to expand any existing structure, operation, or building footprint, in any manner whatsoever. Additionally, such legal non-conforming uses shall adhere to the following regulations:
  - (1) Accessory uses, including, but not limited to, dining halls, restaurants, cafes, retail, personal service, alcoholic beverage establishments, dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, and open air entertainment establishments shall be prohibited.
  - (2) The building identification sign for a bed and breakfast inn shall be the same as allowed for an apartment building in the underlying zoning district in which it is located.
  - (3) The building(s) shall have central air conditioning or flush-mounted wall units; however no air conditioning equipment may face a street or the Bay.
  - (4) The maximum amount of time that any person other than the owner may stay in a bed and breakfast inn during a one-year period shall not exceed six months.
- (c) Existing, legal non-conforming bed and breakfast inns, as well as properties that were issued a building permit process number on or before October 1, 2021 for the conversion of an existing single family residence to a bed and breakfast inn, and which permit process number and/or subsequent building permit associated with the permit process number for a bed and breakfast inn remains active, shall be subject to the following conditions:
  - (1) The owner/operator of the bed and breakfast inn shall permanently reside in the structure.
  - (2) The structure shall have originally been constructed as a single-family residence. The structure may have original auxiliary structures such as a detached garage or servant's residence that may or may not be used as part of the inn.
  - (3) The structure shall maintain main public rooms (living room/dining room) for use of the guests.
  - (4) Original auxiliary structures, such as detached garages and servants' residences, may be converted to guestrooms or other appropriate use. New bedrooms constructed shall have a minimum size of 200 square feet and shall have a private bathroom.
  - (5) There shall be no cooking facilities/equipment in guestrooms. One small refrigerator with maximum capacity of five cubic feet shall be permitted in each guestroom. All cooking

equipment, which may exist, shall be removed from the structure with the exception of the single main kitchen of the house.

- (6) The bed and breakfast inn may serve meals to registered guests and their visitors only. Permitted meals may be served in common rooms, guestrooms or on outside terraces (see subsection 142-1401(9)). The meal service is not considered an accessory use and is not entitled to an outside sign.
- (7) Permitted meals may be served in areas outside of the building under the following conditions:
  - a. The area shall be landscaped and reviewed under the design review process. Landscape design shall effectively buffer the outdoor area used for meals from adjacent properties and the street.
  - b. All meals served outdoors shall be prepared for service from inside facilities. Except for the use of a barbecue, all outdoor preparation, cooking as well as outdoor refrigeration and storage of food and beverages shall be prohibited.

(8) In the event a permit process number issued prior to October 1, 2021 for the conversion of a single family home to a bed and breakfast inn, and/or the subsequent permit issued pursuant to such permit process number, is abandoned, expires or becomes inactive, for any reason, the bed and breakfast inn use shall no longer be permitted and the property must convert to a conforming use.

## **SECTION 2. 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. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

## **SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith 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. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

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

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

ATTEST:

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Rafael E. Granado, City Clerk

APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

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

\_\_\_\_\_  
Date

First Reading: July 26, 2023

Second Reading: September 13, 2023

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

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