

BELLE ISLE – LDR AMENDMENTS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH BY AMENDING CHAPTER 118 OF THE CITY CODE, ENTITLED “ADMINISTRATION AND REVIEW PROCEDURES,” BY AMENDING ARTICLE IX, ENTITLED “NON-CONFORMANCES,” BY AMENDING SECTION 118-395, ENTITLED “REPAIR AND/OR REHABILITATION OF NONCONFORMING BUILDINGS AND USES,” TO ALLOW THE RE-CONSTRUCTION OF UP TO FIFTY PERCENT OF THE FLOOR AREA OF NON-CONFORMING BUILDINGS CONTAINING NON-CONFORMING HOTEL, USES LOCATED ON THE NORTH SIDE OF BELLE ISLE; PROVIDING FOR INCLUSION IN THE CITY CODE; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, certain uses on the north side of Belle Isle became legal non-conforming uses through the passage of Ordinance 93-2854, which rezoned the area from RM-2 to RM-1; and

WHEREAS, an amendment of the Land Development Regulations of the Code (LDRs) will allow for the renovation of those non-conforming structures, and allow for a decrease in their level of non-conformity; and

WHEREAS, an amendment of the LDRs will not increase the non-conforming uses within the area; and

WHEREAS, over the years the City has been negatively impacted by sea level rise; and

WHEREAS, the City promotes the renovation of structures to improve conditions of structures, which will reduce the impacts of sea level rise; and

WHEREAS, Belle Isle has also experienced increased traffic over the years, and has faced traffic congestion and decreased pedestrianism as a result of the area traffic, and vehicular traffic entering and leaving the City; and

WHEREAS, the traffic conditions have impacted the residents’ quality of life and have resulted in the diminished general conditions of the neighborhood; and

WHEREAS, the City is desirous of improving the vehicular traffic on Belle Isle and the surrounding neighborhoods and improve the pedestrian environment of the neighborhoods; and

WHEREAS, the City desires to encourage and incentivize area property owners to reduce the non-conformity of structures and to improve resiliency of structures in light of the effects of sea level rise; 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. The following amendment to the City's LDRs is hereby adopted:

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**CHAPTER 118
ADMINISTRATION AND REVIEW PROCEDURES**

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ARTICLE IX. NON-CONFORMANCES

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SECTION 118-395. REPAIR AND/OR REHABILITATION OF NONCONFORMING BUILDINGS AND USES

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Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.

(a) *Nonconforming uses.* If a building which contains a nonconforming use is, repaired or rehabilitated at a cost exceeding 50 percent of the value of the building as determined by the building official, it shall not be thereafter used except in conformity with the use regulations in the applicable zoning district contained in these land development regulations and all rights as a nonconforming use are terminated.

(b) *Nonconforming buildings.*

(1) Nonconforming buildings which are repaired or rehabilitated by less than fifty (50) percent of the value of the building as determined by the building official shall be subject to the following conditions:

- a. Repaired or rehabilitated residential and/or hotel units shall meet the minimum unit size requirements as set forth for the zoning district in which the property is located. The number of units in the building shall not be increased.
- b. The building shall have previously been issued a certificate of use, certificate of completion, certificate of occupancy or occupational license by the city to reflect its current use.

- c. Such repairs or rehabilitation shall meet the requirements of the city property maintenance standards, the applicable Florida Building Code, and the Fire Safety Code.
 - d. If located within a designated historic district, or an historic site, the repairs or rehabilitations shall comply substantially with the Secretary of Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, as amended, as well as the certificate of appropriateness criteria in Article X of these Land Development Regulations. If the repair or rehabilitation of a contributing structure conflicts with any of these regulations, the property owner shall seek relief from the applicable building or Fire Safety Code.
 - e. Any new construction shall comply with the existing development regulations in the zoning district in which the property is located, provided, however, that open private balconies, including projecting balconies and balconies supported by columns, not to exceed a depth of 30 feet from an existing building wall, may be permitted as a height exception. The addition of balconies may be permitted up to the height of the highest habitable floor for a building non-conforming in height, provided such balconies meet applicable FAR and setback regulations. Any addition of a balcony in a nonconforming building shall be subject to the review and approval of the design review board or historic preservation board, as may be applicable.
- (2) Nonconforming buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official, shall be subject to the following conditions:
- a. All residential and hotel units shall meet the minimum and average unit size requirements for rehabilitated buildings as set forth in the zoning district in which the property is located.
 - b. The entire building and any new construction shall meet all requirements of the city property maintenance standards, the applicable Florida Building Code and the Life Safety Code.

- c. The entire building and any new construction shall comply with the current development regulations in the zoning district in which the property is located. No new floor area may be added if the floor area ratio is presently at maximum or exceeded.
- d. Development regulations for buildings located within a designated historic district or for an historic site:
 - 1. The existing structure's floor area, height, setbacks and any existing parking credits may remain, if the following portions of the building remain substantially intact, and are retained, preserved and restored:
 - i. At least 75 percent of the front and street side facades;
 - ii. At least 75 percent of the original first floor slab;
 - iii. For structures that are set back two or more feet from interior side property lines, at least 66 percent of the remaining interior side walls; and
 - iv. All architecturally significant public interiors.
 - 2. For the replication or restoration of contributing buildings, but not for noncontributing buildings, the historic preservation board may, at their discretion, waive the requirements of subsection(b)(2)d.1. above, and allow for the retention of the existing structure's floor area, height, setbacks or parking credits, if at least one of the following criteria is satisfied, as determined by the historic preservation board:
 - i. The structure is architecturally significant in terms of design, scale, or massing;
 - ii. The structure embodies a distinctive style that is unique to Miami Beach or the historic district in which it is located;

- iii. The structure is associated with the life or events of significant persons in the city;
- iv. The structure represents the outstanding work of a master designer, architect or builder who contributed to our historical, aesthetic or architectural heritage;
- v. The structure has yielded or is likely to yield information important in prehistory or history; or
- vi. The structure is listed in the National Register of Historic Places.

Notwithstanding the above, for buildings over three stories in height, at least 75 percent of the front facade and 75 percent of any architecturally significant portions of the street side facades shall be retained and preserved, in order to retain any non-conforming floor area, height, setbacks or parking credits. If the historic preservation board does not waive the requirements of subsection (b)(2)d.1. above for any reason, including the inability of a reconstructed building to meet the requirements of the applicable building code, any new structure shall be required to meet all current development regulations for the zoning district in which the property is located.

- 3. The building shall comply substantially with the secretary of interior standards for rehabilitation and guidelines for rehabilitating historic structures, as amended, as well as the certificate of appropriateness criteria in Article X of these Land Development Regulations.
- 4. If the repair or rehabilitation of a contributing structure or historic site conflicts with any of the requirements (as amended) in the applicable Florida Building Code or the Life Safety Code, the property owner shall seek relief from such code.

5. Regardless of its classification on the Miami Beach Historic Properties database, a building may be re-classified as contributing by the historic preservation board if it meets the relevant criteria set forth in the City Code.
 6. Contributing structures shall be subject to all requirements in section 118-503 of these Land Development Regulations.
- e. Development regulations for buildings not located within a designated historic district and not an historic site.
1. Buildings constructed prior to 1965 and determined to be architecturally significant by the planning director, or designee, may retain the existing floor area ratio, height, setbacks and parking credits, if the following portions of the building remain intact and are retained, preserved and restored:
 - i. At least 75 percent of the front and street side facades;
 - ii. At least 75 percent of the original first floor slab;
 - iii. At least 50 percent of all upper level floor plates; and
 - iv. At least 50 percent of the interior sidewalls.
 2. For buildings satisfying the above criteria, and whose lot size is less than 20,000 square feet, the parking impact fee program may be utilized, provided that all repairs and rehabilitations, and any new additions or new construction is approved by the design review board and that any existing, required parking, that is conforming, shall not be removed.
 3. For purposes of this subsection, the planning director, or designee shall make a determination as to whether a building is architecturally significant according to the following criteria:
 - i. The subject structure is characteristic of a specific architectural style constructed in the city prior to 1965,

including, but not limited to, vernacular, Mediterranean revival, art deco, streamline modern, post-war modern, or variations thereof;

ii. The exterior of the structure is recognizable as an example of its style and/or period, and its architectural design integrity has not been modified in an irreversible manner; and

iii. Exterior architectural characteristics, features, or details of the subject structure remain intact.

A property owner may appeal any determination of the planning director, or designee relative to the architectural significance of a building constructed prior to 1965 to the design review board, in accordance with the requirements and procedures pursuant to the requirements of Section 118-9.

4. Buildings constructed in 1965 or thereafter, and buildings constructed prior to 1965 and determined by the planning director, or designee not to be architecturally significant, shall be subject to the regulations set forth in subsection (b)(2)a—c herein.
5. If there is a change in use, a building shall receive no parking credits and must either provide the required parking on-site, or within 500 feet of the site, or pay a parking impact fee.
- f. Any new construction identified in subsections d. and e., above, shall comply with the existing development regulations in the zoning district in which the property is located, provided, however, that open private balconies, including projecting balconies and balconies supported by columns, not to exceed a depth of 30 feet from an existing building wall, may be permitted as a height exception. The addition of the highest habitable floor for a building nonconforming in height, provided such balconies meet applicable FAR and setback regulations. Any addition of a balcony in a nonconforming building shall be subject to the review and approval of the design review board or historic preservation board, as may be applicable.

- (3) There shall be no variances from any of the provisions herein pertaining to maximum floor area ratio and to parking credits.
- (4) Single-family homes shall be treated the same as other buildings, in determining when an existing structures lot coverage, height and setbacks may remain.
- (5) Notwithstanding the foregoing, in the event of a catastrophic event, including, but not limited to, fire, tornado, tropical storm, hurricane, or other act of God, which results in the complete demolition of a building or damage to a building that exceeds 50 percent of the value of the building as determined by the building official, such building may be reconstructed, repaired or rehabilitated, and the structure's floor area, height, setbacks and any existing parking credits may remain, if the conditions set forth in subsection (b)(1)a—d herein are met.
- (6) The foregoing regulations shall not apply to any building or structure located on city-owned property or rights-of-way, or property owned by the Miami Beach Redevelopment Agency.
- (7) Gasoline service stations.
 - a. Notwithstanding the foregoing provisions, a nonconforming gasoline service station that provides a generator or other suitable equipment that will keep the station operational, and which has been damaged, repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official pursuant to the standards set forth in the Florida Building Code may be repaired or rehabilitated, if the following conditions are met:
 1. The entire building and any new addition shall meet all requirements of the city property maintenance standards, the applicable Florida Building Code and the Life Safety Code.
 2. The entire building and any new addition shall comply with the current development regulations in the zoning district in which the property is located, including, but not limited to all

landscape requirements. New monument-style signs shall be required. Pole signs shall be prohibited.

3. No new floor area may be added if the floor area ratio is presently at maximum or exceeded.

b. Necessary repairs to add an emergency electrical generator and related facilities to a nonconforming gasoline service station shall be permitted.

c. A nonconforming gasoline service station that provides a generator or other suitable equipment that will keep the station operational, may add new floor area (other than floor area strictly necessary to house an emergency electrical generator and related facilities), or convert existing floor area or land, to add new accessory uses, such as a convenience sales area or a car wash, subject to conditional use approval, notwithstanding the nonconforming status of the gasoline service station.

(8) Hotel and Accessory Uses.

Notwithstanding the foregoing provisions, non-conforming buildings containing a non-conforming hotel uses located on the north side of Belle Isle, and not within a local historic district, may be reconstructed to a maximum of 50% of the floor area of the existing building, provided that the uses contained within the hotel are not expanded in any way, including but not limited to, the number of hotel units and accessory food and beverage uses, the nonconformity of the building is lessened, and required parking for the reconstruction is satisfied within the property, resulting in an improved traffic circulation in the surrounding neighborhoods with a minimum reduction of 50% of the daily trips on adjacent, two-lane, arterial roadways, and improving the resiliency of the building. The nonconforming use may remain.

SECTION 2. REPEALER.

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

SECTION 3. SEVERABILITY.

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

SECTION 4. CODIFICATION.

It is the intention of the City Commission that this Ordinance be entered into the LDRs, and it is hereby ordained that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other

appropriate word. The Exhibits to this Ordinance shall not be codified, but shall be kept on file with this Ordinance in the City Clerk's Office.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____, 2017.

PASSED AND ADOPTED this _____ day of _____ 2017.

ATTEST:

Philip Levine, Mayor

Rafael Granado, City Clerk

First Reading: June 7, 2017
Second Reading: September 13, 2017

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

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION
Rafael Granado 8-7-17
City Attorney Date

Underline = new language
~~Strikethrough~~ = deleted language