

Assisted Living and Medical Use Clean-Up

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE I, "GENERAL TO ALL ZONING DISTRICTS," TO ESTABLISH SECTION 142-2, ENTITLED "ASSISTED LIVING FACILITIES AND MEDICAL USES," TO INDICATE THAT ASSISTED LIVING FACILITIES AND MEDICAL USES ARE REGULATED BY CHAPTER 142, ARTICLE V, DIVISION 2, ENTITLED "ASSISTED LIVING AND MEDICAL USES" OF THE LAND DEVELOPMENT REGULATIONS; AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," AT SECTIONS 142-153, 142-213, 142-243, 142-303, 142-333, 142-455, 142-587, 142-594, AND 142-736 TO REMOVE ADULT CONGREGATE LIVING FACILITIES (ACLF), NURSING HOMES, AND RELATED USES FROM THE LISTS OF PERMITTED, CONDITIONAL, OR ACCESSORY USES AS THESE USES HAVE BEEN CONSOLIDATED AND ARE REGULATED BY CHAPTER 142, ARTICLE V, DIVISION 2, ENTITLED "ASSISTED LIVING AND MEDICAL USES" OF THE LAND DEVELOPMENT REGULATIONS AND REMOVE THE TERM ADULT CONGREGATE LIVING FACILITIES AS THIS TERM IS NOW OBSOLETE, AND ALSO ADDING A CROSS-REFERENCE TO DIVISION 2, TO IDENTIFY MEDICAL CONDITIONAL USES; AND AMENDING CHAPTER 58, ENTITLED "HOUSING," ARTICLE III, ENTITLED "PROPERTY MAINTENANCE STANDARDS," DIVISION 3, ENTITLED "MINIMUM STANDARDS", AT SECTION 58-296, ENTITLED "ADULT CONGREGATE LIVING FACILITIES," TO RENAME THE SECTION "ASSISTED LIVING FACILITIES"; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, over the past 25 years, other medical terms and uses have come into existence and are being licensed on a state level, but, had not until recently been incorporated in the City Land Development Regulations; and

WHEREAS, Chapter 58, Article III, Division 3, Section 58-296 establishes minimum property maintenance standards for adult congregate living facilities (ACLF's); and

WHEREAS, the City of Miami Beach has utilized the term "adult congregate living facility" (ACLF), and said term has been obsolete at the state level for many years, and the State does not license ACLF's, but rather licenses Assisted Living Facilities (ALF's), and the City desires to ensure that the City's zoning regulations are consistent with state law; and

WHEREAS, on January 17, 2017, the City Commission adopted amendments to Chapter 142, Article V, Division 2 to establish zoning regulations that are consistent with state law; and

WHEREAS, the amendments to Chapter 142, Article V, Division 2 protect the residents and visitors of the City of Miami Beach by ensuring the proper location of medical uses; and

WHEREAS, the amendments to Chapter 142, Article V, Division 2 consolidated the majority of regulations for assisted living facilities and medical uses into a single division; and

WHEREAS, additional amendments are necessary to ensure internal consistency of terms and regulations for assisted living facilities and other medical uses; and

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety, and general welfare of its citizens; 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," Article I, entitled "General to All Zoning Districts," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

**ARTICLE I
GENERAL TO ALL ZONING DISTRICTS**

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Sec. 142-2. – Assisted Living Facilities and Medical Uses.

The list of permitted, conditional, accessory, and prohibited uses related to assisted living facilities and other medical uses for each zoning district shall be as per Article V, Division 2 of this chapter.

SECTION 1. Chapter 142, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations", of the Code of the City of Miami Beach, Florida is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

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**ARTICLE II
DISTRICT REGULATIONS**

Sec. 142-153. - Conditional uses.

- (a) The conditional uses in the RM-1 residential multifamily, low density district are ~~adult congregate living facility; day care facility; nursing home;~~ religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages.

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Sec. 142-213. - Conditional uses.

- (a) The conditional uses in the RM-2 residential multifamily, medium intensity district are ~~adult congregate living facility; day care facility; nursing home;~~ stand-alone religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages; and accessory neighborhood impact establishment; as set forth in article V, division 6 of this chapter.

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Sec. 142-243. - Conditional uses.

The conditional uses in the RM-3 residential multifamily, high intensity district are ~~adult congregate living facility; day care facility; nursing home;~~ stand-alone religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages; accessory outdoor entertainment establishment; accessory neighborhood impact establishment; and accessory open air entertainment establishment as set forth in article V, division 6 of this chapter.

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Sec. 142-303. - Conditional uses.

- (a) *Generally.* The conditional uses in the CD-2 commercial, medium intensity district include the following:
- (1) ~~Adult congregate living facilities~~ Reserved;
 - (2) Funeral home;
 - (3) ~~Nursing homes~~ Reserved;

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Sec. 142-333. - Conditional uses.

The conditional uses in the CD-3 commercial, high intensity district are ~~adult living congregate facilities;~~ 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 entertainment establishment, ~~nursing homes;~~ religious institutions with an occupancy greater than 199 persons; video game arcades; public and private institutions; schools and major cultural dormitory facilities as specified in section 142-1332; and storage and/or parking of commercial vehicles on a site other than the site at which the associated commerce, trade or business is located, except such storage and/or parking of commercial vehicles shall not be permitted on lots with frontage on Lincoln Road, Collins Avenue, 41st Street and 71st Street. See subsection 142-1103(c). When located on that portion of Lincoln Road that is closed to traffic, these uses shall comply with section 142-335. Alcoholic beverage establishments located in the area generally bounded by 40th Street to the south, 42nd Street to the north, Alton Road to the west, and the Indian Creek waterway to the east, shall be subject to the additional requirements set forth in section 142-340.

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Sec. 142-455. - Special use regulations.

- (a) ~~The following accessory u~~Uses identified in chapter 142, article V, division 2 as permitted in HD districts, may exist independent of the main hospital use after the main hospital use is discontinued subject to approval by the planning board pursuant to the provisions of chapter 118, article IV, and provided such uses comply with the provisions contained in subsections (b)—(d) below:
- (1) ~~Nursing home or skilled nursing facility.~~
 - (2) ~~Assisted living facilities or adult congregate living facilities.~~
 - (3) ~~Housing that provides different levels of services for older persons;~~
 - (4) ~~Medical educational, research and diagnostic facilities;~~
 - (5) ~~Outpatient care facilities;~~
 - (6) ~~Similar uses, as determined by the planning director.~~
- (b) Such uses shall only occupy buildings and or structures that existed as of (the effective date of this ordinance).
- (c) There shall be no new construction or replacement of demolished structures on the site unless the main permitted hospital use is reinstated by the appropriate agencies.
- (d) Any building existing on the property may be adaptively reused consistent with subsection (a) above, while retaining existing nonconforming height, setbacks, floor area ratio and off-street parking, regardless whether the rehabilitation exceeds 50 percent of the value determination, provided that the repaired or rehabilitated building shall be subject to the regulations in subsection 118-395(b)(1)a.—d.

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Sec. 142-587. - Conditional uses.

Conditional uses in the RO-2 residential/office low intensity district are ~~adult congregate living facility;~~ day care facility; religious institutions with an occupancy greater than 199 persons; private and public institutions.

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Sec. 142-594. - Conditional uses.

Conditional uses in the RO-3 residential/office medium intensity district are ~~adult congregate living facility;~~ day care facility; ~~nursing home;~~ religious institutions with an occupancy greater than 199 persons; private and public institutions; schools.

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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 ~~adult living congregate facilities~~; 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, ~~nursing homes~~; religious institution; video game arcades; public and private institutions; and schools and major cultural dormitory facilities as specified in section 142-1332.

SECTION 2. "Appendix A – Fee Schedule," of the Code of the City of Miami Beach is hereby amended as follows:

<i>Section this Code</i>	<i>Description</i>	<i>Amount</i>
	Subpart B. Land Development Regulations	
	Chapter 118. Administration and Review Procedures	
	* * *	
118-193	Conditional Use Permits	
	Application for Conditional Use Permit for an adult congregate <u>assisted</u> living facility (per bed)	100.00

SECTION 3. Chapter 58, entitled "Housing," Article III, entitled "Property Maintenance Standards," Division 3, entitled "Minimum Standards", at section 58-296, entitled "Adult congregate living facilities," of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 58-296. - ~~Adult congregate~~ Assisted living facilities.

- (a) In addition to the property maintenance standards set forth in this article, ~~adult-congregate~~ assisted living facilities (AGLF) must comply with the requirements of subsections (b)—(k) of this section, which shall control in case of conflict.
- (b) Facilities must be in conformance with all provisions of the ~~South-Florida~~ Building Code, Fire Code, and the H.R.S. Fire Safety Standards for ~~adult-congregate~~ assisted living facilities.
- (c) All facilities with enclosed hallways shall have sprinkler systems in hallways and bedrooms.
- (d) Smoke detectors are required in each bedroom.
- (e) All bedrooms, dining and indoor recreation areas shall be heated and air conditioned.
- (f) All facilities of more than two floors shall have an elevator large enough to carry a stretcher 76 inches by 24 inches in a horizontal position.
- (g) Each bedroom and bathroom shall have emergency call buttons.
- (h) A bathroom shall be provided for each two (2) AGLF units.
- (i) Units including bedrooms, bathrooms and closets shall be a minimum of 200 square feet for the first two occupants in each unit; for each additional person, another 100 square feet shall be added excepting facilities with valid city and H.R.S. licenses as AGLF's as of June 25, 1983.
- (j) Each communal area for eating and recreation shall each be no less than 20 square feet per person; such areas may be contiguous to one another.
- (k) Facilities must be in conformance with state department of children and family services guidelines regarding availability of staff personnel on the premises.

SECTION 4. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 5. 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 re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 6. SEVERABILITY.

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

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this ____ day of _____, 2018.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

First Reading: February 14, 2018
Second Reading: March 7, 2018

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

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

11/23/18

Date