

Sunset Harbour Prohibited Use Regulations

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 II, "DISTRICT REGULATIONS," (1) AT DIVISION 5, "CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT," SECTION 142-303, "CONDITIONAL USES" AND SECTION 142-305, "PROHIBITED USES"; AND (2) AT DIVISION 11, "I-1 LIGHT INDUSTRIAL DISTRICT," SECTION 142-483, "CONDITIONAL USES," AND SECTION 142-485, "PROHIBITED USES," TO MODIFY CONDITIONAL AND PROHIBITED USES IN THE SUNSET HARBOUR NEIGHBORHOOD, GENERALLY BOUNDED BY PURDY AVENUE, 20TH STREET, ALTON ROAD, AND DADE BOULEVARD; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Sunset Harbour neighborhood is composed of a mixture of residential, light industrial, and low intensity service, restaurant and retail uses, which primarily serve City residents; and

WHEREAS, residential uses in the Sunset Harbour neighborhood are divided only by the width of a street from the CD-2 commercial, medium intensity and the I-1 light industrial zoning districts; and

WHEREAS, the City Code permits certain uses within the CD-2 and I-1 zoning districts, which, absent mitigation, could be incompatible with adjacent residential uses in the Sunset Harbour neighborhood; and

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

WHEREAS, the City's land development regulations include regulations for permitted, accessory, conditional, and prohibited uses in the CD-2 and I-1 districts; and

WHEREAS, provisions for certain types of uses within the CD-2 and I-1 districts in the Sunset Harbour area are necessary and desirable; and

WHEREAS, the Sunset Harbour neighborhood boasts unique cultural, retail, and dining experiences, and is vital to Miami Beach's local economy; and

WHEREAS, it is the intent of the City to limit the proliferation of establishments which may negatively affect the Sunset Harbour area; and

WHEREAS, the proposed changes are necessary in order to promote sustainable mixed-use development within the CD-2 and I-1 districts in Sunset Harbour; 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. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 5, "CD-2 Commercial, Medium Intensity District," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

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ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 5. – CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

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Sec. 142-303. - Conditional uses.

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(b) *Sunset Harbour neighborhood.* ~~All conditional uses shall comply with the conditional use criteria in section 142-192(a).~~ The conditional uses for the Sunset Harbour neighborhood, generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall include those conditional uses listed at section 142-303(a), but shall exclude pawnshops, ~~subsection 142-303(a)(11)~~ outdoor entertainment establishments, ~~subsection 142-303(a)(12)~~ neighborhood impact establishments, and ~~subsection 142-303(a)(13)~~ open air entertainment establishments, as these specific uses are prohibited in the Sunset Harbour neighborhood pursuant to section 142-305. The following additional uses shall require conditional use approval in the Sunset Harbour neighborhood:

- (1) Main use parking garages; ~~and~~
- (2) Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons and a floor area in excess of 3,500 square feet.
- (3) Package stores.

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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 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 (a)~~ in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, are the following:

1. Hostels;
2. Outdoor entertainment establishments;
3. Neighborhood impact establishments;
4. Open air entertainment establishments;
5. Bars;
6. Dance halls; and
7. Entertainment establishments (as defined in section 114-1 of this Code);
8. Pawnshops;
9. Tobacco and vape dealers;
10. Check cashing stores;
11. Convenience stores;
12. Occult science establishments;
13. Souvenir and T-shirt shops;
14. Tattoo studios.

(c) Except as otherwise provided in these land development regulations, prohibited uses A 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; and
5. Tattoo studios.

SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 11, "I-1 Light Industrial District," is hereby amended as follows:

DIVISION 11. – I-1 LIGHT INDUSTRIAL DISTRICT

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Sec. 142-483. - Conditional uses.

(a) The conditional uses in the 1-1 urban light industrial district are:

- (1) Any use that includes the retail sale of gasoline;
- (2) Automobile service stations;
- (3) Mechanical car wash facilities;
- (4) Auto repair;
- (5) New construction of structures, as defined in section 114-1, of 50,000 square feet and over, which review shall be the first step in the process before the review by any of the other land development boards;
- (6) Developments on properties greater than 20,000 square feet of lot area;
- (7) Machine, welding, and printing shops, involving heavy machinery;
- (8) Recycling receiving stations;
- (9) Utilities;
- (10) Residential uses, including live-work units, when included in rehabilitation of buildings existing as of October 24, 2009;
- (11) ~~Neighborhood impact establishments;~~
- (12) Towing services: Lots reviewed pursuant to the conditional use process shall also comply with the following criteria:
 - (a) A schedule of hours of vehicle storage and of hours of operation shall be submitted for review and approval by the planning board.

- (b) If the towing yard is proposed to be within 100 feet of a property line of a lot upon which there is a residential use, the planning board shall analyze the impact of such storage and/or parking on the residential use. The analysis shall include, but not be limited to, visual impacts, noise, odors, effect of egress and ingress and any other relevant factor that may have an impact of the residential use.
- (c) Towing yards must be fully screened from view as seen from any right-of-way or adjoining property, when viewed from five feet six inches above grade, with an opaque wood fence, masonry wall or other opaque screening device not less than six feet in height.
- (d) Parking spaces, backup areas and drives shall be appropriately dimensioned for the type of vehicles being parked or stored.
- (e) Towing yards shall be required to satisfy the landscaping requirements of subsection 126-6(2), and shall be subject to the design review procedures, requirements and criteria as set forth in chapter 118, article VI.

~~(13)~~ (12) Main use parking garages;

~~(14)~~ (13) Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall be subject to the additional requirements set forth in section 142-488 and restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons, and a floor area in excess of 3,500 square feet, shall be subject to the conditional use procedures in section 118-193.

~~(15)~~ (13) Religious institutions with an occupancy greater than 199 persons.

(b) Sunset Harbour neighborhood. The conditional uses for the Sunset Harbour neighborhood, generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall include those conditional uses listed in section 142-483(a). The following additional uses shall require conditional use approval in the Sunset Harbour neighborhood:

(1) Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons, and a floor area in excess of 3,500 square feet. Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) shall also be subject to the additional requirements set forth in section 142-488.

(2) Package stores.

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Sec. 142-485. - Prohibited uses.

- (a) The prohibited uses in the I-1 urban light industrial district are accessory outdoor bar counters, bars, dance halls, or entertainment establishments (as defined in section 114-1 of this Code), outdoor entertainment establishments, neighborhood impact establishments, open air entertainment establishments, and residential uses, except as provided for in subsection 142-483(10).
- (b) Except as otherwise provided in these land development regulations, prohibited uses in the I-1 urban light industrial district in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, are the following:

1. Hostels;
2. Outdoor entertainment establishments;
3. Neighborhood impact establishments;
4. Open air entertainment establishments;
5. Bars;
6. Dance halls;
7. Entertainment establishments (as defined in section 114-1 of this Code).
8. Pawnshops;
9. Tobacco and vape dealers;
10. Check cashing stores;
11. Convenience stores;
12. Occult science establishments;
13. Souvenir and T-shirt shops;
14. Tattoo studios.

SECTION 3. REPEALER.

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

SECTION 4. 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 5. SEVERABILITY.

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

SECTION 6. APPLICABILITY.

The provisions of this Ordinance shall not apply to a package store that (i) is operating lawfully, and (ii) has obtained a business tax receipt on or before November 17, 2020. Any such business operator shall be deemed a "nonconforming use" as defined in City Code Section 114-1, and shall be subject to the provisions of Chapter 118 of the City Code, at Article IX, entitled "Nonconformances," except that such operator may expand its use or relocate to another property within the Sunset Harbor Neighborhood boundaries. Any change in ownership of 50% or more stock ownership, or its equivalent, shall require a nonconforming operator to comply with the provisions of this Ordinance.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2021.

Dan Gelber
Mayor

Attest:


Rafael E. Granado
City Clerk

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

First Reading: December 9, 2020

Second Reading: January 13, 2021

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION



City Attorney NK Date 1-5-21