

Expansion of Art Deco MIMO Overlay District

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 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE III, ENTITLED "OVERLAY DISTRICTS," DIVISION 12, ENTITLED "ART DECO," TO EXPAND THE BOUNDARIES OF THE OVERLAY AND AMEND THE REQUIREMENTS FOR USES FOR PROPERTIES IN THE OVERLAY DISTRICT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, properties fronting Ocean Drive and Collins Avenue that have a zoning designation of MXE Mixed Use Entertainment are located in the Ocean Drive/Collins Avenue Historic District, as well as the Miami Beach Architectural National Register Historic District; and

WHEREAS, Ocean Drive, Collins Avenue, and Washington Avenue are premier streets in Miami Beach, all of which provide residents and visitors with a unique cultural, retail, and dining experience and are vital to Miami Beach's economy, especially the tourism industry; and

WHEREAS, the Collins Park neighborhood has become a cultural hub within the City that contains many unique establishments; and

WHEREAS, check cashing stores, convenience stores, pharmacies, grocery stores, souvenir and t-shirt shops, tattoo studios, and fortune tellers (occult science establishments) are uses which may negatively affect surrounding areas; and

WHEREAS, it is the intent of the City to limit the number of establishment which may negatively affect the subject areas; 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 III, "Overlay Districts," Division 12, "Art Deco," is hereby amended as follows:

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

* * *

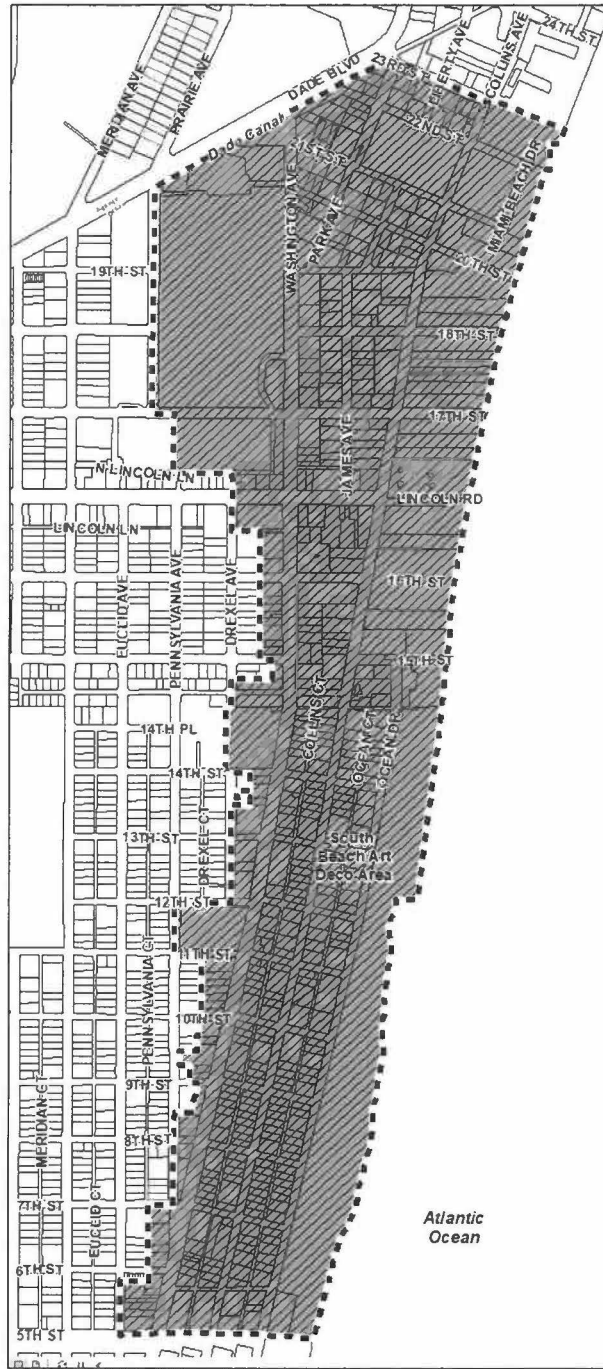
ARTICLE III. – OVERLAY DISTRICTS

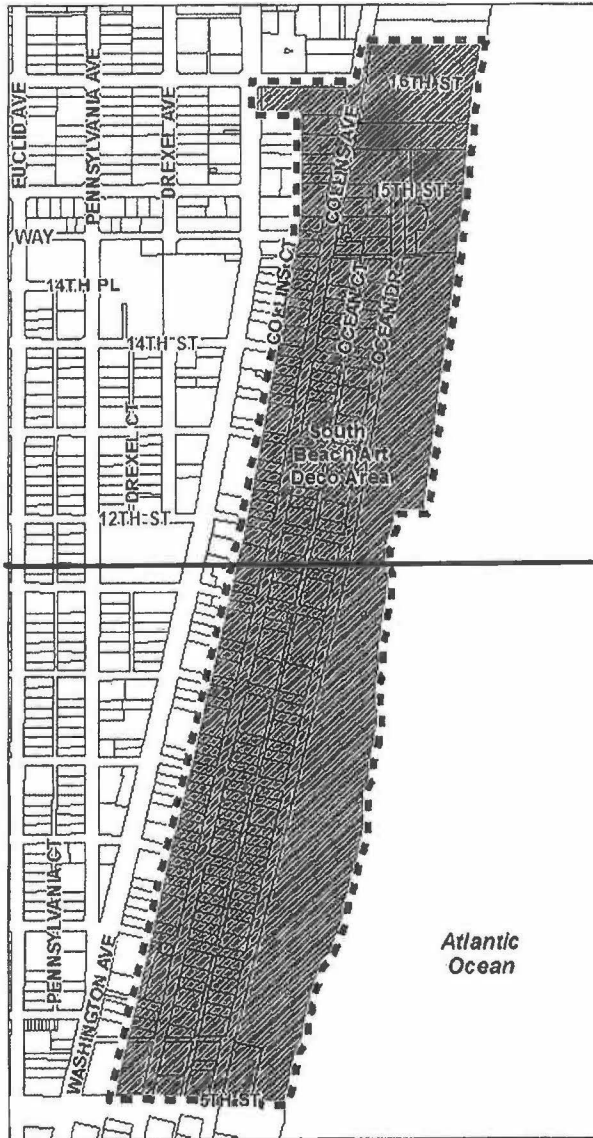
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DIVISION 12. – ART DECO / MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT

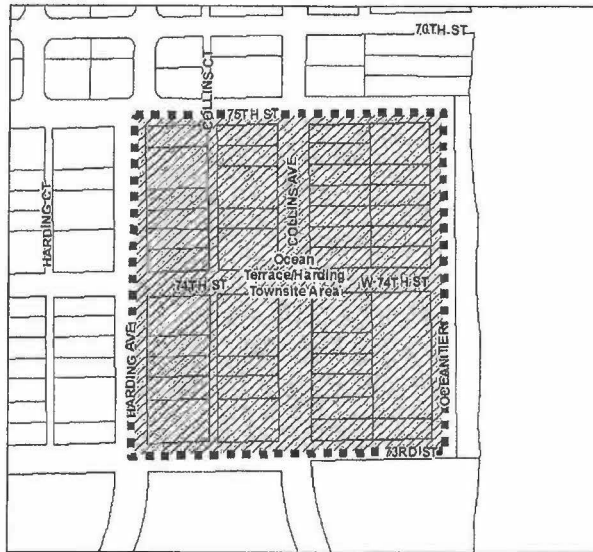
Sec. 142-870.10. Location and purpose.

- (a) There is hereby created the Art Deco/Mimo Commercial Character Overlay District (the "overlay district"). The overlay district consists of the properties in the South Beach Art Deco Area identified in the map below in this subsection (a) and the properties identified in the Ocean Terrace/Harding Townsite Area described in subsection (b) below. The South Beach Art Deco Area is generally located east of the western lot lines of properties fronting the west side of Collins Washington Avenue, between 5th Street to on the south and 16th 23rd Street to on the north, and located west of the ocean:





(b) The Ocean Terrace/Harding Townsite Area is identified in the map below and is generally located between Harding Avenue to the west and Ocean Terrace to the east, between 73rd and 75th Streets:



(c) The purpose of this overlay district is to limit the proliferation of uses which may diminish the character of historic commercial areas within the city. This overlay district is designed based on and intended to achieve the following facts and intents:

- (1) Properties fronting Ocean Drive and Collins Avenue that have a zoning designation of MXE mixed use entertainment are located in the Ocean Drive/Collins Avenue historic district, as well as the Miami Beach Architectural National Register Historic District;
- (2) Properties fronting Washington Avenue that have a zoning designation of CD-2 commercial medium intensity district, are located in the Flamingo Park historic district and the Miami Beach Architectural National Register Historic District;
- (3) Ocean Drive, Collins Avenue, and Washington Avenue are some of the premier streets in Miami Beach and provide residents and visitors with a unique cultural, retail, and dining experience and are vital to Miami Beach's economy, especially the tourism industry;
- (4) Properties fronting Ocean Terrace and Collins Avenue between 73rd and 75th Streets are within the Harding Townsite historic district and the North Shore National Register historic district;
- (5) Properties fronting Harding Avenue between 73rd and 75th Streets are within North Shore National Register historic district: and
- (6) The City of Miami Beach has undertaken a master planning process for the North Beach area that includes the Harding Townsite historic district and North Shore National Register district, in order to encourage the revitalization of the area by improving cultural, retail, and dining experiences for residents and visitors to the area;
- (7) Formula commercial establishments and formula restaurants are establishments with multiple locations and standardized features or a recognizable appearance,

where recognition is dependent upon the repetition of the same characteristics of one store in multiple locations;

- (8) Formula commercial establishments and formula restaurants are increasing in number along Ocean Drive and within other historic districts;
- (9) The sameness of formula commercial establishments, while providing clear branding for retailers, ~~counters~~ conflicts with the city's Vision Statement which includes creating "A Unique Urban and Historic Environment";
- (10) Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many formula commercial establishments detract from the distinctive character and aesthetics of the historic districts;
- (11) The increase of formula commercial establishments hampers the unique cultural, retail, and dining experience in commercial and mixed-use areas of the city's historic districts;
- (12) Specifically, the proliferation of formula commercial establishments may unduly limit or eliminate business establishment opportunities for non-traditional or unique businesses, thereby decreasing the diversity of cultural, retail, and dining services available to residents and visitors;
- (13) The homogenizing effect of formula commercial establishments, based on ~~its~~ their reliance on standardized branding, ~~is greater~~ increases if the size of the establishment, ~~in~~ the number of locations, or size ~~of~~ or use ~~of~~ of branded elements is ~~larger~~ greater;
- (14) The increased level of homogeneity detracts from the uniqueness of the historic districts, which thrive on a high level of interest maintained by a mix of cultural, retail, and dining experiences that are not found elsewhere in the country;
- (15) Sidewalk cafés are central to the economy of Ocean Drive and enhance the pedestrian experience and historic and cosmopolitan character of the street;
- (16) It is not the intent of the city to limit interstate commerce, but rather to maintain the historic character of neighborhoods and promote their unique cultural, retail, and dining experiences that are vital to the city's economy;
- (17) It is the intent of the city that if an establishment that has multiple locations and standardized features or a recognizable appearance seeks to locate within certain areas affected by this division that such establishment provide a distinct array of merchandise, facade, decor, color scheme, uniform apparel, signs, logos, trademarks, and service marks;
- (18) Convenience stores, pharmacy stores and formula eating establishments have similar impacts to the unique character of this important area of the city as formula stores;

- (19) Check cashing stores, pawnshops, souvenir and t-shirt shops, tattoo studios, fortune tellers (occult science establishments), massage therapy center, and package liquor stores are uses which negatively affect surrounding areas; and
- (20) It is the intent of the city to limit the number of establishments which may negatively affect surrounding areas.

Sec. 142-870.11. Compliance with regulations.

The following regulations shall apply to the overlay district. There shall be no variances allowed from these regulations. All development regulations in the underlying zoning district and any other applicable overlay regulations shall apply, except as follows:

- (a) The following limitations shall apply to the commercial uses listed below:
 - (1) Check cashing stores shall comply with the following regulations:
 - a. Such establishments shall be prohibited on lots fronting Ocean Drive and in the Ocean Terrace/Harding Townsite Area.
 - b. In areas of the overlay district not included in subsection a. above, there shall be no more than two such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
 - (2) Convenience stores shall comply with the following regulations:
 - a. Such establishments shall be prohibited on lots fronting Ocean Drive.
 - b. In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one such establishment.
 - c. In areas of the Overlay District not included in subsection a. and b. above, there shall be no more than five such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
 - (3) Formula commercial establishments shall comply with the following regulations:
 - a. Such establishments shall be prohibited on lots fronting Ocean Drive and Ocean Terrace.
 - b. This subsection shall not apply to any establishments in the South Beach Art Deco Area other than establishments fronting Ocean Drive nor to any establishment in the Ocean Terrace/Harding Townsite Area, other than Ocean Terrace.
 - (4) Formula restaurants shall comply with the following regulations:
 - a. Such establishments shall be prohibited on lots fronting Ocean Drive and Ocean Terrace.

- b. This subsection shall not apply to any establishments in the South Beach Art Deco Area other than establishments fronting Ocean Drive nor to any establishment in the Ocean Terrace/Harding Townsite Area, other than Ocean Terrace.
- (5) Massage therapy centers shall not operate between 9:00 pm and 7:00 am in the overlay district.
- (6) Marijuana dispensaries shall be prohibited in the overlay district.
- (7) Occult science establishments shall be prohibited in the overlay district.
- (8) Package stores shall comply with the following regulations:
 - a. Such establishments shall be prohibited on lots in the South Beach Art Deco Area with an underlying MXE zoning designation and in the Ocean Terrace/Harding Townsite Area.
 - b. In areas of the overlay district not included in subsection a. above, there shall be no more than three such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
- (9) Pawnshops shall be prohibited in the overlay district.
- (10) Pharmacy stores shall comply with the following regulations:
 - a. Such uses shall be prohibited on lots fronting Ocean Drive.
 - b. In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one such establishment.
 - c. In areas of the overlay district not included in subsection a. and b. above, there shall be no more than five such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
- (11) Souvenir and t-shirt shops shall comply with the following regulations:
 - a. Such establishments shall be prohibited on lots fronting Ocean Drive and in the Ocean Terrace/Harding Townsite Area.
 - b. In areas of the overlay district not included in subsection a. above, there shall be no more than five such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
- (12) Tattoo studios shall comply with the following regulations:
 - a. Such uses shall be prohibited on lots fronting Ocean Drive and in the Ocean Terrace/Harding Townsite Area.

- b. In areas of the overlay district not included in subsection a. above, there shall be no more than three such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
- (13) Grocery stores shall comply with the following regulations:
- a. Such establishments shall be prohibited on lots fronting Ocean Drive.
 - b. In areas of the overlay district not included in subsection a. above, there shall be no more than five such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment, with the exception of such uses in the Ocean Terrace/Harding Townsite Area.
- (14) Tobacco/vape dealers shall be prohibited in the overlay district.

(b) Review procedures.

- (1) Commercial establishments in the overlay district that are not identified in subsection 142-870.11(a) shall comply with the following regulations:
- a. A signed affidavit indicating that they are not an establishment that is regulated by subsection 142-870.11(a) shall be provided to the city as part of the application for obtaining a business tax receipt and building permit, as applicable.
 - b. If the establishment is found not to be in compliance with the applicable requirements of the signed affidavit, the business tax receipt will be revoked and the establishment shall immediately cease operation.
- (2) Commercial establishments in the overlay district that are identified in subsection 142-870.11(a) shall comply with the following regulations:
- a. If applicable, the applicant shall provide a signed and sealed survey dated not older than six months, indicating the number, location, name, business tax receipt numbers, and separation of the applicable type of establishments within the overlay district. Distance separation shall be measured as a straight line between the principal means of entrance of each establishment and the proposed establishment.
 - b. Establishments existing as of the date of the enactment of this ordinance shall count towards the maximum number of such establishments permitted within subsection 142-870.11(a).
 - c. A signed affidavit indicating compliance with the regulations of subsection 142-870.11(a) for the applicable type of establishment shall be provided prior to obtaining a business tax receipt.
 - d. If the establishment is found not to be in compliance with the applicable requirements of the signed affidavit, the business tax receipt will be revoked and the establishment shall immediately cease operation.

- e. If a particular establishment meets more than one definition (i.e., formula commercial establishment and pharmacy store), it must meet the requirements for each use, and if there is a conflict, the more stringent code requirement shall prevail control.

Sec. 142-870.12. Applicability.

Notwithstanding any provision of these regulations to the contrary, the overlay ordinance shall not apply to real property that satisfies all of the foregoing criteria:

- (1) The property fronts Ocean Drive:
- (2) The property has a received an order from the historic preservation board for a substantial rehabilitation, issued between January 1, 2017 and September 13, 2017, provided a full building permit is issued pursuant to such order within the allowable timeframes set forth in chapter 118 of the land development regulations of the city Code.
- (3) Any property described above will become legal nonconforming and, consistent with the city's land development regulations that address nonconformities, shall be permitted to continue as a legal nonconforming use in accordance with the applicable provisions of chapter 118 of the land development regulations of the city Code.
- (4) In the event the above-noted order of the historic preservation board should expire prior to the issuance of a building permit, any property described above shall conform with all the provisions under chapters 114 and 142 of this Code.

SECTION 2. Repealer.

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

SECTION 3. 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 renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

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 _____, 2022.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION



City Attorney

3-29-22

Date

First Reading: April 6, 2022
Second Reading: May 4, 2022

Underline denotes additions
Strikethrough denotes deletions

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

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