

R-PS1 and R-PS2 Apartment-Hotel Conversion Incentives - LDR

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 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 18, ENTITLED "PS PERFORMANCE STANDARD DISTRICT," BY AMENDING SECTION 142-694, ENTITLED "NONCONFORMING USES AND STRUCTURES," TO ESTABLISH FAR AND BUILDING HEIGHT INCENTIVES FOR THE CONVERSION OF EXISTING APARTMENT HOTEL USES TO RESIDENTIAL APARTMENT USE; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

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 current R-PS1 and R-PS2 regulations prohibit apartment hotel uses; and

WHEREAS, the City seeks to encourage and incentivize existing apartment hotel uses in the R-PS1 and R-PS2 districts to convert to conforming residential apartment use; and

WHEREAS, Section 1.03(c) of the City Charter provides as follows:

The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001] . . . , unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach; and

WHEREAS, this Ordinance, in pertinent part, creates FAR incentives for the conversion of apartment hotels; and

WHEREAS, accordingly, and pursuant to Section 1.03(c) of the City Charter, the adoption of this Ordinance requires the prior approval of the voters in a Citywide referendum; 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," at Article II, entitled "District Regulations," at Division 18, entitled "PS Performance Standard District," of the Land

Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-694. – Nonconforming uses, lots and structures.

- (a) Nonconforming uses, lots and structures shall be subject to the regulations contained in chapter 118, article IX.
- (b) The following regulations shall apply to the conversion of a legally established, non-conforming apartment hotel use located in the R-PS1 or R-PS2 district, to a conforming residential apartment use, notwithstanding the underlying district regulations in Sec. 142-696:
 - (1) For those properties located in the R-PS1 district, the maximum floor area ratio (FAR) shall not exceed 1.50 and the maximum building height shall be 55 feet, except for lots that are 50 feet wide or less, in which case the maximum building height shall be 50 feet.
 - (2) For those properties located in the R-PS2 district, the maximum floor area ratio (FAR) shall not exceed 1.75 and the maximum building height shall be 65 feet, except for lots 50 feet wide or less, in which case the maximum building height shall be 60 feet.
 - (3) The above noted FAR and building height limits shall only apply (i) to those properties that, as of the date of this Ordinance, have a legally established apartment hotel as the main permitted use, and (ii) if the entire property is converted to a conforming residential use.
 - (4) A property may only be eligible for the FAR and building height incentives set forth herein if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that, for a term of 30 years, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.
 - (5) The above noted FAR and building height limits shall not apply to transient uses of any kind including, but not limited to, hotel, suite hotel, apartment-hotel or the short term rental of apartment units.
 - (6) The above noted provisions pertaining to FAR and building height shall only apply to projects that have obtained a full building permit or certificate of use for the conversion to a conforming residential use by December 31, 2025.
 - (7) There shall be no variances from any of the above noted provisions.

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 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 Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____ 2022.

PASSED and **ADOPTED** this _____ day of _____, 2022.

Dan Gelber
Mayor

ATTEST:

Rafael E. Granado
City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK 4-22-22
Date

First Reading: May 4, 2022
Second Reading: _____, 2022

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