

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: January 24, 2017

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB 16-0083. Art Deco / MiMo Commercial Character Overlay District**

REQUESTS

PB 16-0083. ART DECO / MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT. AN ORDINANCE OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 114 OF THE CITY CODE, ENTITLED "GENERAL PROVISIONS," TO PROVIDE FOR DEFINITIONS FOR "CHECK CASHING STORE," "CONVENIENCE STORE," "FORMULA RESTAURANT," "FORMULA COMMERCIAL ESTABLISHMENTS," "MARIJUANA DISPENSARY," "CANNABIS DISPENSARY," "OCCULT SCIENCE ESTABLISHMENT," "PHARMACY," "SOUVENIR AND T-SHIRT SHOP," "TATTOO STUDIO," AND RELATED DEFINITIONS; AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," AT ARTICLE III, ENTITLED "OVERLAY DISTRICTS," TO ESTABLISH DIVISION 12, ENTITLED "ART DECO / MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT," TO PROVIDE ADDITIONAL REGULATIONS FOR THE AFOREMENTIONED USES, INCLUDING DISTANCE SEPARATION REQUIREMENTS, LIMITATIONS ON NUMBER OF ESTABLISHMENTS, AND PROHIBITIONS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

RECOMMENDATION:

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

HISTORY/ BACKGROUND

On September 14, 2016, at the request of Commissioner Ricky Arriola, the City Commission referred this item to the Land Use and Development Committee (Item C4 M). On September 27, 2016, at the request of Commissioner Ricky Arriola, the City Commission adopted a 10-point plan that recommends a prohibition on formula restaurants and limits on certain types of retail (Item R9B).

On September 21, 2016, the Land Use and Development Committee continued the item to the October 26, 2016 meeting. On October 26, 2016, the item was continued to a date certain of November 16, 2016, at the request of the sponsor. On November 16, 2016 the Land Use Committee discussed the item and recommended that the City Commission refer the attached

ordinance to the Planning Board for consideration with the following modifications, which are included in the attached ordinance:

1. The area adjacent to Washington Avenue was removed from the South Beach overlay area;
2. The definition of *Formula Restaurant* was modified slightly and now consists of no more than five (5) establishments in operation or with approved development orders in Miami Beach, as opposed to the previous benchmark of two (2) establishments;
3. The following subsection was deleted from the definition of *Formula Restaurant*:
"or (ii) a restaurant where at least some food or beverage orders are communicated by a customer to an employee over a counter or similar projection and the food or beverage that is ordered is provided to the customer at or over the counter or similar projection."

On December 14, 2016, the City Commission referred the attached ordinance to the Planning Board for consideration (Item C4 I).

REVIEW CRITERIA

In accordance with Section 118-163 (3), when reviewing a request for an amendment to these land development regulations, the Board shall consider the following where applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**
Consistent – The uses proposed modifications are consistent with the Goals, Objectives, and Policies of the Comprehensive Plan.
2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**
Not Applicable – The proposed amendment does not modify district boundaries.
3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**
Not Applicable – The proposed Ordinance will not modify the scale of development.
4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**
Consistent – The proposed will not modify the intensity of development.
5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**
Not Applicable – The existing boundaries are not proposed to be modified by the proposed Ordinance.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – The need to protect the unique cultural, retail, and dining experience in commercial and mixed-use areas of the City's historic districts from the homogenizing effect of formula commercial establishments makes passage of the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed change will not adversely affect living conditions in the neighborhood.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed change will not impact the levels of service set forth in the Comprehensive Plan.

9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**

Consistent – The proposal does not modify the scale of development and will not reduce light and air to adjacent areas.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

Consistent – The proposed change should not adversely affect property values in the adjacent areas.

11. **Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

Consistent – The proposal will not be a deterrent to the improvement or development of adjacent property.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

Not applicable.

13. **Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

Not applicable.

ANALYSIS

The commercial areas of Miami Beach's historic districts are world renown for providing unique experiences to residents and visitors. These include over a century of evolving, highly significant styles of architecture (including Art Deco and Post-War Modern/MiMo) that are unique to the area, dining experiences and styles of food that are difficult to experience outside of South Florida. Additionally, the retail industry provides goods and services unique to the region. Collectively, this highly unique mixture of architecture, food & dining and specialized retail have fostered and maintained a brand unique to Miami Beach. In turn, this unique brand reintroduced a strong tourism industry in Miami Beach, which is the City's primary economic engine.

However, in recent years, the character of these areas has been changing with an influx of businesses that are common to many suburban areas of the country. These businesses include chain (formula) restaurants, chain (formula) retail, check cashing stores, convenience stores, and pharmacy stores. These types of establishments have multiple locations throughout the country, as well as standardized identities, logos, color schemes, uniforms, and merchandise.

The proliferation of such establishments limit and in some cases eliminate opportunities for the unique business that have traditionally been part of the fabric of the historic commercial districts. This has had a homogenizing effect of on the commercial areas, and has resulted in a decrease in the diversity of cultural, retail, and dining services unique to the Miami Beach brand.

Over the last 4 decades, the City's historic districts have thrived on a careful balance of cultural, retail, and dining experiences that are not found elsewhere in the country. The increased level of homogeneity has detracted from the uniqueness of the City's brand. Over the longer term, this could have a negative effect on the City's economy, since visitors will encounter similar businesses to those that they see in their home cities, and less of the City's brand.

Additionally, certain nuisance uses such as pawnshops, souvenir and t-shirt shops, tattoo studios, fortune tellers (occult science establishments), and package liquor stores have also affected the character of the City's historic districts in a negative way, as they detract from the experience that tourists and residents are seeking. Medical marijuana dispensaries have recently been permitted in the State of Florida, and these may have a similar impact as the aforementioned uses.

Ocean Drive is of particular concern, due to its importance to the City's tourism industry. It's unique architecture, sidewalk cafés, and beachfront location are one of the City's primary tourism attractions. Due to the location, exposure and successful branding, the aforementioned homogenizing uses have become highly attractive for property owners; a number of such uses have already opened on Ocean Drive, with more seeking to open. In order to address this concern, the proposed Overlay District prohibits the previously described uses from opening on properties that front Ocean Drive within the district boundaries.

THE PROPOSAL

The proposed Ordinance would establish the "Art Deco – MiMo Commercial Character Overlay District." The Overlay would generally cover areas of South Beach fronting Ocean Drive and

Collins Avenue between 5th Street and 16th Street. Additionally, the areas of North Beach fronting Ocean Terrace, Collins Avenue, and Harding Avenue between 73rd Street and 75th Street are also included.

The following is a summary of the revised provisions included in the draft version of the ordinance reviewed by the Land Use Committee on November 16, 2016:

- **Check Cashing Stores:** Such establishments shall be prohibited on lots fronting Ocean Drive and in the Ocean Terrace/Harding Townsite Area.

In areas of the Overlay District not included in subsection a. above, there shall be no more than two (2) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

- **Convenience Stores:** Such establishments shall be prohibited on lots fronting Ocean Drive.

In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one (1) such establishment.

In areas of the Overlay District not included in subsection a. and b. of the attached ordinance, there shall be no more than five (5) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

- **Formula Commercial:** Such establishments shall be prohibited on lots fronting Ocean Drive and Ocean Terrace.

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.

- **Formula Restaurants:** Such establishments shall be prohibited on lots fronting Ocean Drive or Ocean Terrace.

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.

- **Marijuana dispensaries:** Prohibited in all areas.
- **Occult Science Establishments:** Prohibited in the overlay district.

- **Package liquor stores:** 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.

In areas of the Overlay District not included in subsection a. of the attached ordinance, there shall be no more than three (3) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

- **Pawnshops:** Prohibited in all areas.
- **Pharmacy stores:** Such uses shall be prohibited on lots fronting Ocean Drive.

In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one (1) such establishment.

In areas of the overlay district not included in subsection a. and b. above, there shall be no more than five (5) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

- **Souvenir and t-shirt shops:** Such establishments shall be prohibited on lots fronting Ocean Drive and in the Ocean Terrace/Harding Townsite Area.

In areas of the overlay district not included in subsection a. of the attached ordinance, there shall be no more than five (5) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

- **Tattoo studios:** Such uses shall be prohibited on lots fronting Ocean Drive and in the Ocean Terrace/Harding Townsite Area.

In areas of the overlay district not included in subsection a. of the attached ordinance, there shall be no more than three (3) such establishments.

Additionally, the Overlay would prohibit variances of these regulations. It also establishes minimum submittal requirements to allow City staff to ensure compliance with these regulations.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

TRM/MAB/RAM

**ART DECO / MIMO COMMERCIAL CHARACTER AND FORMULA COMMERCIAL
OVERLAY DISTRICT**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 114 OF THE CITY CODE, ENTITLED "GENERAL PROVISIONS," TO PROVIDE FOR DEFINITIONS FOR "CHECK CASHING STORE," "CONVENIENCE STORE," "FORMULA RESTAURANT," "FORMULA COMMERCIAL ESTABLISHMENTS," "MARIJUANA DISPENSARY," "CANNABIS DISPENSARY," "OCCULT SCIENCE ESTABLISHMENT," "PHARMACY," "SOUVENIR AND T-SHIRT SHOP," "TATTOO STUDIO," AND RELATED DEFINITIONS; AMENDING CHAPTER 142 OF THE CITY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," AT ARTICLE III, ENTITLED "OVERLAY DISTRICTS," TO ESTABLISH DIVISION 12, ENTITLED "ART DECO / MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT," TO PROVIDE ADDITIONAL REGULATIONS FOR THE AFOREMENTIONED USES, INCLUDING DISTANCE SEPARATION REQUIREMENTS, LIMITATIONS ON NUMBER OF ESTABLISHMENTS, AND PROHIBITIONS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; 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, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, properties fronting Harding Avenue between 73rd and 75th Streets are within North Shore National Register Historic District; and

WHEREAS, 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; and

WHEREAS, formula commercial establishments and formula restaurants are establishments with multiple locations and standardized features or a recognizable appearance. Recognition is dependent upon the repetition of the same characteristics of one store in multiple locations; and

WHEREAS, formula commercial establishments and formula restaurants are increasing in number along Ocean Drive and within other historic districts; and

WHEREAS, the sameness of formula commercial establishments, while providing clear branding for retailers, counters the City's Vision Statement which includes creating "A Unique Urban and Historic Environment"; and

WHEREAS, 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; and

WHEREAS, 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. 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; and

WHEREAS, the homogenizing effect of formula commercial establishments, based on its reliance on standardized branding, is greater if the size of the establishment, in number of locations or size of use or branded elements, is larger. 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; and

WHEREAS, sidewalk cafes are central to the economy of Ocean Drive and enhance the pedestrian experience and historic and cosmopolitan character of the street; and

WHEREAS, 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; and

WHEREAS, 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 ordinance that such establishment provide a distinct array of merchandise, façade, décor, color scheme, uniform apparel, signs, logos, trademarks, and servicemarks; and

WHEREAS, convenience stores, pharmacy stores and eating establishments have similar impacts as formula stores; and

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

WHEREAS, it is the intent of the City to limit the number of establishments which may negatively affect surrounding areas; and

WHEREAS, the amendments set forth below are necessary to accomplish the objectives identified herein.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. Chapter 114 of the City Code, entitled "General Provisions," is hereby amended as follows:

**CHAPTER 114
GENERAL PROVISIONS**

Sec. 114-1. Definitions.

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Check cashing store means a business which cashes checks or exchanges currency on a regular basis for a fee. This definition does not include banks, which may cash checks in addition to providing other financial services such as, but not limited to, money savings accounts, loan services, and checking accounts.

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Convenience store means a retail store with direct access from the street or sidewalk operating at a minimum between the hours of 8:00 AM and midnight containing less than 6,000 square feet of floor area that is designed and stocked to sell primarily food (packaged and/or prepared), beverages, newspapers, magazines, and other household supplies to customers who generally purchase a relatively few number of items (in contrast to a "grocery store" or "super market"). It is designed to attract and depends upon a large turnover of customers.

Establishment, as used in the definitions of Formula restaurant and Formula commercial establishment, means a place of business with a specific store name or specific brand. Establishment refers to the named store or brand and not to the owner or manager of the store or brand. As an example, if a clothing store company owns 4 brands under its ownership umbrella and each branded store has 10 locations, the term "Establishment" would refer only to those stores that have the same name or brand.

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Formula restaurant means (i) a restaurant with 100 or more establishments in operation or with approved development orders in the United States or a restaurant with more than ~~two~~ **(2) five (5)** establishments in operation or with approved development orders in Miami Beach; or (ii) ~~a restaurant where at least some food or beverage orders are communicated by a~~

customer to an employee over a counter or similar projection and the food or beverage that is ordered is provided to the customer at or over the counter or similar projection.

With respect to (i) in the preceding sentence, in addition to the numerical thresholds the establishments maintain two or more of the following features: a standardized (formula) array of merchandise; a standardized façade; a standardized decor or color scheme; uniform apparel for service providers, food, beverages or uniforms; standardized signs, logos, trademarks or servicemarks. For the purpose of this definition, the following shall apply:

- (1) Standardized (formula) array of merchandise or food means that 50% or more of in-stock merchandise or food is from a single distributor and bears uniform markings.
- (2) Trademark means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods or food of one party from those of others.
- (3) Servicemark means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service or food of one party from those of others.
- (4) Decor means the style of interior or exterior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.
- (5) Color scheme means the selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.
- (6) Facade means a face (usually the front) of a building, including awnings, that looks onto a street or an open space.
- (7) Uniform food, beverages or apparel/uniforms means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing, food or beverages listed on the menus of such establishments or standardized uniforms worn by employees.

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Formula commercial establishment means a commercial use, excluding office, restaurant and hotel use, that has ten (10) or more retail sales establishments in operation or with approved development orders in the United States of America; provided, however, for those businesses located in a building that is two (2) stories or less with frontage on Ocean Drive, formula commercial establishment means a commercial use, excluding office, restaurant and hotel, which has five (5) or more other establishments in operation or with approved development orders in Miami Beach. In addition to meeting or exceeding the numerical thresholds in the preceding sentence, the definition of formula commercial establishment also means an establishment that maintains two or more of the following features: a standardized (formula) array of merchandise; a standardized façade; a standardized decor or color scheme; uniform apparel; standardized signs, logos, trademarks or servicemarks. For the purpose of this definition, the following shall apply:

- (1) Standardized (formula) array of merchandise means that 50 percent or more of in-stock merchandise is from a single distributor and bears uniform markings.

- (2) Trademark means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods of one party from those of others.
- (3) Servicemark means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service of one party from those of others.
- (4) Decor means the style of interior or exterior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.
- (5) Color scheme means the selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.
- (6) Facade means a face (usually the front) of a building, including awnings, that looks onto a street or an open space.
- (7) Uniform apparel means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.

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Grocery store means a retail store with direct access from the street or sidewalk containing 6,000 or more square feet of floor area that primarily sells food, including canned and frozen foods, fresh fruits and vegetables, and fresh (raw) and prepared meats, fish, and poultry.

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Marijuana dispensary or Cannabis dispensary means a building, structure, or other facility where marijuana or cannabis, inclusive of medical cannabis, and cannabis delivery devices, are dispensed at retail.

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Occult science establishment shall mean an establishment engaged in the occupation of a fortune teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, psychic or advisor or who in any other manner claims or pretends to tell fortunes, or claims or pretends to disclose mental faculties of individuals for any form of compensation. Nothing contained herein shall be construed to apply to a person pretending to act as a fortune teller in a properly licensed theater as part of any show or exhibition presented therein or as part of any play, exhibition, fair or show presented or offered in aid of any benevolent, charitable or educational purpose.

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Pharmacy store means a store with direct access from the street or sidewalk, containing a minimum of 3,500 square feet, where medicinal drugs requiring a prescription from a qualified medical professional are dispensed and sold and that operates at a minimum between the hours of 9:00 AM and 10:00 PM and is also designed and stocked to sell health and wellness

products, food (packaged and/or prepared), beverages, newspapers, magazines, and other household supplies to customers who generally purchase relatively few number of items (in contrast to a "grocery store" or "super market").

* * *

Souvenirs are items, exclusive of books, magazines or maps, which serve as a token of remembrance of Miami Beach or any geographic areas in Florida and which bear the name of the City or geographic areas or streets thereof or of events associated with Miami Beach or South Florida.

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Souvenir and t-shirt shop means any business with direct access from the street or sidewalk in which the retail sale of T-shirts or souvenirs or both is conducted as a principal use of the business, or together with some other business activity, but which constitutes the primary, or is the major attraction to the business.

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Supermarket. (See "Grocery store.")

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Tattoo studio means any establishment, place of business, or location, other than a licensed medical facility, an office or clinic of a licensed medical professional, or a duly licensed beauty shop or barber shop, wherein adornment of any part of the human body or head, whether artistic, cosmetic or otherwise, is practiced through the use of needles, scalpels, or any other instruments designed to touch, penetrate or puncture the skin for purposes of: (1) inserting, attaching or suspending jewelry, decorations or other foreign objects; (2) producing an indelible mark or figure on the human body or face by scarring skin or flesh; (3) producing an indelible mark or figure on the human body or face by inserting a pigment under or upon the skin; or (4) permanently changing the color or other appearance of the skin. This term shall not, however, include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

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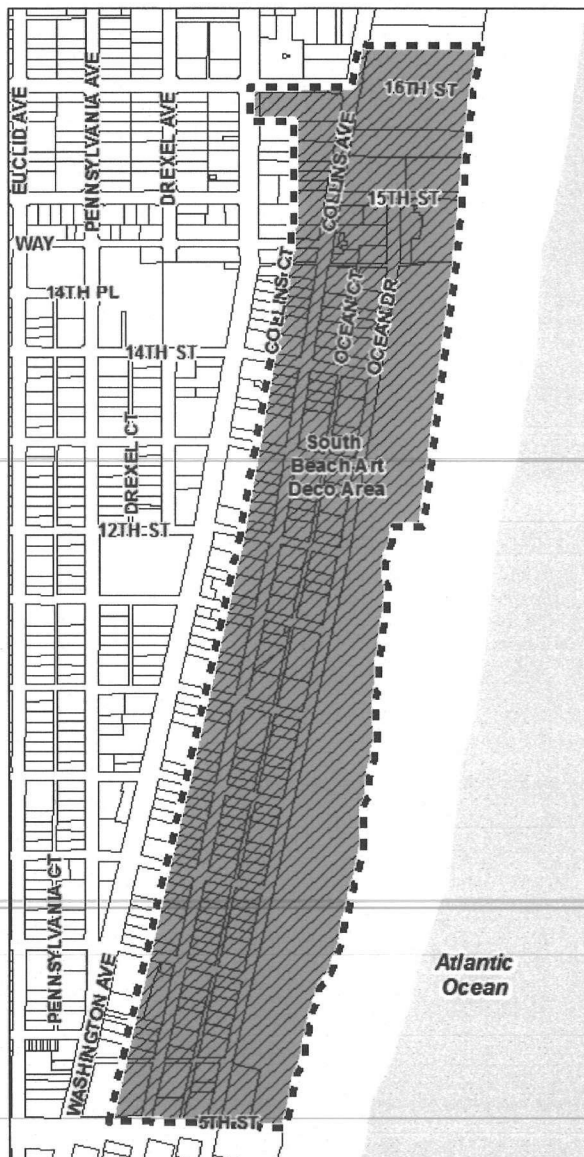
T-shirt is any garment or article of clothing which has no collar, including, but not limited to, T-shirts, sweat shirts, tank tops, shirts or scrub shirts, which are designed or intended generally to be worn on or over the chest and containing any communicative verbiage, graphics, or images imprinted or to be imprinted on the garment or article of clothing, exclusive of a garment manufacturer's mark or logo, exclusive of decorative words and information woven or dyed in the fabric by the manufacturer of the fabric, exclusive of hand stitched, needle work or embroidery, exclusive of tie-dye garments, and exclusive of hand painted or air-brushed garments that contain no communicative verbiage, graphics or images.

Section 2. Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," at Article III, entitled "Overlay Districts," is hereby amended as follows:

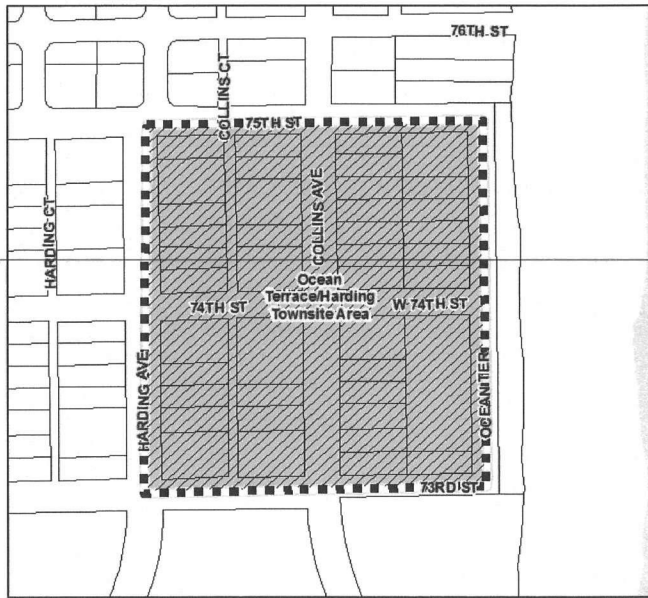
DIVISION 12 – ART DECO / MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT

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 **Washington Collins** Avenue between 5th Street to the south and 16th street to the north and 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.

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 (2) 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 (1) such establishment.
- c. In areas of the Overlay District not included in subsection a. and b. above, there shall be no more than five (5) 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) Marijuana dispensaries shall be prohibited in the Overlay District.

(6) Occult science establishments shall be prohibited in the Overlay District.

(7) 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 (3) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

(8) Pawnshops shall be prohibited in the Overlay District.

(9) 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 (1) such establishment.
- c. In areas of the overlay district not included in subsection a. and b. above, there shall be no more than five (5) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

(10) 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 (5) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

(11) 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 (3) such establishments.

(b) Review procedures.

(1) Commercial establishments in the Overlay District that are not identified in section 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 section 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 section 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 (6) 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 section 142-870.11. (a).
- c. A signed affidavit indicating compliance with the regulations of section 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 prevails.

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 renumbered or relettered 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. Effective Date.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this ____ day of _____, 2017.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney _____
Date

First Reading: _____, 2017
Second Reading: _____, 2017

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