

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 142-698, ENTITLED "COMMERCIAL PERFORMANCE STANDARD AREA REQUIREMENTS," TO CLARIFY THE COMMERCIAL PERFORMANCE STANDARD AREA REQUIREMENTS APPLICABLE BELOW GRADE AREAS, AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, the commercial performance standard area requirements for the PS performance standard district codified in section 142-698 defines certain parcels as the "Block 51 Properties," the "Block 51 Swap Property," the "Block 52 Properties," the "Block 1 Properties," the "Goodman Terrace and Hinson Parcels," and the "Retail Parcel," (the "Defined Parcels"); and

WHEREAS, the Defined Parcels were the subject of certain settlement agreement recognized in a series of Resolutions, including Resolution Nos. 2004-25509, 2004-25649 and 2004-25650 (the "Settlement Resolutions"); and

WHEREAS, the Settlement Resolutions contemplated the preservation and confirmation of certain development rights and restrictions upon the Defined Parcels, many of which are presently codified in the commercial performance standard area requirements; and

WHEREAS, calculation of floor area for below grade areas under the present general land development regulations differs from than that in effect when the Settlement Resolutions and resulting commercial standard area requirements were adopted; and

WHEREAS, Section 1.03 of the City Charter entitled "Powers of the City," provides as follows:

- (c) 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], including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, 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.

WHEREAS, Section 1.03 of the City Charter requires the approval of the City's voters in order to increase the Floor Area Ratio (FAR) of any property or street end by zoning transfer, or any other means, from the FAR allowed as of November 7, 2001; and

WHEREAS, floor area is defined in Section 114-1 of the land development regulations; and

WHEREAS, as of November 7, 2002, the exceptions to the definition of "floor area" in the City's land development regulations included the following provision:

(9) Floor area located below grade ; however if the ceiling is above grade, one half of the floor area that is below grade shall be included in the floor area calculation; (the "Basement Exception")

WHEREAS, the on June 11, 2014, the City adopted Ordinance No. 2014-3876, which eliminated the Basement Exception; and

WHEREAS, on September 14, 2016, the City adopted Ordinance No. 2016-4029, which partially reinstated the Basement Exception for existing contributing structures within a local historic district, national register historic district, or local historic site, and

WHEREAS, Ordinance No. 2016-4029 did not require a general referendum because the partial reinstatement of the Basement Exception was equal to or more restrictive than the FAR regulations in effect on November 7, 2001; and

WHEREAS, the Mayor and City Commission desire to clarify how below grade floor area should be calculated with respect to certain properties that were subject to the Settlement Resolutions; and

WHEREAS, like Ordinance No. 2016-4029, the method for calculating below grade floor area set forth in this Ordinance remains equal to or more restrictive than the FAR regulations in effect on November 7, 2001, thus a referendum on this Ordinance is not required; and

WHEREAS, in order to avoid possible uncertainty and ambiguity, the clarification of the treatment of below grade areas for certain Defined Parcels is necessary and desirable, as it will permit use of surplus floor area for enclosure of spaces that are potential sources of noise disturbances or public safety hazards; and

WHEREAS, the amendments set forth below are necessary to clarify that the historic treatment of certain below grade areas under the Settlement Resolutions and the commercial performance standard area requirements will continue in accordance with 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 Districts" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-698. – Commercial performance standard area requirements.

(a) Definitions. For purposes of this district, the following parcels are defined as set forth below:

- (1) The "Block 51 Properties" shall mean Lots 5-9, 11, 12, 18-30 (and adjacent 10-foot strip of land), Block 51, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County.
- (2) The "Block 51 Swap Property" shall mean Lot 4, Block 51, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County.
- (3) The "Block 52 Properties" shall mean Lots 4-11, Block 52, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County.
- (4) The "Block 1 Properties" shall mean Lots 1-3, 5-13 (and alley adjacent thereto), 17, Block 1, Ocean Beach Florida, PB2, Pg38, Public Records of Miami-Dade County.

- (5) The "Goodman Terrace and Hinson Parcels" shall mean those properties commonly known as the Goodman Terrace and Hinson Parcels, located south of South Pointe Drive and West of Washington Avenue, whose legal description is on file in the City Clerk's Office.
- (6) The "Retail Parcel" shall mean the commercial building located south of South Pointe Drive, between Washington Avenue and the theoretical extension of Collins Avenue.

(b) The commercial performance standard area requirements are as follows:

| | Commercial Subdistricts | | | |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Performance Standard | C-PS1 | C-PS2 | C-PS3 | C-PS4 |
| Minimum lot area | 6,000 square feet | 6,000 square feet | 6,000 square feet | 6,000 square feet |
| Minimum lot width | 50 feet | 50 feet | 50 feet | 50 feet |
| Maximum building height | 40 feet; 75 feet for the Block 51 Properties, the Block 51 Swap Property, Block 52 Properties, and Block 1 Properties | 50 feet—East of Lenox Avenue 75 feet—West of Lenox Avenue | Non-oceanfront—80 feet Oceanfront—100 feet | 150 Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential district not separated by |

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| | | | | a street. However, an applicant may seek approval from the historic preservation board or design review board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017 |
| Maximum floor area ratio | 1.0; 1.5 for the Block 51 Properties and Block 52 Properties, and 2.0 for the Block 1 Properties | 2.0 | 2.5 | 2.5 |
| Residential and/or hotel development | Pursuant to all R-PS2 district regulations, except maximum building height for residential and mixed use buildings shall be 75 feet | Pursuant to all R-PS3 district regulations, except maximum building height for residential and mixed use buildings shall be 75 feet | Pursuant to all R-PS4 district regulations except maximum floor area ratio shall be 2.5; on the Goodman Terrace and Hinson Parcels, the FAR shall be that necessary to achieve 305,500 sq. ft. (estimated at 3.2 FAR), and 300 ft. height maximum for the Goodman Terrace and Hinson Parcels, and open space ratio 0.60 | Pursuant to all R-PS4 district regulations, except maximum floor area ratio shall be 2.5, and open space ratio 0.60 measured at or above grade |

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|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| | | | measured at or above grade | |
| Minimum apartment unit size (square feet) | New construction—650 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 | New construction—600 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 | New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 | New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 |
| Average apartment unit size (square feet) | New construction—900 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 | New construction—850 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 | New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 | New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 |
| Minimum floor area per hotel unit (square feet) | 15% = 300—335 square feet; 85% = 335 + square feet in all districts. | | | |
| Minimum parking requirements | Pursuant to chapter 130 and section 142-702 requirement. | | | |
| Minimum off-street loading | Pursuant to chapter 130. | | | |
| Signs | Pursuant to chapter 138. | | | |

- (c) Notwithstanding the above height restrictions, existing structures within a local historic district are subject to section 142-1161.
- (d) Notwithstanding the above floor area ratio limits, 75 spaces of required parking located on Block 51 for the Retail Parcel pursuant to a covenant under section 130-36, shall not be counted as permitted floor area. Further, the floor area on the Block 51 Properties and the Block 51 Swap Property may be distributed among such properties by covenant in lieu of unity of title; and the floor area on the Block 1 Properties may be distributed among such properties within the block by covenant in lieu of unity of title.
- (e) Notwithstanding any land development regulation to the contrary, and solely for the Block 1 Properties as defined in section 142-698(a) above, if the ceiling of a below grade area is above grade, one-half of the floor area that is below grade shall be included in the floor area ratio calculation.
- (ef) Notwithstanding the building height regulations set forth above, for unified development sites in the CPS-2 district with a lot line on the south side of 5th Street, which are located west of Jefferson Avenue, the maximum building height for office buildings is 75 feet.

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 5. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____ 2023.

PASSED and **ADOPTED** this _____ day of _____, 2023.

ATTEST:

Dan Gelber
Mayor

Rafael E. Granado
City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

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