

North Beach Comprehensive Use Regulations

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE 3, ENTITLED "OVERLAY DISTRICTS," AT SECTION 7.3.7, "ART DECO MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT," TO REMOVE THE "OCEAN TERRACE/HARDING TOWNSITE AREA" FROM THE BOUNDARIES OF THE OVERLAY; AND BY ESTABLISHING SECTION 7.3.10, ENTITLED "NORTH BEACH COMMERCIAL CHARACTER OVERLAY" (1) TO INCORPORATE THE PRE-EXISTING REGULATIONS FROM THE ART DECO/MIMO COMMERCIAL CHARACTER OVERLAY THAT ARE APPLICABLE TO THE "OCEAN TERRACE/HARDING TOWNSITE AREA," (2) TO PROVIDE LIMITS ON THE NUMBER OF PACKAGE LIQUOR STORES, CHECK CASHING STORES, CONVENIENCE STORES, AND TATTOO STUDIOS LOCATED NORTH OF 63<sup>RD</sup> STREET, AND (3) TO PROHIBIT TOBACCO AND VAPE DEALERS, OCCULT SCIENCE ESTABLISHMENTS, VITAMIN STORES, PAWN SHOPS, SOUVENIR AND T-SHIRT SHOPS, AND RELATED NUISANCE USES NORTH OF 63<sup>RD</sup> STREET; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

**WHEREAS**, the area of the City located to the north of 63<sup>rd</sup> Street is generally known as "North Beach"; and

**WHEREAS**, a large portion of the North Beach area is located within the North Shore National Register District and the Normandy Isles National Register District; and

**WHEREAS**, a large portion of the North Beach area is located within the following local historic districts: Normandy Isles Historic District, North Shore Historic District, Harding Townsite Historic District, Altos Del Mar Historic District, and the North Beach Resort Historic District; and

**WHEREAS**, properties fronting Ocean Terrace and Collins Avenue between 73<sup>rd</sup> and 75<sup>th</sup> Streets are within the Harding Townsite historic district and the North Shore National Register historic district; and

**WHEREAS**, properties fronting Harding Avenue between 73<sup>rd</sup> and 75<sup>th</sup> Streets are within the North Shore National Register historic district; and

**WHEREAS**, the City of Miami Beach ("City") has undertaken a master planning process for the North Beach area, including 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**, regulations regarding formula commercial establishments and formula restaurants that are applicable to Ocean Terrace were established by the City on September 25, 2017 through Ordinance no. 2017-4137; and

**WHEREAS**, this Ordinance does not modify the regulations regarding formula commercial establishments and formula restaurants that were established in Ordinance No. 2017-4137, but rather relocates those regulations for improved transparency and clarity; and

**WHEREAS**, the proliferation of certain uses, such as convenience stores, formula restaurants, formula retail establishments, check cashing stores, pawnshops, souvenir and t-shirt shops, tattoo studios, occult science establishments, massage therapy centers, and package liquor stores, can negatively affect the unique character of the City's North Beach neighborhoods; and

**WHEREAS**, it is the intent of the City to limit the proliferation of establishments which may negatively affect the character of North Beach neighborhoods; and

**WHEREAS**, the amendments set forth below are necessary to accomplish all of the above objectives.

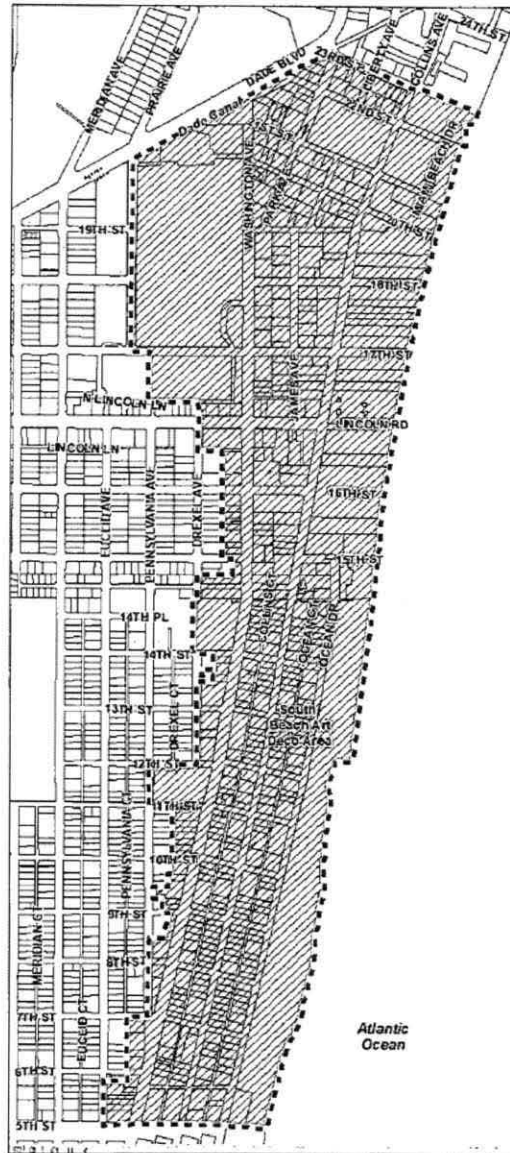
**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.**

**SECTION 1.** Chapter 7, entitled "Zoning Districts and Regulations, Article 3, entitled "Overlay Districts," at Section 7.3.1, "Art Deco MiMo Commercial Character Overlay District," is hereby amended as follows:

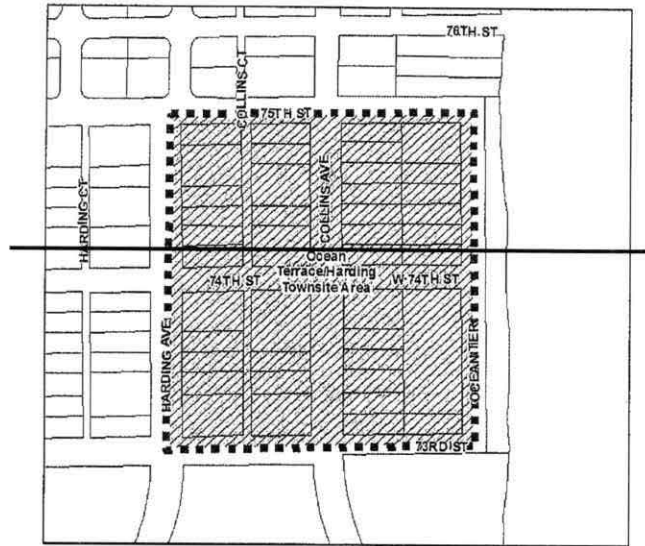
**7.3.1 ART DECO MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT**

**7.3.1.1 Location and purpose (Art Deco MIMO—Commercial Character Overlay District).**

- 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 Avenue between 5th Street on the south and 23rd street on the north and located west of the ocean:



- b. RESERVED. 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 (MAP EXHIBIT-2):



- 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:
- i. 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;
  - ii. 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;
  - iii. 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;
  - ~~iv. 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;~~
  - ~~v. Properties fronting Harding Avenue between 73rd and 75th Streets are within North Shore National Register historic district; and~~
  - ~~vi. vi. 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;~~

- vii. 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;
- viii. Formula commercial establishments and formula restaurants are increasing in number along Ocean Drive and within other historic districts;
- ix. The sameness of formula commercial establishments, while providing clear branding for retailers, conflicts with the city's Vision Statement which includes creating "A Unique Urban and Historic Environment";
- x. 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;
- xi. 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;
- xii. 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;
- xiii. The homogenizing effect of formula commercial establishments, based on their reliance on standardized branding, increases if the size of the establishment, the number of locations or size or use of branded elements is greater;
- xiv. 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;
- xv. Sidewalk cafés are central to the economy of Ocean Drive and enhance the pedestrian experience and historic and cosmopolitan character of the street;
- xvi. 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;
- xvii. 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;
- xviii. 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;

- xix. 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
- xx. It is the intent of the city to limit the number of establishments which may negatively affect surrounding areas.

**7.3.1.2 Compliance with regulations (Art Deco MIMO Commercial Character Overlay District).**

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:

i. Check cashing stores shall comply with the following regulations:

- 1. Such establishments shall be prohibited on lots fronting Ocean Drive ~~and in the Ocean Terrace Harding Townsite Area.~~
- 2. In areas of the overlay district not included in Section 7.3.7.1.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.

ii. Convenience stores shall comply with the following regulations:

- 1. Such establishments shall be prohibited on lots fronting Ocean Drive.
- 2. ~~In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one (1) such establishment.~~
- 3. In areas of the Overlay District not included in Section 7.3.7.1. 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.

iii. Formula commercial establishments shall comply with the following regulations:

- 1. Such establishments shall be prohibited on lots fronting Ocean Drive ~~and Ocean Terrace.~~
- 2. 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.~~

iv. Formula restaurants shall comply with the following regulations:

- 1. Such establishments shall be prohibited on lots fronting Ocean Drive ~~and Ocean Terrace.~~

2. 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.~~
- v. Massage therapy centers shall not operate between 9:00 pm and 7:00 am in the overlay district.
  - vi. Marijuana dispensaries shall be prohibited in the overlay district.
  - vii. Occult science establishments shall be prohibited in the overlay district.
  - viii. Package stores shall comply with the following regulations:
    1. 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.~~
    2. In areas of the overlay district not included in Section 7.3.7.1.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.
  - ix. Pawnshops shall be prohibited in the overlay district.
  - x. Pharmacy stores shall comply with the following regulations:
    1. Such uses shall be prohibited on lots fronting Ocean Drive.
    2. ~~In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one (1) such establishment.~~
    3. In areas of the overlay district not included in Section 7.3.7.1. 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.
  - xi. Souvenir and t-shirt shops shall comply with the following regulations:
    1. Such establishments shall be prohibited on lots fronting Ocean Drive ~~and in the Ocean Terrace/Harding Townsite Area.~~
    2. In areas of the overlay district not included in Section 7.3.7.1.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.
  - xii. Tattoo studios shall comply with the following regulations:
    1. Such uses shall be prohibited on lots fronting Ocean Drive ~~and in the Ocean Terrace/Harding Townsite Area.~~

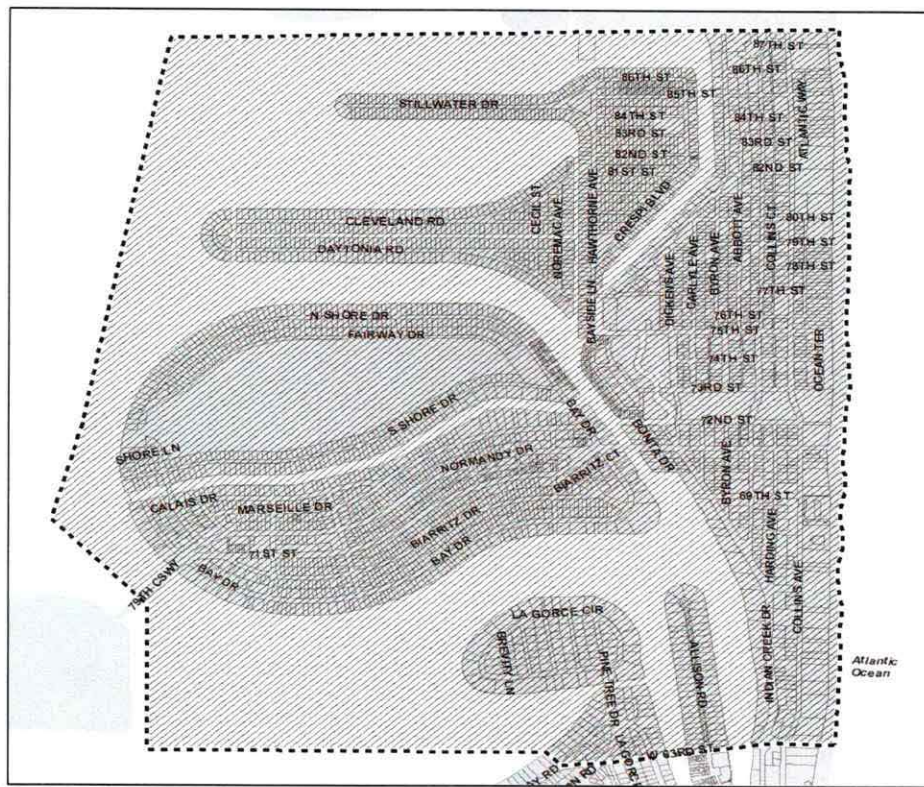
2. In areas of the overlay district not included in Section 7.3.7.1.a above, there shall be no more than three (3) such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.
- xiii. Grocery stores shall comply with the following regulations:
1. Such establishments shall be prohibited on lots fronting Ocean Drive (MAP EXHIBIT-3).
  2. In areas of the overlay district not included in Section 7.3.7.1.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, ~~with the exception of such uses in the Ocean Terrace/Harding Townsite Area.~~
- xiv. Tobacco/vape dealers shall be prohibited in the overlay district.

**SECTION 2.** Chapter 7, entitled “Zoning Districts and Regulations, Article 3, entitled “Overlay Districts,” at Section 7.3.10, “North Beach Commercial Character Overlay District,” is hereby established as follows:

**7.3.10 NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICT**

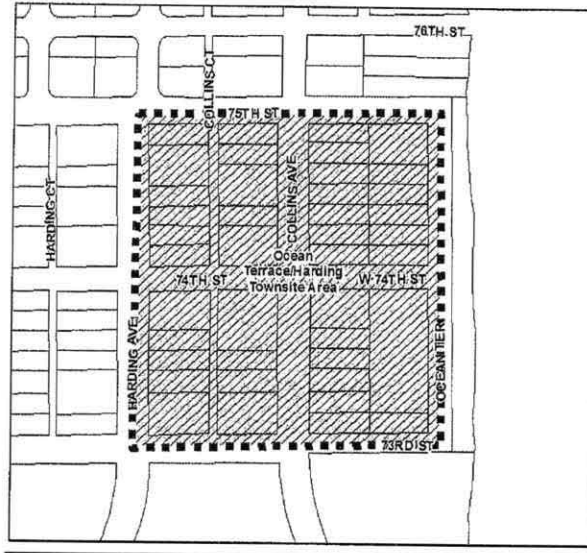
**7.3.10.1 Location and purpose (North Beach Commercial Character Overlay District).**

- a. There is hereby created the North Beach Commercial Character Overlay District (the "overlay district"). The overlay district consists of the properties located to the north of 63<sup>rd</sup> Street, 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:





- 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:
- i. The North Beach area of the City is located to the north of 63<sup>rd</sup> Street;
  - ii. A large portion of the North Beach area is located within the North Shore National Register District and the Normandy Isles National Register District;
  - iii. A large portion of the North Beach area are located within locally designated the Normandy Isles Historic District, North Shore Historic District, Harding Townsite Historic District, Altos Del Mar Historic District, and the North Beach Resort Historic District;
  - iv. 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;
  - v. Properties fronting Harding Avenue between 73rd and 75th Streets are within North Shore National Register historic district;
  - vi. 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;

- vii. 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;
- viii. Formula commercial establishments and formula restaurants are increasing in number within many historic districts;
- ix. The sameness of formula commercial establishments, while providing clear branding for retailers, conflicts with the city's Vision Statement which includes creating "A Unique Urban and Historic Environment";
- x. 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;
- xi. 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;
- xii. 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;
- xiii. The homogenizing effect of formula commercial establishments, based on their reliance on standardized branding, increases if the size of the establishment, the number of locations or size or use of branded elements is greater;
- xiv. 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;
- xv. 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;
- xvi. 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;
- xvii. 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;
- xviii. 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

xix. It is the intent of the city to limit the number of establishments which may negatively affect surrounding areas.

**7.3.10.2 Compliance with regulations (North Beach Commercial Character Overlay District).**

The following regulations shall apply to the overlay district. There shall be no variances allowed from the provisions of this section. 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:

i. Check cashing stores shall comply with the following regulations:

1. Such establishments shall be prohibited on lots fronting in the Ocean Terrace/Harding Townsite Area.
2. In areas of the overlay district not identified in Section 7.3.10.1.b above, there shall be no more than four (4) such establishments.

ii. Convenience stores shall comply with the following regulations:

1. In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one (1) such establishment.
2. In areas of the Overlay District not identified in Section 7.3.10.1.b above, there shall be no more than 25 such establishments.

iii. Formula commercial establishments shall comply with the following regulations:

1. Such establishments shall be prohibited on lots fronting Ocean Terrace.
2. This subsection shall not apply to any establishment in the Ocean Terrace/Harding Townsite Area, other than those fronting Ocean Terrace.

iv. Formula restaurants shall comply with the following regulations:

1. Such establishments shall be prohibited on lots fronting Ocean Terrace.
2. This subsection shall not apply to any establishment in the Ocean Terrace/Harding Townsite Area, other than those fronting Ocean Terrace.

v. Massage therapy centers shall not operate between 9:00 pm and 7:00 am in the Ocean Terrace/Harding Townsite Area.

vi. Occult science establishments shall be prohibited in the overlay district.

vii. Package stores shall comply with the following regulations:

1. Such establishments shall be prohibited in the Ocean Terrace/Harding Townsite Area.
  2. In areas of the Overlay District not identified in Section 7.3.10.1.b above, there shall be no more than six (6) such establishments.
- viii. Pawnshops shall be prohibited in the overlay district.
  - ix. Souvenir and t-shirt shops shall be prohibited in the overlay district.
  - x. Tattoo studios shall comply with the following regulations:
    1. In areas of the Overlay District not included in Section 7.3.10.1.b above, there shall be no more than nine (9) such establishments.
  - xi. Tobacco/vape dealers shall be prohibited in the overlay district.
  - xii. Vitamin stores shall be prohibited in the overlay district.
- b. Review procedures.
- i. Commercial establishments in the overlay district that are not identified in Section 7.3.10.2.a shall comply with the following regulations:
    1. A signed affidavit, in a form approved by the City Attorney and Planning Director, indicating that the business is not an establishment that is regulated by Section 7.3.10.2.a shall be provided to the city as part of the application for a certificate of use and building permit, as applicable.
    2. If the establishment operates in violation of this section, or in a manner that is otherwise inconsistent with the provisions of the signed affidavit, the business tax receipt will be subject to suspension or revocation, as provided in the City Code, and shall immediately cease operation.
  - ii. Commercial establishments in the overlay district that are identified in Section 7.3.10.2.a shall comply with the following regulations:
    1. 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.
    2. Establishments existing as of the date of the enactment of this ordinance shall count towards the maximum number of such establishments permitted within Section 7.3.10.2.a.
    3. A signed affidavit, in a form approved by the City Attorney and Planning Director, indicating compliance with the regulations of Section 7.3.7.10.a for the applicable type of establishment shall be provided to the city prior to obtaining a business

tax receipt.

- 4. If the establishment operates in violation of this section, or in a manner that is otherwise inconsistent with the provisions of the signed affidavit, the business tax receipt will be subject to suspension or revocation, as provided in the City Code, and shall immediately cease operation.
- 5. 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 between two or more regulations, the more stringent code requirement shall control.

**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. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** \_\_\_\_\_.

**ATTEST:**

\_\_\_\_\_  
Dan Gelber, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

First Reading: June 28, 2023  
Second Reading: July 26, 2023

  
\_\_\_\_\_  
City Attorney      NK      6-20-23  
Date

Verified By: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director