

**Bed & Breakfast Prohibition Exception – West Avenue Overlay**

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

**AN ORDINANCE OF THE MAYOR AND COMMISSION OF THE CITY OF MIAMI BEACH AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” ARTICLE III, ENTITLED “OVERLAY DISTRICTS,” AT SECTION 7.3.3, ENTITLED “WEST AVENUE BAY FRONT OVERLAY,” TO PROVIDE AN EXCEPTION FOR BED AND BREAKFAST INNS IN THE WEST AVENUE BAY FRONT OVERLAY; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the West Avenue neighborhood is primarily comprised of residential uses;  
and

**WHEREAS**, Objective RLU 1.3, entitled “Land Use Compatibility,” of the Resilient Land Use and Development Element of the City’s 2040 Comprehensive Plan provides that “[I]and development regulations will be used to address the location, type, size, and intensity of land uses and to ensure adequate land use compatibility between residential and non-residential land uses”;  
and

**WHEREAS**, the Mayor and City Commission desire to encourage uses that are compatible with the low-scale character of the West Avenue neighborhood; and

**WHEREAS**, on September 17, 2021 the City Commission adopted Ordinance No. 2021-4443, which prohibited any future bed and breakfast inns within the Overlay; and

**WHEREAS**, the amendments set forth below are necessary to accomplish 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 III, entitled “Overlay Districts,” at Section 7.3.3 Entitled “West Avenue Bay Front Overlay,” is hereby amended, as follows:

**CHAPTER 7. ZONING DISTRICTS AND REGULATIONS**

\* \* \*  
**ARTICLE III. OVERLAY DISTRICTS**

\* \* \*

**7.3.3 WEST AVENUE BAY FRONT OVERLAY.**

\* \* \*

#### **7.3.3.4 Legal nonconforming and other transient uses (West Avenue Bay Front Overlay).**

- a. Bed and breakfast inns, suite hotels and hostels shall be prohibited in the subject overlay area.
- b. Existing, legal nonconforming suite hotels and bed and breakfast inns, located within the overlay, shall not be permitted to expand any existing structure, operation, or building footprint, in any manner whatsoever. Additionally, such legal nonconforming uses shall adhere to the following regulations:
  - i. Accessory uses, including, but not limited to, dining halls, restaurants, cafes, retail, personal service, alcoholic beverage establishments, dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, and open air entertainment establishments shall be prohibited.
  - ii. The building identification sign for a bed and breakfast inn shall be the same as allowed for an apartment building in the underlying zoning district in which it is located.
  - iii. The building(s) shall have central air conditioning or flush-mounted wall units; however, no air conditioning equipment may face a street or the Bay.
  - iv. The maximum amount of time that any person other than the owner may stay in a bed and breakfast inn during a one-year period shall not exceed six (6) months.
- c. Existing, legal nonconforming bed and breakfast inns, inclusive of properties that were issued a building permit process number on or before October 1, 2021 for the conversion of an existing single-family residence to a bed and breakfast inn, and which permit process number and/or subsequent building permit associated with the permit process number for a bed and breakfast inn remains active, shall be subject to the following conditions:
  - i. The owner/operator of the bed and breakfast inn shall permanently reside in the structure.
  - ii. The structure shall have originally been constructed as a single-family residence. The structure may have original auxiliary structures such as a detached garage or servant's residence that may or may not be used as part of the inn.
  - iii. The structure shall maintain main public rooms (living room/dining room) for use of the guests.
  - iv. Original auxiliary structures, such as detached garages and servants' residences, may be converted to guestrooms or other appropriate use. New bedrooms constructed shall have a minimum size of 200 square feet and shall have a private bathroom.
  - v. There shall be no cooking facilities/equipment in guestrooms. One small refrigerator with maximum capacity of 5 cubic feet shall be permitted in each guestroom. All cooking equipment, which may exist, shall be removed from the structure with the exception of the single main kitchen of the house.



- vi. The bed and breakfast inn may serve meals to registered guests and their visitors only. Permitted meals may be served in common rooms, guestrooms or on outside terraces (see Section 7.5.5.5.a.ix). The meal service is not considered an accessory use and is not entitled to an outside sign.
- vii. Permitted meals may be served in areas outside of the building under the following conditions:
  1. The area shall be landscaped and reviewed under the design review process. Landscape design shall effectively buffer the outdoor area used for meals from adjacent properties and the street.
  2. All meals served outdoors shall be prepared for service from inside facilities. Except for the use of a barbecue, all outdoor preparation, cooking as well as outdoor refrigeration and storage of food and beverages shall be prohibited.
- viii. Properties issued a building permit process number on or before October 1, 2021, for the conversion of an existing single-family residence to a bed and breakfast inn shall only be eligible for the use of bed and breakfast inn if, at the owner's sole discretion, the owner voluntarily executes and records a covenant running with the land, in a form acceptable to the planning director and city attorney, agreeing that the bed and breakfast use shall terminate prior to any sale or other transfer of ownership of the property. In the event a permit process number issued on or prior to October 1, 2021 for the conversion of a single-family home to a bed and breakfast inn, and/or the subsequent permit issued pursuant to such permit process number, is abandoned, expires or becomes inactive, for any reason, the bed and breakfast inn use shall no longer be permitted, and the property must convert to a conforming use.

**SECTION 2. 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 Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

**SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**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 \_\_\_\_\_, 2023.

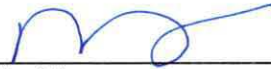
**ATTEST:**

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

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

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

First Reading: September 13, 2023  
Second Reading: October 18, 2023

  
\_\_\_\_\_  
City Attorney NK 8-4-23  
Date

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

(Sponsored by Commissioner Laura Dominguez)