



CITY OF NORTH MIAMI BEACH

Special Meeting

City Hall, Commission Chambers, 2nd Floor

17011 NE 19th Avenue

North Miami Beach, FL 33162

Thursday, November 7, 2024

4:00 PM

Mayor Evan S. Piper

Vice Mayor Fortuna Smukler

Commissioner Jay R. Chernoff

Commissioner McKenzie Fleurimond

Commissioner Daniela Jean

Commissioner Michael Joseph

Commissioner Phyllis S. Smith

City Manager Mario A. Diaz

Interim City Attorney, John Herin

City Clerk Andrise Bernard, MMC

Notice to All Lobbyists

Any person who receives compensation, remuneration or expenses for conducting lobbying activities is required to register as a Lobbyist with the City Clerk prior to engaging in lobbying activities before City Boards, Committees, or the City Commission.

Special Meeting Agenda

1. **ROLL CALL OF CITY OFFICIALS**
2. **PLEDGE OF ALLEGIANCE**
3. **PUBLIC COMMENT**
4. **LEGISLATION**

**4.1. Ordinance No. 2024-14 (Second Reading) Biscayne Overlay District
(Zafar Ahmed, Community Development Director)**

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE CITY OF NORTH MIAMI BEACH CODE BY AMENDING CHAPTER XXIV, ENTITLED "ZONING AND LAND DEVELOPMENT"; AMENDING ARTICLE V, ENTITLED "ZONING USE DISTRICTS"; AMENDING SECTION 24-52, ENTITLED "B-2 GENERAL BUSINESS DISTRICT", TO CREATE SUBSECTION 24-52.1 ENTITLED "B2 GENERAL BUSINESS DISTRICT OVERLAY", TO PROVIDE SPECIFIC REQUIREMENTS, AND TO PROVIDE

**UNIFORM DEVELOPMENT STANDARDS FOR PROPERTIES
FACING THE BISCAYNE CORRIDOR WITHIN THE B2 GENERAL
BUSINESS DISTRICT; PROVIDING FOR CONFLICTS,
SCRIVENER ERRORS, SEVERABILITY, AND CODIFICATION;
AND PROVIDING FOR AN EFFECTIVE DATE.**

5. ADJOURNMENT



Legislation
4.1.

City of North Miami Beach
17011 NE 19 Avenue
North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

TO:	Mayor and City Commission
FROM:	City Manager Mario A. Diaz
VIA:	Edward Ng, AICP, Interim Community Development Director
DATE:	November 7, 2024

RE: Ordinance No. 2024-14 (Second Reading) Biscayne Overlay District (Zafar Ahmed, Community Development Director)

Description

BACKGROUND

ANALYSIS:

RECOMMENDATION:

FISCAL/ BUDGETARY

IMPACT:

ATTACHMENTS:

Description

- Biscayne Corridor - B2District Overlay - Sect. 24-52 - City Manager Memo upd (11-7-2024)
- Biscayne Corridor - B2District Overlay - STAFF REPORT (upd 10-31-2024)
- Biscayne Corridor - B2District Overlay - Business Impact Statement
- Biscayne Corridor - B2District Overlay - Sect. 24-52 ORDINANCE DRAFT upd



City of North Miami Beach, Florida
Community Development Department- Planning & Zoning Division

TO: Mario Diaz, City Manager

THROUGH: Zafar Ahmed, Community Development Director Jackie Génard,

FROM: City Planner

CC: David Scott, Deputy City Manager

DATE: October 30, 2024

SUBJECT: **Biscayne Corridor B2-District Overlay**

Description:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER XXIV OF THE CITY'S CODE OF ORDINANCE ENTITLED "ZONING AND LAND DEVELOPMENT" BY AMENDING ARTICLE V ENTITLED "ZONING USE DISTRICTS", CREATING A NEW SECTION TO ESTABLISH THE "BISCAYNE CORRIDOR B2-DISTRICT OVERLAY"; SPECIFICALLY SECTION 24-52.1, ENTITLED "BISCAYNE CORRIDOR B2-DISTRICT OVERLAY", TO INCLUDE REGULATIONS FOR THE OVERLAY DISTRICT; TO ENCOURAGE SUSTAINABLE DEVELOPMENT WITHIN THE DISTRICT; PROVIDING THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES, PROVIDING FOR CONFLICT; PROVIDING FOR SCRIVENER ERRORS; PROVIDING FOR SEVERABILITY; CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Background:

The County's Rapid Transit Zone (RTZ) Ordinance requires that incorporated areas set minimum standards over all development within the RTZ subzone. This requirement involves adopting a local ordinance with its own zoning district and development standards able to satisfy the minimum Floor Area Ratio (FAR) requirement of the county's ordinance, as well as procedures for review and approval of zoning applications. Consequently, the need to create an overlay district to address the new FAR regulations was important. This overlay will address the change in regulations for developments happening within the B2-District only in the major corridor of Biscayne Boulevard. The request to approve the Ordinance amending Article V entitled "Zoning Use Districts", therefore, creating a new section to establish the "Biscayne Corridor B2-District Overlay" to match the city's amendment to the Comprehensive Plan was submitted by Director of the Community Development department of The City of North Miami Beach.

Staff Analysis:

To address these requirements, a request has been made to create an overlay district specifically targeting the new FAR regulations. This overlay will pertain exclusively to developments within the B2-District of the major corridor.



City of North Miami Beach, Florida
Community Development Department- Planning & Zoning Division

This request to approve amending the city's ordinance, particularly Article V, entitled "Zoning Use Districts," involves creating a new sub-section (Section 24-52.1) that establishes the "Biscayne Corridor B2-District Overlay". This overlay is intended to align with the city's amendments to its Comprehensive Plan as well as matching the RTZ. The proposal was made by the Director of the Community Development Department of the City of North Miami Beach.

A workshop was conducted on July 8, 2024, to present the Planning and Zoning Board with the intent behind the proposed overlay on Biscayne Boulevard and to gather feedback regarding the recommended height, uses and density within the overlay. Feedback and concerns regarding the maximum height were incorporated within this proposed draft. The overlay is designed to reflect the community's needs and the Planning and Zoning Board's recommendations, ensuring that future developments are consistent with the city's long-term planning objectives.

On August 12, 2024, at the Planning and Zoning Board meeting, the item was heard and unanimously voted 7 to 0 to move to approve the text Amendment (File# 24-15), to amend the City of North Miami Beach Code of Ordinances Chapter XXIV, entitled "Zoning and Land Development", Article V "Zoning Use Districts" to include Section 24-52.1 "Biscayne Corridor B2-District Overlay".

The proposed amendments will match the County's Strategic Miami Area Rapid Transit (SMART) plan and consist of bonus density aim to encourage development on the existing B2 district along the corridor in exchange for public benefits, such as affordable and workforce housing, open space and transportation improvement, place making and civic infrastructure. The proposed amendment aligns with North Miami Beach's Comprehensive Plan and meets the purpose and intent of its designated zoning district. By implementing this overlay, the city will be able to uphold the minimum development standards required by the County's RTZ Ordinance while also addressing specific local needs and concerns within the B2-District of the Biscayne Corridor. Approving this recommendation will ensure consistency with the City's comprehensive plan and land development regulations, in addition to promoting sensitive development along the major corridor.

A public hearing was held on July 8, 202, to introduce the Planning and Zoning Board to the intent of the density overlay on Biscayne Boulevard and acquire feedback on recommendation for the proposed height density. Following the recommendations, staff drafted the ordinance to reflect the feedback and address the Board's concerns. On August 12, 2024, the Planning and Zoning Board voted 7 to 0 with recommendation of approval to creating the Biscayne Corridor B2-District Overlay.

The proposed ordinance has no negative impact on businesses.

The proposed amendment is consistent with North Miami Beach's Comprehensive plan and meets the purpose and intent of its designated zoning district.

Contact Person(s):

Edward Ng, AICP, Interim Community Development Director
Jackie D. Génard, City Planner, Community Development Department



City of North Miami Beach, Florida
Community Development Department- Planning & Zoning Division



City of North Miami Beach, Florida

Community Development Department – Planning & Zoning Division

17050 NE 19TH AVENUE

1ST FLOOR

NORTH MIAMI BEACH, FLORIDA 33162

PLANNING & ZONING DIVISION: (305) 948-2966

CITY COMMISSION		
Meeting Date: 11/07/2024 2 nd Reading	File No: 24-15	Application Name: Text Amendment Ordinance for new Business (B2) District Overlay on Biscayne Boulevard Corridor.
STAFF REPORT		
Request: To put forth a set of rules and regulations amending the city code to create an overlay for the Biscayne Corridor, particularly the B2 Business District, to provide for sustainable development within the district and match the County’s Rapid Transit Zone (RTZ) provisions.		
Background: In accordance with the County's RTZ Ordinance, which mandates that incorporated areas establish minimum standards for all developments within the RTZ subzone, a local ordinance must be adopted. As per the RTZ study submitted by Kimley Horn, this ordinance should include a unique zoning district and development standards that meet the minimum Floor Area Ratio (FAR) requirements, specified by the county, as well as procedures for the review and approval of zoning applications.		
Staff Analysis: To address these requirements, a request has been made to create an overlay district specifically targeting the new FAR regulations. This overlay will pertain exclusively to developments within the B2-District of the major corridor. This request to approve amending the city’s ordinance, particularly Article V, entitled "Zoning Use Districts," involves creating a new sub-section (Section 24-52.1) that establishes the "Biscayne Corridor B2-District Overlay". This overlay is intended to align with the city's amendments to its Comprehensive Plan as well as matching the RTZ. The proposal was made by the Director of the Community Development Department of the City of North Miami Beach. A workshop was conducted on July 8, 2024, to present the Planning and Zoning Board with the intent behind the proposed overlay on Biscayne Boulevard and to gather feedback regarding the recommended height, uses and density within the overlay. Feedback and concerns regarding the maximum height were incorporated within this proposed		

Project Planner:	Review Dates:	Attachments
Jackie D. Génard City Planner jackie.genard@citynmb.com 305-948-2966 Ext. 3515	<u>Planning & Zoning Board:</u> August 12, 2024 <u>City Commission:</u> October 15, 2024 (1 st Reading) November 07, 2024 (2 nd Reading)	<ol style="list-style-type: none"> 1. Draft Ordinance 2. City Manager Memo 3. Business Impact Statement

draft. The overlay is designed to reflect the community's needs and the Planning and Zoning Board's recommendations, ensuring that future developments are consistent with the city's long-term planning objectives.

On August 12, 2024, at the Planning and Zoning Board meeting, the item was heard and unanimously moved to approve the text Amendment (File# 24-15), to amend the City of North Miami Beach Code of Ordinances Chapter XXIV, entitled "Zoning and Land Development", Article V "Zoning Use Districts" to include Section 24-52.1 "Biscayne Corridor B2-District Overlay".

On October 15, 2024, the Ordinance was voted as is by the City Commission for the first reading 6 to 0. Nonetheless, the City Commission expressed some concerns analyzed further with the proposed changes noted in red on the draft ordinance. Those changes are the following:

- Density too high
Upon further review, staff clarified the table to reflect clarity along existing conditions with the surrounding neighborhood, along and off the corridor.
- Bonus Types
The bonus types were reviewed, additional language was added for Bonus Type A to clarify the applicant's contribution along with the bonus.
The contribution to an affordable Housing Fund option was removed to encourage developers to dedicate either affordable or workforce housing within their market rate residential developments.
The contribution to Transportation Trust Fund in Bonus Type B – Transportation improvement was amended to require the developer to contribute one (1) percent of the cost of development above all impact fees and mitigation fees required by the city.
- The library participation Fund in Bonus Type E was updated to include the same requirement for the Transportation Trust Fund. The table was also amended for clarity to include the Bonus Height of seventy (70) feet and a maximum not to exceed three hundred fifty (350) feet.
- The waiver clause was amended to give the Commission full authority to wave the overlay ratio by a two-third (2/3) vote.
- The funds identified in Section H II(c) of the draft will be deposited, once recovered as a result of a violation of the draft ordinance in a dedicated account to be established for that purpose.

Consistency with the Comprehensive Plan:

Staff finds that amending the City of North Miami Beach Code of Ordinances Chapter XXIV, entitled "Zoning and Land Development", Article V "Zoning Use Districts" to incorporate Section 24-52.1 "Biscayne Corridor B2-District Overlay" is consistent with the City's Comprehensive Plan Objective 1.8, Policy 1.8.2.

The proposed amendment aligns with North Miami Beach's Comprehensive Plan. The amendment also supports Policy 1.1.3 of the Comprehensive Plan Transportation Element; Goal 1 and Policy 1.2.7 of the Future Land Use Elements; Conservation Element Policy 1.5, Policy 1.3.4 and Policy 1.6.1. This amendment meets the purpose and intent of its designated zoning district. By implementing this overlay, the city will be able to uphold the minimum development standards required by the County's RTZ Ordinance while also addressing specific local needs and concerns within the B2-District of the Biscayne Corridor. This ordinance will also support the city's 2029 goal and vision to develop a revitalized downtown and foster vibrant and thriving major corridors. Approving this recommendation will ensure

consistency with the City's comprehensive plan and land development regulations, in addition to promoting sensitive development along the major corridor.

Compliance with the Code of Ordinance:

Staff finds that amending the City of North Miami Beach Code of Ordinances Chapter XXIV, entitled "Zoning and Land Development", Article V "Zoning Use Districts" to incorporate Section 24-52.1 "Biscayne Corridor B2-District Overlay" is consistent with the existing Code of Ordinances, purpose and intent of the code as per Section 24-2.

The Text Amendment to Article V of Chapter XXIV of the Zoning and Land Development, to include Section 24-52.1 entitled "Biscayne Corridor B2-District Overlay" will ensure consistency with the City's land development regulations, which purpose and intent are to provide, as per Section 24-2, land use planning and development criteria, standards and regulations to "promote, protect and improve, in accordance with present and future needs, the public health, safety, comfort, good order, appearance, convenience, morals, law enforcement and fire protection and general welfare of the citizens and residents of the city". The overlay overall will provide as stated in the City's Code of Ordinance, for orderly growth, development, and environmental protection. This overlay will support the County's RTZ requirement, preventing therefore, the overcrowding of land and avoid undue concentration of population while facilitating adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing and other requirements and services.

Compatible with Surrounding Neighborhood

The proposed overlay is compatible with the current surrounding trend of development within the Biscayne Boulevard corridor. While the purpose and intent of the code is to provide a vehicle for coordination for all planning and development decisions within the area, including County, regional and state planning agencies and authorities, the overlay is in strict accordance with present and future needs of businesses, and residents along the Biscayne Boulevard corridor.

Board Motion Options for Items:

1. **Move to continue** with direction.
2. **Move to approve** the Text Amendment (File# 24-15), to amend the City of North Miami Beach Code of Ordinances Chapter XXIV, entitled "Zoning and Land Development", Article V "Zoning Use Districts" to include Section 24-52.1 "Biscayne Corridor B2-District Overlay" by finding that the request is consistent with the City Charter and the Comprehensive Plan, and meets criteria set forth in the Zoning and Land Development Regulations.
3. **Move to deny** the Text Amendment (File# 24-15), to amend the City of North Miami Beach Code of Ordinances Chapter XXIV, entitled "Zoning and Land Development", Article V "Zoning Use Districts" to include Section 24-52.1 "Biscayne Corridor B2-District Overlay" by finding that the request is inconsistent with the City Charter and the Comprehensive Plan and does not meet the criteria set forth in the Zoning and Land Development Regulations





City of North Miami Beach, Florida

Community Development Department – Planning & Zoning Division

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Business Impact Estimate

Directions to using/sponsoring department staff: Pursuant to F.S. s. 166.041(4), as amended by Ch. 2023-101, Laws of Florida, the City is required to prepare a Business Impact Statement for ordinances that are NOT exempt from this requirement. A list of ordinance exemptions is provided below. Please check all exemption boxes that apply to the proposed ordinance. If none of the boxes are checked, please complete and sign the Business Impact Statement on the following page.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Prepared by: Edward Ng./Interim Director/
Community Development

Date: 10/15/2024

Printed Name/Title/Department

Regardless of whether any of the boxes are checked, Include this completed page in the agenda packet.

*If none of the boxes above are checked, complete the attached Business Impact Statement and include the completed Statement as part of the agenda package. **The completed Statement must be posted on the City of North Miami Beach web site not later than the time notice of the proposed ordinance is published.***

BUSINESS IMPACT STATEMENT

ORDINANCE TITLE

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER XXIV OF THE CITY'S CODE OF ORDINANCE ENTITLED "ZONING AND LAND DEVELOPMENT" BY AMENDING ARTICLE V ENTITLED "ZONING USE DISTRICTS", CREATING A NEW SECTION TO ESTABLISH THE "BISCAYNE CORRIDOR B2-DISTRICT OVERLAY"; SPECIFICALLY SECTION 24-52.1, ENTITLED "BISCAYNE CORRIDOR B2-DISTRICT OVERLAY", TO INCLUDE REGULATIONS FOR THE OVERLAY DISTRICT; TO ENCOURAGE SUSTAINABLE DEVELOPMENT WITHIN THE DISTRICT; PROVIDING THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES, PROVIDING FOR CONFLICT; PROVIDING FOR SCRIVENER ERRORS; PROVIDING FOR SEVERABILITY; CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE SUMMARY

(Must include a statement of the public purpose, such as serving the public health, safety, morals, and welfare):

This overlay will address the change in regulations for developments happening within the B2-District only in the major corridor of Biscayne Boulevard. The request to approve the Ordinance amending Article V entitled "Zoning Use Districts", therefore, creating a new section to establish the "Biscayne Corridor B2-District Overlay" to match the city's amendment to the Comprehensive Plan was submitted by Director of the Community Development department of The City of North Miami Beach.

The City Commission has determined that these amendments would promote the public interest by increasing the economic vitality of the Biscayne Corridor.

ESTIMATE OF THE DIRECT ECONOMIC IMPACT OF THE PROPOSED ORDINANCE ON PRIVATE, FOR-PROFIT BUSINESSES IN THE CITY OF NORTH MIAMI BEACH, IF ANY: **NONE**

ESTIMATE OF DIRECT COMPLIANCE COSTS THAT BUSINESSES MAY REASONABLY INCUR: **NONE**

DESCRIPTION OF NEW CHARGES/FEEES IMPOSED BY THE PROPOSED ORDINANCE OR FOR WHICH BUSINESSES WILL BE FINANCIALLY RESPONSIBLE: **NONE**

ESTIMATE OF THE CITY'S REGULATORY COSTS, INCLUDING ESTIMATED REVENUES FROM ANY NEW CHARGES OR FEES TO COVER SUCH COSTS: **NONE**

GOOD FAITH ESTIMATE OF THE NUMBER OF BUSINESSES LIKELY TO BE IMPACTED BY THE PROPOSED ORDINANCE: **NONE**

ADDITIONAL INFORMATION THE GOVERNING BODY DEEMS USEFUL (IF ANY): **N/A**

SIGNATURE

DATE

ORDINANCE NO. 2024-XX

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE CITY OF NORTH MIAMI BEACH CODE BY AMENDING CHAPTER XXIV, ENTITLED “ZONING AND LAND DEVELOPMENT”; AMENDING ARTICLE V, ENTITLED “ZONING USE DISTRICTS”; AMENDING SECTION 24-52, ENTITLED “B-2 GENERAL BUSINESS DISTRICT”, TO CREATE SUBSECTION 24-52.1 ENTITLED “B2 GENERAL BUSINESS DISTRICT OVERLAY”, TO PROVIDE SPECIFIC REQUIREMENTS, AND TO PROVIDE UNIFORM DEVELOPMENT STANDARDS FOR PROPERTIES FACING THE BISCAYNE CORRIDOR WITHIN THE B2 GENERAL BUSINESS DISTRICT; PROVIDING FOR CONFLICTS, SCRIVENER ERRORS, SEVERABILITY, AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami Beach ("City") Zoning and Land Development (ZLD) Code defines and regulates the various uses permitted within each zoning district of the City; and

WHEREAS, amendments to the Comprehensive Plan and Zoning and Land Development Code provide for policies and regulations that address concerns such as aesthetics and compatibility by emphasizing site design, circulation and building form; and

WHEREAS, by focusing zoning regulations on site design, circulation and building form the predictability of development that meets City goals and objectives is increased and the conventional approach to strictly regulating land uses is no longer a practical approach to regulating zoning; and

WHEREAS, the proposed amendment is part of a comprehensive process to modernize and update the Zoning and Land Development Code, the amendment defines land-use categories and removes many of the listed uses that now fall within the defined categories; and

WHEREAS, the proposed amendment is consistent with the County’s Transit Oriented Development (TOD) standards and requirements; and

WHEREAS, the proposed amendment to modify ZLD’s Section 24-52 of Article V of Chapter XXIV to add Section 24-52.1 to the Code to create a district overlay for consistency with the City of North Miami Beach's Comprehensive Plan, and recommended approval by a vote of 7 to 0; and

WHEREAS, the Mayor and City Commission find the proposed amendments to be consistent with the North Miami Beach Comprehensive Plan and in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Commission of the City of North Miami Beach, Florida:

Section 1. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. That Chapter XXIV, entitled “Zoning and Land Development,” Article V, entitled “Zoning Use District”, Section 24-52 to add a new subsection “24-52.1 – B2 General Business District Overlay” shall be amended as follows (deletions and additions are identified using a ~~strike through~~ and underline format, respectively):

* * *

CHAPTER XXIV – ZONING AND LAND DEVELOPMENT

* * *

ARTICLE V. – ZONING USE DISTRICT

* * *

SEC.24-52. B2 GENERAL BUSINESS DISTRICT

* * *

Sec. 24-52.1 – B2 General Business District Overlay

(A) Purpose and Intent:

The purpose of this overlay district is to provide suitable developments within the B2 District along the Biscayne Corridor from NE 135th Terrace to NE 174th Street, consisting of mixed-use development with at least one thousand (1,000) square feet of first floor commercial, facing the Biscayne Corridor.

The overlay district is intended to accommodate and encourage suitable sites for well planned, environmentally sound, and architecturally compatible mixed-use residential/commercial development; promote transit-oriented development that would provide for sustainable and resilient communities, ensure new publicly accessible open spaces, as well as encourage placemaking. This overlay district shall comprise of residential, retail and professional services, and commercial uses of a general nature which serve the diverse consumer needs of the entire community, in accordance with the City's Comprehensive Plan Land Use Element.

(B) **Overlay district boundaries:**

The B2 General Business District Overlay extends along the Biscayne Corridor, from NE 135th Terrace to NE 174th Street as depicted in Figure 1 below.



(C) **Definition:**

Affordable housing means rents that do not exceed the maximum monthly rent limits as determined for Miami-Dade County by the United States Department of Housing and Urban Development in its annual income limits and rent limits and as used by Florida Housing Finance Corporation for its multifamily rental programs, established at thirty percent (30%) up to eighty (80%) of the median family income.

Bonus Density means an increase in the density of development that can be carried out on a parcel of land over and above the standard density range permitted by the comprehensive plan for the land use category in which it is located.

Building height is for the purpose of this overlay district, is calculated from the base flood elevation plus free board, not to exceed three (3) feet, to the top of the roof line, not including the parapet.

Civic infrastructure for the purpose of this section refers to any place, program, or practices that would encourage and foster civic engagement within the community.

Density is the permissible number of dwelling units that are allowed per gross lot area.

Developer means any person, firm, corporation, partnership limited liability company, association, joint venture or any entity or combination of entities that apply for development orders or permits.

Flex building type means a building that is designed to respond to changes of function in a flexible way. The flex building type is able to accept different internal configurations and easily adapt to its surroundings.

Floor area is the gross horizontal area of all floors, including but not limited to, enclosed porches, hallways, storage rooms, stairwells, breezeways, elevator shafts and utility rooms, measured from the exterior faces or columns of the exterior walls of a building or from the center line of a party wall separating two (2) adjacent uses or dwellings. Vehicular garages shall not be included in determining gross floor area.

Floor Area Ratio (FAR) is determined by dividing the gross floor area of the building (or buildings) on a lot by the area of that lot.

Commented [G1]: 80 to 120

Height is measured from the base flood elevation plus freeboard, not to exceed three (3) feet.

Height encroachment: Height encroachment cannot be extended more than fifteen (15) feet above the roof line. Any mechanical equipment located on the rooftop shall not be visible from the street or any line of sight.

Market rate dwelling units means all units in a covered development that are not affordable housing or workforce housing units as defined herein.

Mixed use buildings shall be described as a set of buildings containing a mix of residential, commercial and/ or office uses. Residential uses are allowed in this overlay as part of a mixed use of residential and commercial. Residential lobby shall not be counted as commercial use unless a stated commercial use is associated with it.

Open space shall be defined as common open landscaped areas open to the sky. Open vehicular roads shall not be included in calculating the open space within this overlay. For the purposes of this section, the calculation of open space does not include private street, and rights-of-way dedications.

Overlay district refers to a geographic area that provides zoning regulations under a unified purpose that supersedes or supplements an existing zoning regulation in a particular district. The overlay district provides for zoning incentives and waivers to encourage responsible development in areas targeted for redevelopment.

Place Making refers to any public spaces that encourages and improves the city's urban vitality and promotes the urban character of a particular neighborhood or space. It refers to the nature of place identity.

Setback encroachments. For the purpose of this section, not structures can encroach more than seven and half (7.5) feet within the required setbacks.

Transportation Improvement refers to any investment in city street or right of way that is included on site. It may include public transportation, design, construction and operation, preservation, and maintenance of any transportation related facilities.

Workforce housing means rents that do not exceed the maximum monthly rent limits as determined for Miami-Dade County by the United States Department of Housing and Urban Development in its annual income limits and rent limits and as used by Florida Housing Finance Corporation for its multifamily rental programs, established at eighty percent (80%) up to one hundred and twenty percent (120%) of the median family income.

(D) Uses Permitted.

1. Main Permitted Uses

The main permitted uses in the Biscayne (B2) Overlay district are listed below, in addition to public & semi-public facilities, and their required parking. Dancehalls and entertainment establishments are not permitted as main, conditional, or accessory use in this district.

Commented [G2]: 80 to 120

Commented [G3]: Out of parking and traffic concerns. What do you think?

Table D-1	
By Right	Conditional Use
Mixed-Use Residential Development with at least sixty five percent (65%) of the total square footage used for residential purposes.	Art gallery/ Museum
Multifamily residential except on the ground floor	
Office (business/ professional uses), and medical office providing it is for outpatient care services only.	Entertainment Establishment (excluding adult entertainment)
Retail uses (general retail)	Animal Boarding/Animal Hotel
Restaurant including outdoor dining. (Excluding drive thru)	Parking garages as a primary use, provided that parked vehicles shall not be visible from surrounding properties or public street rights-of-way and that any such structure shall be well landscaped.
Bar and Lounge, provided that any such use shall not be located within five hundred (500) feet of certain real property as amended per FL Statute 562.45(2)(a).	Microbrewery/ Winery/ Distillery
Civic Uses	Daycare Centers
Studio Schools: Art, dance, drama, recording, sculpture, and similar instruction.	Waterfront uses - If property is facing independent waterfront.
Personal Service uses	
Public Parks and Playground	
Hotels/ Boutique Hotels	
Pharmacy	
Urban Market & Garden	
Commercial Recreation	
Artisanal Industry	

Commented [G4]: Should we add a column for non-permitted uses?

Commented [G5]: Added from Live Local.

(E) Site Development Standards.

1. **The Minimum lot area**

The minimum lot area for this district is six thousand (6,000) square feet. Developers can opt to develop based on building Types and requirements, with a minimum developed square area of one thousand (1,000) square feet of contiguous land.

Commented [G6]: Reconsideration as per Ethan. Broad and may need to tweak.

Table E-1

Development Standards	B-2 District	Biscayne Overlay	
		By Right	Up to With Bonus
<u>Lot Width (minimum)</u>	<u>100</u>	<u>60</u>	<u>N/A</u>
<u>Lot Depth</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Lot Area (minimum)</u>	<u>3 acres</u>	<u>6,000 square feet</u>	<u>N/A</u>
<u>Building Height (maximum)</u>	<u>15 stories / 150 feet</u>	<u>25 stories / 315 feet</u>	<u>30 stories / 375 feet</u>
<u>Floor Area Ratio (FAR) (minimum)</u>	<u>1.5</u>	<u>1.5</u>	<u>2.5</u>
<u>Density (maximum)</u>	<u>36 du/ acre</u>	<u>125 du/ac</u>	<u>175 du/ ac</u>
<u>Minimum Pervious Area</u>	<u>20 %</u>	<u>20%</u>	<u>N/A</u>

Commented [G7]: Include Minimum

2. **Minimum yard setbacks:**

The following setbacks shall apply to all structures.

Table E-2

YARD	SETBACKS
<u>Front</u>	<u>15 feet</u>
<u>Rear</u>	<u>20 feet</u>
<u>Side (interior)</u>	<u>0 feet</u>
<u>Side (corner)</u>	<u>20 feet</u>
<u>Adjacent more restrictive district</u>	<u>25 feet</u>

3. **Building Typology:**

All new buildings shall conform to one (1) of the permitted building typologies as demonstrated in the Building Typology and Placement Regulating Diagrams in Section 24-58 Mixed-use District. The diagrams provide a schematic representation of the various building typologies and demonstrate the required setbacks, lot standards, and profiles of structures. Existing buildings which do not fit a prescribed typology shall follow the standards required for the Flex building typology. Not all building typologies are permitted in each Mixed-use district. The building typologies permitted in the Biscayne Overlay District are listed below in Table B2-Overlay-1:

Building Typology	Entire District
<u>Tower</u>	<u>Yes</u>
<u>Flex Building</u>	<u>Yes</u>
<u>Courtyard Type A</u>	<u>Yes</u>

Definition of types shall be as defined in section Sec. 24-58-(H) of the Mixed Use (MU) District.

4. **Projections and Encroachments**

Projections and encroachments shall follow Table MU-3 of the City Code.

5. **Building frontage:**

Building frontage means the percentage of a building façade that is generally parallel, facing, or oriented toward a street and that lies within the minimum and maximum setback area allowed and shall include a principal building and active use, as in table B2-Overlay-2.

Street Type	Minimum	Building Frontage	Overlay B2
<u>Front set back facing Biscayne Boulevard (Primary street)</u>	<u>25 feet</u>	<u>At least 70%</u>	<u>15 feet</u>

Commented [G8]: Add a column for - Overlay and B2 within table.

Table B2 Overlay (continued)			
Street Type	Minimum	Building Frontage	Overlay B2
Side facing a secondary street	20 feet	40 - 90%	10 feet
Side facing interior lot	0 feet	N/A	0 feet
Rear abutting residential homes/ apartment	25 feet	40%	Base: 20 feet Tower 50 feet
Rear abutting a waterfront.	N/A	30% – 70%	45 feet
Abutting adjacent/ more restrictive zoning district	25 feet	40 % - 80 %	15 feet

Commented [G9]: What do you think of this one? Ethan mentioned we should ignore/ delete.

Commented [G10]: Check with Ed about interpretation.

6. **Variances:**

A variance to the provisions and requirements of the B2 General Business District Overlay is not allowed unless there's an extreme hardship. If a variance shall be needed due to an extreme hardship; Section 24-176(B), Variance Review Standards for variance procedures, shall prevail. There shall be no use variances permitted with this overlay.

7. **Minimum Unit Size**

The minimum unit size for any dwelling unit shall be 550 sq. ft

8. **Average Unit Size:**

The average unit size for all dwelling units in the development shall be 800 sq. ft.

9. **Street Design Standards:**

The following standards shall apply to all mixed-use developments in the B2 General Business District Overlay:

- a. The periphery of any site fronting on a public right-of-way shall be improved by the provision of sidewalks, landscape buffers, street trees, streetlights/ furniture, and other elements, covering the entire area from face of curb to face of building.

Commented [G11]: Built in waivers

- b. Where a sidewalk, bike lanes or other pedestrian crosswalk/pathways the following standards shall apply:
 - i. The intersection shall be clearly marked and lit for safety.
 - ii. The sidewalk shall be continuous and remain at a constant level at all instances; and
 - iii. A change of tactile surface texture shall be installed at all street crossings.

10. **Parking Regulations:**

Parking regulations for the overlay shall be as follows:

Table B2-Overlay 3		
<u>Use</u>	<u>Parking Space Requirement (B2 By Right)</u>	<u>Parking Space Requirement (B2-Overlay)</u>
<u>Residential with mixed-use</u>	<u>1 space for efficiency</u> <u>1.5 space for 1 & 2 BR</u>	<u>1.5 for up to two (2) bedroom units</u>
<u>General Retail</u>	<u>3 spaces/ 1,000 sq ft</u>	<u>3 spaces/ 1,000 sq. ft.</u>
<u>Restaurant</u>	<u>20 spaces/ 1,000 sq ft</u>	<u>10 spaces/ 1,000 sq. ft.</u>
<u>Personal Services</u>	<u>5 spaces/ 1,000 sq. ft</u>	<u>3 spaces/ 1,000 sq. ft.</u>
<u>School/ Daycare</u>	<u>1 space/ 4 students</u>	<u>N/A</u>
<u>Vocational</u>	<u>1 space/ student</u>	<u>1 space per 2 students</u>
<u>General Office</u>	<u>3 spaces per 1,000sq. ft.</u>	<u>3 spaces/ 1,000 sq ft.</u>
<u>Sport facilities</u>	<u>4 spaces for every court</u> <u>Plus, additional spaces as required for permitted retail or restaurant uses</u>	<u>4 spaces for every court</u>
<u>Museum/ Libraries</u>	<u>2.5 spaces for 1,000 sq ft</u>	<u>1 space/ 1,000 sq ft</u>

At the discretion of the Director, in order to obtain shared parking credit, the applicant may submit a professionally acceptable parking analysis to include internal capture. Parking may be reduced by up to twenty percent (20%) at the city's discretion. All costs associated with the parking accumulation study shall be paid by the applicant.

Commented [G12]: Check with ordinance that went to 1st reading earlier this month.

Commented [G13R12]: Checked. Requirements pertain to Mixed-Use Districts.

11. **On site loading requirements**

Off street shared loading spaces may be considered if applicant exceeds the minimum standards set in this overlay by a minimum of fifteen percent (15%). Off street loading cannot occur on Biscayne Boulevard.

12. **Additional regulations for bonus density**

1. Integrated horizontal mixed-use development shall be subject to the following:

- a. Proposed development shall ensure that all buildings are connected by either pedestrian ways or sidewalks.
- b. Proposed development shall preserve all environmentally sensitive lands on the site, consistent with the comprehensive plan.
- c. Proposed development shall be located outside the 100-year floodplain and provide to an extent adequate recreational land on the site to serve the residents of the development.
- d. Proposed development shall provide access from the site to any adjacent public recreational lands, public trails, or greenway whenever possible.

2. Vertical mixed-use shall comply with all the provisions of this section when the development is facing Biscayne boulevard, in addition to the following:

- a. The proposed development shall ensure that all off-street parking is located to the rear, and no more than thirty percent (30%) of parking to the side of the building.
- b. The proposed development shall provide wherever possible on the site, where pedestrian activity on the site is the greatest, sidewalks greater than six (6) feet in width.
- c. Proposed development shall provide, wherever possible, adequate recreational open spaces, plazas with shaded trees that are consistent with the comprehensive plan.

13. **Special regulations:**

- (a) Enclosed activities: All activities relating to the uses permitted herein shall be conducted entirely within an enclosed and roofed structure except for outdoor dining areas and amenities.
- (b) Lighting: All necessary lighting shall be so oriented as to prevent any direct glare or nuisance of any kind on or to adjacent

properties or public right-of-way. For properties adjacent to conservation areas, lighting shall be as such not to disturb the local wildlife habitat, and the City's eco-system, or as required by the South Florida Water Management District (SFLWM) and the Department of Environmental Resources Management (DERM).

14. **Other Regulation**

See also Supplemental and Special Regulations in Articles VIII — XIII.

15. **Special Limited Conditional Use:**

See Section 24-177.

(F) **Bonuses and Incentives**

To heighten the public welfare and ensuring sound and sustainable development, site development above one and half (1.5) acres providing a mixed type of residential and at least seventy percent (70%) of the ground floor commercial minus any leasing office and lobby space may elect to increase the building height and FAR above the Maximum allowed through a series of bonus options, that would reinforce the purpose and intent of this section by opting into the following Bonus options:

For properties fronting environmentally sensitive areas shall comply with regulations of such agency.....

Applicants may opt for an additional height and stories depending on the number of bonus units, to be approved during site plan review. However, such a height increase shall not render the building above thirty (30) stories, or three hundred and seventy-five (375) feet.

<u>BONUS TYPE A</u>	<u>Applicant Contribution</u>	<u>Density Bonus</u>	<u>Maximum Not to Exceed</u>
<u>WORKFORCE/ AFFORDABLE HOUSING</u>			
<u>Onsite dedication for Affordable Units</u>	<u>Twenty (20%) percent of Units Approved at Market Rate. For 30 consecutive years.</u>	<u>Up to 30 units provided that 20% of these units are Affordable Housing</u>	<u>30 du</u>
<u>Onsite dedication for Workforce Units</u>	<u>Twenty (20%) percent of Units Approved at Market Rate. For 30 consecutive years.</u>	<u>Up to 30 units provided that 30% of these units are Workforce Housing</u>	<u>30 du</u>

Commented [G14]: Do we want to do workforce housing or Affordable housing?

<u>Commercial</u>	<u>For every 1,000 sq feet above the First (1st) floor Retail facing Biscayne</u>	<u>2 du/ac</u>	<u>10 du/ac</u>

Commented [G15]: Add retail language appropriately.

Any affordable or workforce housing unit offered for rent under this article must not be rented for thirty (30) years after the date of original rental at a rent greater than the rent allowed for workforce housing units under this article and applicable regulations. Rent does not include utilities when they are paid directly by the tenant. Different rents must be identified when utility costs are paid by the owner and included in the rent. During the applicable control period, a workforce housing unit must only be rented to an individual with a household income that does not exceed the limits set under this article.

BONUS TYPE B			
<u>TRANSPORTATION IMPROVEMENT</u>	<u>Applicant Contribution</u>	<u>Density Bonus</u>	<u>Maximum Not to Exceed</u>
<u>Dedication On and Off-site</u>	<u>One (1) trolley stop on Biscayne Blvd. Multimodal facility With shaded (landscaped) bike lanes and benches where appropriate</u>	<u>2 du/ ac</u>	<u>Up to 5 du/ acre with significant Public Benefit</u>
<u>Contribution to Transportation Trust Fund</u>	<u>One (1%) percent of development cost above all impact fees and mitigation required by the city.</u>	<u>3 du/ac</u>	<u>Up to 9 du/ acre with significant Public Benefit</u>

BONUS TYPE C			
<u>OPEN SPACE and Recreation</u>	<u>Applicant Contribution</u>	<u>Density Bonus</u>	<u>Maximum Not to Exceed</u>
<u>Onsite dedication of Open Space/Conservation lands</u>	<u>For every 800 sq. ft of Open Space/conservation land in perpetuity above what is required for the development</u>	<u>1/du</u>	<u>10 du</u>
<u>Contribution to Parks and Recreation Fund</u>	<u>For every \$250,000</u>	<u>1/du</u>	<u>10 du</u>
<u>Waterfront Facilities (Walkways)</u>	<u>Waterfront promenade along whole of property, fully funded in construction and agreement for maintenance in perpetuity.</u>	<u>10/du</u>	<u>10 du</u>

<u>BONUS TYPE D</u>			
<u>PLACE MAKING</u>	<u>Applicant Contribution</u>	<u>Height Bonus</u>	<u>Maximum Not to Exceed</u>
<u>Onsite dedication</u>	<p><u>10-foot sidewalk provided with bike rack and shade trees where appropriate</u></p> <p><u>ROW dedicated to the City, wholly designed and fully funded in construction and agreement for maintenance in perpetuity.</u></p>	<u>Permitted height may be increased at the rate of 45 feet of height.</u>	<u>360 feet</u>
<u>Onsite dedication</u>	<p><u>For every 2,500 sq. ft of Public Space Wholly designed and fully funded in construction and agreement for maintenance in perpetuity.</u></p>	<u>60 feet in height</u>	<u>360 feet</u>
<u>Contribution to Public Arts Fund</u>	<p><u>For every \$150,000 above one percent (1%) of the cost of the development.</u></p>	<u>70 feet in height</u>	<u>350 feet</u>

<u>BONUS TYPE E</u>	<u>Applicant Contribution</u>	<u>Height Bonus</u>	<u>Maximum Not to Exceed</u>
<u>CIVIC INFRASTRUCTURE</u>			
<u>Streetscape enhancement</u>	<u>Any improvement in the City's streetscape/ Public ROW with additional shading trees.</u>	<u>60 feet in height</u>	<u>360 feet</u>
<u>Participation in Library Fund</u>	<u>One percent (1%) of the cost of the development above all impact fee and mitigations required by the City</u>	<u>70 feet in height</u>	<u>350 feet</u>
<u>Participation in Public Infrastructure and Streetscape Fund</u>	<u>\$155,000 up to one (1%) percent above the requirements of all impact fees and mitigations required by the City</u>	<u>70 feet in height</u>	<u>350 feet</u>

Commented [G16]: Parallel text. Make it consistent.

(G) Waiver.

The Director City Commission, by a two-third (2/3) vote may waive the ratio of thirty percent (30%) to seventy percent (70%) residential requirement within the overlay, if it is demonstrated that the overall size of the mixed-use development is less than three (3) acres and consequently cannot reasonably support the design standards.

(H) Bonus Incentives Guidelines.

Commented [G17]: Delete. Not needed. Look into Live Local Act.

- (a) Any developer or property owner offering a workforce housing unit for rental shall record in the public records a declaration of restrictive covenants in a form approved by the city attorney. Such declaration shall incorporate, at a minimum, the requirements of this article and any other provisions necessary to carry out the purposes of this article. The declaration of restrictive covenants must, at a minimum assure that:
 - i) The restrictions of this article shall run with the land for the entire control period of thirty (30) years;

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- ii) The covenants will bind the applicant, assignee, mortgagee, purchaser, successor, and any other parties that receive title to or hold any interest in the property. These covenants shall be senior to all instruments securing permanent financing.
 - iii) Upon the expiration of the control period the city shall record in the public records of Miami-Dade County an instrument releasing the declaration of restrictive covenants required under this article.
 - (b) The declaration of restrictive covenants shall, at a minimum, including the following terms:
 - i. The covenants shall be senior to all instruments securing permanent financing, and shall bind all assignees, mortgagees, purchasers, and other successors in interest.
 - ii. No sale, transfer or foreclosure shall affect the validity of the covenants except as expressly set forth in the provisions of this article.
 - (c) Any affordable or workforce housing unit offered for rent under this article must not be rented for thirty (30) years after the date of original rental, at a rental greater than the rent allowed for workforce housing units under this article and applicable regulations. Rent does not include utilities when they are paid directly by the tenant. Different rents must be identified when utility costs are paid by the owner and included in the rent. During the applicable control period, a workforce housing unit must only be rented to an individual with a household income that does not exceed the limits set under this article.
 - (d) In the event that an affordable, or a low-income housing unit is subsequently converted to a market rate unit in violation of the restrictive covenant required in Section 24-52.1, the owner or developer shall be required to pay all applicable fees and satisfy all requirements under Chapter XXIV, of this Code, as of the date of issuance of the building permit, plus interest at the highest amount authorized by law (with such interest accruing from the date of issuance of the permit until full payment of all amounts due under this section), collection costs, and attorney's fees. This is in addition to the for the penalty and enforcement provisions in this section.
 - (e) In the event that a workforce housing unit is subsequently converted to a market rate unit in violation of the restrictive covenant required under this section, the owner shall be required to pay all applicable fees and satisfy all requirements under Chapter XXIV, of this Code, as of the date of issuance of the building permit, plus interest at the highest amount authorized by law (with such interest accruing from the date of issuance of the permit until full payment of all amounts due under this section).

Commented [G18]: Ethan has an issue with this wording and think it needs to be at CO.

collection costs, and attorney's fees. The foregoing is in addition to the penalty and enforcement provisions in this section.

(l) Affordable and Workforce housing requirements.

Commented [G19]: Revise and remove all sales component.

(a) Workforce housing developments or units shall comply with the following requirements:

(1) An affordable or workforce housing unit shall only be offered for rental to a qualified household to be used as a primary residence. The city shall establish by resolution a pricing schedule of rental prices for workforce housing units in accordance with this article. In the event where the numbers are not established by the City Commission, the default shall be the pricing schedule allocated by Miami-Dade County for workforce and affordable housing. The Economic Development division of the Community Development Department will be in charge of monitoring, and verifying the renter's application to the

Commented [G20]: Let me know if that is ok.

(2) Any developer or property owner offering a workforce housing unit for rental shall record in the public records a declaration of restrictive covenants in a form approved by the city attorney. Such declaration shall incorporate, at a minimum, the requirements of this article and any other provisions necessary to carry out the purposes of this article. The declaration of restrictive covenants must, at a minimum assure that:

a. The restrictions of this article shall run with the land for the entire control period of thirty (30) years;

b. The covenants will bind the applicant, assignee, purchaser, successor, and any other parties that receive title to or hold any interest in the property. These covenants shall be senior to all instruments securing permanent financing.

(b) Upon the expiration of the control period the city shall record in the public records of Miami-Dade County an instrument releasing the declaration of restrictive covenants required under this article.

(c) The declaration of restrictive covenants shall, at a minimum, including the following terms:

i. The covenants shall be senior to all instruments securing permanent financing, and shall bind all assignees, mortgagees, purchasers, and other successors in interest.

-
- ii. No transfer shall affect the validity of the covenants except as expressly set forth in the provisions of this article.

(d) Any workforce housing unit offered for rent under this article must not be rented for thirty (30) years after the date of original rental at a rent greater than the rent allowed for workforce housing units under this article and applicable regulations. Rent does not include utilities when they are paid directly by the tenant. Different rents must be identified when utility costs are paid by the owner and included in the rent. During the applicable control period, a workforce housing unit must only be rented to an individual with a household income that does not exceed the limits set under this article.

I- Affordability controls.

(a) Initial rental.

(1) Every affordable and workforce housing unit established under this article and pursuant to the land development regulations, shall be offered for rental to an eligible household to be used for his or her own primary residence.

(2) Sixty (60) days prior to offering any new affordable and workforce housing unit for rent, the developer or other property owner shall notify the city of such offering. The notice shall set forth the number, size, price established by applicable implementing order, and location of the workforce housing unit offered and shall provide a description of each workforce housing unit's finishes and availability. The department may request additional information from the developer or other property owner as it deems necessary.

(3) Upon re-rental of an affordable or workforce housing unit, each qualified household must first obtain a valid certificate of qualification from the prospective eligible household.

(b) Rental unit requirements.

(1) All qualified households must be provided with a lease, with a minimum period of twelve (12) months. The lease must comply with all applicable federal and state laws. The lease shall include without limitation provisions that specify the maximum household size allowed in the unit; a prohibition against subleasing; and a requirement that the qualified household shall report any changes in household size or income during the tenancy. Qualified households shall comply with all monitoring requirements established by the Department. Rent shall be consistent with the rental calculation provided by the city as to what qualifies as affordable workforce housing rent.

Commented [G21]: Ethan also has an issue with this language.

(2) If a qualified household's income increases above the maximum allowed income levels, the qualified household may choose to remain in the unit for the remainder of the lease term. If the formerly qualified household and the developer or other property owner agree to extend the lease term, the developer or other property owner shall make the next comparable vacant unit at the covered development available to an eligible household at the affordable or workforce housing unit rent.

(3) A tenant that has produced fraudulent income information for the household shall be subject to eviction pursuant to the leasehold. Eviction shall be mandatory if the tenant household income exceeds the thresholds for the unit.

(4) Residential affordable or workforce housing units shall be made available for occupancy either prior to or concurrently with market rate units at the same ratio required for the development. Certificates of occupancy shall not be issued and/or final inspections shall not be passed for the market rate units unless certificates of occupancy are issued and/or final inspections are passed for the residential affordable or workforce housing units concurrently with (or sooner than) the market rate units.

(5) Annually, the developer/property owner shall provide to the city proof of the continued workforce housing eligibility of the proposed tenant. If the department determines that an eligible household qualifies for the rental unit, the department will issue a certificate of qualification. In order to receive a certificate of qualification, an eligible household must provide an affidavit confirming that the affordable or workforce housing unit will be its primary residence.

(c) City responsibilities. The city shall:

(1) Annually, set the maximum annual rent limit, and rent ranges;

(2) Annually review leaseholds for compliance and;

(3) Enforce provisions of article.

II - Enforcement.

(a) Violations of this article by the developer or the renter shall be subject to the following fines. The special magistrate shall not waive or reduce fines set by this article.

(1) If the violation is the first violation of an administrative violation: Warning issued.

(2) If the violation is the second violation: \$2,500.00.

(3) If the violation is the third violation within the preceding 18 months: \$7,500.00.

Commented [G22]: Insert where funds will be deposited.

Commented [G23]: The numbers are arbitrary. They are the same as the City of Miami Beach's Affordable Housing Ordinance.

Should we consider establish a different number for the renters?

(4) If the violation is the fourth violation within the preceding 18 months: \$12,500.00.

(5) If the violation is the fifth or greater violation within the preceding 18 months: \$20,000.00.

(6) Fines for repeat violations shall increase regardless of location.

(b) Violations of this article by the tenant shall result in termination of the leasehold, upon 15 days written notice. Landlord shall be entitled to evict the tenant and seek all damages under law from the tenant.

(c) In addition to or in lieu of the foregoing, the city may seek an injunction against activities or uses prohibited under this article. The city may take legal action to stop or cancel any transfer of an affordable or workforce housing unit if any party to the transfer does not comply with all requirements of this article, and or seek enforcement of any covenant signed or order issued under this article. The city may recover any funds improperly obtained from any rental of an affordable or workforce housing unit in violation of this article, plus costs and interest at the rate prescribed by law from the date a violation occurred.

(d) Any city police officer or code compliance officer may issue notices for violations of this article, with alternative enforcement as provided in Chapter IX and Chapter XIV of this Code. Violations shall be issued to the homeowner, and/or to any realtor, real estate agent, real estate broker, tenant or any other individual or entity that facilitates or organizes the prohibited activities. In the event the record owner of the property is not present when the violation occurred, a copy of the violation shall be provided to such owner.

(e) The city manager or designee may adopt administrative rules and procedures to assist in the uniform enforcement of this article.

(f) No variances shall be granted from this article. The provisions of this division shall apply to all agents, successors, and assignees of a qualified housing unit.