

**Condensed Title:**

An Ordinance Amending "Off-Street Parking," By Authorizing A Twenty Per Cent Reduction In Required Parking For Hotels With Over 500 Rooms And Significant Conference Facilities, Subject To Satisfying Certain Criteria And Limitations;

**Key Intended Outcome Supported:**

Increase satisfaction with neighborhood character; quality of life.

**Supporting Data (Surveys, Environmental Scan, etc** Development construction was ranked No. 5 by residents as one of the changes that will make Miami Beach a better place; 77% of residents say availability of parking across Miami Beach is either too little or much too little.

**Issue:**

Should the City Commission adopt an ordinance permitting new conference hotel development to obtain a reduction in parking requirements if they can instead provide a significant public benefit through a development agreement with the City.

**Item Summary/Recommendation:**

**FIRST READING**

The proposed ordinance would allow a hotel development with over 500 rooms and significant conference facilities of a minimum of 20,000 square feet to obtain up to a 20 percent reduction on required parking, as prescribed by the City Code, if the developer of any new project enters into a development approval as approved by the City Commission at a public hearing. This reduction in parking, in lieu of a reduction via a variance, would only occur if a significant public benefit is identified and formalized through a development agreement.

The ordinance's applicability would be retroactive to January 1, 2008. However, the Administration recommends against the retroactive component unless new public benefits are identified that are not already part of the project.

**Advisory Board Recommendation:**

At the November 25, 2008 meeting, the Planning Board recommended (4-1, two absent) that the City Commission approve the ordinance.

**Financial Information:**

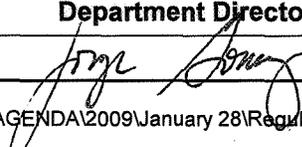
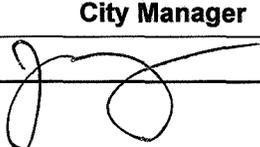
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**Financial Impact Summary:** The proposed Ordinance may have both positive and negative fiscal impacts upon the resources of the City.

**City Clerk's Office Legislative Tracking:**

Jorge Gomez or Richard Lorber

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
		

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# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

## COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

FIRST READING

DATE: January 28, 2009

SUBJECT: **CONVENTION HOTEL PARKING REQUIREMENTS  
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE BY AMENDING CHAPTER 130 "OFF-STREET PARKING," ARTICLE II "DISTRICTS; REQUIREMENTS," AMENDING SECTION 130-32, "OFF-STREET PARKING REQUIREMENTS FOR PARKING DISTRICT NO. 1," AND SECTION 130-33, "OFF-STREET PARKING REQUIREMENTS FOR PARKING DISTRICTS NOS. 2, 3 AND 4," BY AUTHORIZING A TWENTY PER CENT REDUCTION IN REQUIRED PARKING FOR HOTELS WITH OVER 500 ROOMS AND SIGNIFICANT CONFERENCE FACILITIES, SUBJECT TO SATISFYING CERTAIN CRITERIA AND LIMITATIONS; PROVIDING FOR APPLICABILITY; REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.**

### ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission approve the ordinance upon first reading, with a modification to the retroactive applicability clause, by either omitting its retroactivity, or if retroactivity is a desired component, specifying that new public benefits shall be identified that are not presently a part of the project, and schedule a second reading public hearing for February 25, 2009.

### BACKGROUND

Currently, Section 130-32 (26) of the City Code allows for a hotel development to request a reduction of the required parking by applying to the Zoning Board of Adjustment, who may grant a variance for the total amount of parking required for a hotel and related accessory uses by up to 20 percent, if a hardship is present, as defined in the Code.

Rather than requiring a variance, the proposed ordinance would allow a hotel development with over 500 rooms and significant conference facilities of a minimum of 20,000 square feet to obtain up to a 20 percent reduction on required parking, as prescribed in Section 130 of the City Code, if the developer of any new building, structure or additional floor area enters into a development agreement as approved by the City Commission at a public hearing. This reduction in parking, in lieu of a reduction via a variance, would only occur if a significant public benefit is identified and formalized through a development agreement. The ability to mitigate the impact of the reduction in parking may not always present itself through the variance process. Therefore, the proposed ordinance creates a vehicle to address this impact through participation in public benefits as opposed to a reduction in parking by

satisfaction of the variance hardship criteria as long as the public interest is of equal value of the parking spaces being waived.

The reduction in parking contemplated herein should not be augmented by the ability to obtain a further reduction through the variance procedure. As such, the Administration has further modified the proposed ordinance to preclude the ability to further reduce the parking via the variance if a development has availed itself of the reduction through a development agreement.

The ordinance as originally drafted by the City Attorney's Office contained a restriction on the use of the waiver provision or variance procedure if gambling is licensed on the property, as this type of activity generates a higher parking demand. However, after discussion at the Planning Board, the concept was not supported for recommendation to the Commission, and has been removed.

### **Retroactive Applicability**

At the request of Mr. Neisen Kasdin, attorney for the Eden Roc Hotel project, a provision was added to the proposed ordinance by the Planning Board, specifying that its applicability is retroactive to January 1, 2008. This would enable the Eden Roc project to potentially avail themselves of the provisions of the ordinance.

The administration has two concerns regarding retroactive applicability. First, that a refund of already collected funds could be detrimental to the funding of already earmarked projects using parking impact fee funding. Caution should be taken in adopting an applicability clause that allows previously approved projects to seek refunds of funds already collected. Secondly, the waiver provision should not be used to give credit for public benefits which were previously constructed in order to meet other commitments or development agreements. Therefore, if the Commission chooses to make the applicability of the ordinance retroactive, it is recommended that the applicability provision of the ordinance be modified to specify that that while previously approved development projects may apply for this waiver, the public benefit project agreed to with the City shall not have been part of previous commitments or development agreements, but should be a newly proposed public benefit project.

### **ANALYSIS**

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

- 1. Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

**Consistent** – The proposed amendment is consistent and compatible with the comprehensive plan. It supplements the Goals, Objectives and Policies of the Land Use Element in that future growth and development, redevelopment and rehabilitation will be managed through the preparation, adoption, implementation and enforcement of land development regulations.

- 2. Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

**Consistent** – The ordinance is not location specific, and would apply to convention/conference hotels city wide.

**3. Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

**Consistent** – The proposed change is not out of scale with the needs of a neighborhood or the city. The proposed ordinance creates a vehicle to address any impact through participation in public benefits as opposed to a reduction in parking by satisfaction of the variance hardship criteria.

**4. Whether the proposed change would tax the existing load on public facilities and infrastructure.**

**Consistent** - The proposed ordinance creates a vehicle to address any impact through participation in public benefits as opposed to a reduction in parking by satisfaction of the variance hardship criteria.

**5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

**Not applicable**

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

**Consistent** – The proposed ordinance would reduce the required parking for large “convention-type” hotels which have less of a need for required parking than normal hotels. Many groups arrive by transit, private buses or taxis, and remain on the property for conference sessions and other events.

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

**Consistent** - The proposed ordinance creates a vehicle to address any impact through participation in public benefits as opposed to a reduction in parking by satisfaction of the variance hardship criteria.

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

**Consistent** – It is not expected that the proposed amendment will increase traffic congestion beyond the established levels of service. Many groups arrive by transit, private buses or taxis, and remain on the property for conference sessions and other events.

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

**Consistent** - The proposed change would not reduce light and air.

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

**Consistent** – Property values should not be affected by the proposed amendment. On the contrary, because the ordinance creates a vehicle to address any impact through participation in public benefits, property values may benefit.

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

**Not Applicable.**

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

**Consistent** – Currently, the City Code allows for a hotel development to request a reduction of the required parking by applying to the Zoning Board of Adjustment through the variance process if a hardship is present. By modifying the Code, the City and its residents may receive significant public benefits

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

**Not Applicable.**

**FISCAL IMPACT**

The proposed Ordinance could have a fiscal impact upon the City depending on how the ordinance is used by the City Commission in approving projects containing significant public benefits.

For example, a project such as the Eden Roc Hotel expansion, which was responsible for large amount (approximately \$2.3 million) of parking impact fees as a condition of its development approval, would be able to reduce the amount of required parking and thus the parking impact fees paid into the parking impact fee fund. In this case, a 20% waiver of required parking would result in a reduction of \$840,000 in parking impact fee collections. Only if the value of the public benefit agreed to by the parties was equal to this figure would the ordinance result in no negative fiscal impact.

If the proposed ordinance is adopted with an applicability clause to be retroactive to January 1, 2008, as recommended by the Planning Board, then the Eden Roc will be able to avail themselves of the provisions of the new ordinance, and conceivably, request that a portion of the already paid parking impact fees would be refunded. The Administration's is concerned that a refund of such already collected funds could be detrimental to the funding of already earmarked projects using parking impact fee funding. Therefore, the Administration would urge caution in adopting an applicability clause that allowed previously approved projects to seek refunds of funds already collected.

**LAND USE AND DEVELOPMENT COMMITTEE**

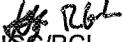
At the June 8, 2008 LUDC meeting, the Committee accepted the proposed ordinance as submitted by the City Attorney's Office, with the request that the ordinance be revised to reflect that the reduction of required parking shall be of comparable value to the identified public benefit that is the subject of the Development Agreement, and any approved reduction in required parking is not applicable for any accessory use. This version was then forwarded to the Planning Board for review.

**PLANNING BOARD ACTION**

At the November 25, 2008 meeting, the Planning Board recommended (4-1, two absent) that the City Commission approve the ordinance, included a retroactive applicability clause.

**CONCLUSION**

The Administration recommends that the City Commission approve the proposed ordinance upon first reading, eliminating the retroactivity clause. Alternatively, if retroactive applicability is desired, the applicability clause should be modified to specify that that while previously approved development projects may apply for this waiver, the public benefit project agreed to with the City shall not have been part of previous commitments or development agreements, but should be a newly proposed public benefit project. Pursuant to Section 118-164(4) of the City Code, an affirmative vote of five-sevenths shall be necessary in order to enact any amendments to the Land Development Regulations.

  
JMG/TH/JCG/RGL

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

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE BY AMENDING CHAPTER 130 "OFF-STREET PARKING," ARTICLE II "DISTRICTS; REQUIREMENTS," AMENDING SECTION 130-32, "OFF-STREET PARKING REQUIREMENTS FOR PARKING DISTRICT NO. 1," AND SECTION 130-33, "OFF-STREET PARKING REQUIREMENTS FOR PARKING DISTRICTS NOS. 2, 3 AND 4," BY AUTHORIZING A TWENTY PER CENT REDUCTION IN REQUIRED PARKING FOR HOTELS WITH OVER 500 ROOMS AND SIGNIFICANT CONFERENCE FACILITIES, SUBJECT TO SATISFYING CERTAIN CRITERIA AND LIMITATIONS; PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the regulations governing off-street parking spaces contained in Chapter 130 of the City Code, Sections 130-32 and 130-33 delineate the requirements for off-street parking for various uses; and

**WHEREAS**, the off-street parking requirements for conference center hotels and other large hotels in the City have been shown can be reduced under certain circumstances; and

**WHEREAS**, the City Commission has reviewed these hotels and has concluded that an amendment to the City Code to permit reductions in off-street parking requirements for conference center hotels and other large hotels under certain circumstances is consistent with the public health, safety and welfare; and

**WHEREAS**, the City Commission has desires that this amendment to the City Code should be retroactive to January 1, 2008; and

**WHEREAS**, the following amendments implement the above conclusions.

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

**SECTION 1.** That Chapter 130, Off-Street Parking, Article II, Districts, Requirements, Section 130-32 entitled "Off-street parking requirements for parking district no. 1," and Section 130-33, entitled "Off-street parking requirements for parking district no. 2, 3 and 4," are hereby amended as follows:

**Sec. 130-32. Off-street parking requirements for parking district no. 1.**

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 1, accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows:

\* \* \*

(26) Hotel, suites hotel, motel or motor lodge: 1 space per unit; however, suites hotel units as defined in section 142-1104 that are greater than 550 square feet and that contain full cooking facilities on lots that are greater than 50 feet in width, shall have the same parking

requirement as apartment buildings in (6) b. and c. above. Required parking for hotel accessory uses shall be as follows:

- a. Retail--Required parking shall be computed at 1 space per 400 square feet, minus 7.5 square feet per unit.
- b. Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly--Required parking shall be 1 space per 4 seats or 1 space per 60 square feet of floor area where there is no seating, minus 1 seat or 15 square feet per unit.
- c. Restaurant or other establishment for consumption of food or beverages on the premises--Required parking shall be 1 space per 4 seats minus 1 seat for every 2 units.
- d. Required parking for all other uses shall be as set forth in this section.

These parking requirements for hotel accessory uses are only applicable to structures that are being newly constructed or substantially rehabilitated as hotels.

A hotel with over 500 rooms, and a minimum of 20,000 sq. ft. of conference facilities, may seek a waiver of up to twenty (20) percent of the required parking for new buildings, structures, or additional floor area on the same parcel as such hotel, excluding required parking for accessory uses, according to the following procedures. The hotel owner shall file an application for development approval, which shall be heard by the City Commission at a public hearing, noticed thirty (30) days prior by publication. The City Commission may grant the waiver only by a five-sevenths vote if it finds that the public interest would be served by granting such request. This public interest shall be demonstrated by a binding commitment by the hotel, approved by the City Manager, and in a form acceptable to the City Attorney, to provide or support in an equivalent contribution to the City equal to the value of the parking spaces being waived, public improvements or programs related to improving mobility or access, or providing other amenities to pedestrians or vehicles in the vicinity of the hotel.

The zoning board of adjustment may grant a variance for the total amount of parking required for a hotel and related accessory uses by up to 20 percent. This variance shall not be permitted if the project avails itself of the reduction for hotels with over 500 rooms, as described above.

**Sec. 130-33. Off-street parking requirements for parking districts nos. 2, 3 and 4.**

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking districts nos. 2, 3 and 4 accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows. There shall be no off-street parking requirement for uses in this parking district except for those listed below:

\* \* \*

(4) Hotel, suites hotel, motel or motor lodge: One space per unit; however, suites hotel units as defined in section 142-1105 that are greater than 550 square feet and that contain full cooking facilities in buildings on lots that are greater than 50 feet in width shall have the same parking requirement as apartment buildings in (1)b. and c. above. Required parking for hotel accessory uses shall be as follows:

- a. Retail: Required parking shall be computed at one space per 400 square feet of floor area, minus seven and one-half square feet per unit.

- b. Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly: Required parking shall be one space per four seats or one space per 60 square feet of floor area where there is no seating, minus one seat or 15 square feet per unit.
- c. Restaurant or other establishment for consumption of food or beverages on the premises: Required parking shall be one space per four seats minus one seat for every two units.
- d. Required parking for all other uses shall be as set forth in this section.

These parking requirements for hotel accessory uses are only applicable to structures that are being newly constructed or substantially rehabilitated as hotels. A hotel with over 500 rooms, and a minimum of 20,000 sq. ft. of conference facilities, may seek a waiver of up to twenty (20) percent of the required parking for new buildings, structures, or additional floor area on the same parcel as such hotel, excluding required parking for accessory uses, according to the following procedures. The hotel owner shall file an application for development approval, which shall be heard by the City Commission at a public hearing, noticed thirty (30) days prior by publication. The City Commission may grant the waiver only by a five-sevenths vote if it finds that the public interest would be served by granting such request. This public interest shall be demonstrated by a binding commitment by the hotel, approved by the City Manager, and in a form acceptable to the City Attorney, to provide or support in an equivalent contribution to the City equal to the value of the parking spaces being waived, public improvements or programs related to improving mobility or access, or providing other amenities to pedestrians or vehicles in the vicinity of the hotel.

The zoning board of adjustment may grant a variance for the total amount of parking required for a hotel, suites hotel, motel or motor lodge and related accessory uses of up to 20 percent. This variance shall not be permitted if the project avails itself of the reduction for hotels with over 500 rooms, as described above.

**SECTION 2. APPLICABILITY.**

It is the intention of the City Commission that the provisions of this ordinance be retroactive to January 1, 2008.

**SECTION 3. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

**SECTION 4. CODIFICATION.**

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 5. NONSEVERABILITY.**

This Ordinance is not severable, and if any provision hereof is declared invalid, the Ordinance shall be returned to the City Commission for reconsideration.

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

First Reading:  
Second Reading:

\_\_\_\_\_  
**MAYOR**

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

Verified by: \_\_\_\_\_

Jorge G. Gomez, AICP  
Planning Director

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

Underscore denotes new language  
~~Strikethrough~~ denotes deleted language

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