

Conform Fines for Commercial Use of Single-Family Homes

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 7 OF THE MIAMI BEACH RESILIENCY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE II, ENTITLED "DISTRICT REGULATIONS," BY AMENDING SECTION 7.2.2, ENTITLED "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS" BY AMENDING SUBSECTION 7.2.2.2, ENTITLED "USES (RS)" TO CONFORM THE FINE SCHEDULE FOR VIOLATIONS OF SUBSECTION 7.2.2.2 TO STATUTORILY PRESCRIBED LIMITS IN CHAPTER 162 OF THE FLORIDA STATUTES; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, In 2010, the City enacted Miami Beach Code section 142-1111 (the "Ordinance"), prohibiting short-term rentals of apartment units or townhomes in specified zoning districts located within its boundaries; and

WHEREAS, property owners found in violation were subject to mandatory fines, administered by special masters, under the City's "alternate code enforcement system," which was expressly adopted pursuant to the authority of Chapter 162, Florida Statutes; and

WHEREAS, in 2018, the City's Ordinance was challenged in the court of law, with allegations that the Ordinance conflicted with the Local Government Code Enforcement Boards Act ("Act") by levying fines in excess of those authorized by the Act; and

WHEREAS, following vigorous litigation, the Third District Court of Appeal held that the City could not lawfully levy fines in excess of those authorized under Act, and therefore City was bound to impose fines within statutorily prescribed limits; and

WHEREAS, an amendment to the fines set forth in Section 7.2.2.2 of the Miami Beach Resiliency Code is necessary to bring the Miami Beach Resiliency Code provision into full compliance with statutorily prescribed limits.

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

SECTION 1. That Section 7.2.2.2 of Chapter 7 the Miami Beach Resiliency Code, entitled "Zoning Districts and Regulations," is hereby amended as follows:

MIAMI BEACH RESILIENCY CODE

* * *

CHAPTER 7 ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. DISTRICT REGULATIONS

* * *

SECTION 7.2.2 RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

* * *

Subsection 7.2.2.2. Uses (RS)

* * *

(d) Supplemental Prohibited uses Regulations (RS)

* * *

(1) Commercial use of single-family homes prohibited (RS)

* * *

(C) Regulations: Determination of commercial use.

* * *

(VII) Enforcement.

(1). Violations of this section shall be subject to the following fines. The special magistrate shall not waive or reduce fines set by this section.

i. If the violation is the first violation, ~~\$25,000.00~~ \$1,000 per day, per violation

ii. If the violation is the second or greater violation, ~~within the preceding 18 months~~ \$5,000 per day per violation

iii. However, if the special magistrate finds the violation to be irreparable or irreversible in nature, the special magistrate may impose a fine not to exceed \$15,000.00 per violation.

~~e. If the violation is the third violation within the preceding 18 months....\$75,000.00~~

~~d. If the violation is the fourth or greater violation within the preceding 18 months....\$100,000.00~~

~~Fines for repeat violations shall increase regardless of location. The director of the code compliance department must remit a letter to the Miami-Dade Property Appraiser and Miami-Dade Tax Collector, with a copy of the special magistrate order adjudicating the violation, that notifies these governmental agencies that the single-family residential property was used for the purpose of holding a commercial party, event, assembly or gathering at the premises.~~

* * *

(IX) Enhanced penalties. The following enhanced penalties must be imposed, in addition to any mandatory fines set forth in subsection 442-109(d) 7.2.2.2(d)(1)(C)(VII) above, for violations of section 442-109 7.2.2:

(1) Enhanced penalties for this section:

i. The commercial use must be immediately terminated, upon confirming a violation has occurred, by the Miami Beach Police Department and the code compliance department.

ii. ~~If the offense is a second offense within the preceding 18-month period of time, and the total square footage of all building(s), accessory building(s),~~

~~dwelling(s), or structure(s) exceed 5,000 total square feet, then the special magistrate must impose an additional fine of \$5,000.~~

- iii ii. A certified copy of an order imposing the civil fines and penalties must be recorded in the public records, and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. The certified copy of an order must be immediately recorded in the public records, and the city may foreclose or otherwise execute upon the lien.

SECTION 2. REPEALER.

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

SECTION 3. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 4. CODIFICATION.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____, 2024.

PASSED and **ADOPTED** this _____ day of _____, 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

[Signature]

City Attorney NK

4/2/24

Date

First Reading: May 15, 2024
Second Reading: July 24, 2024

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