

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO:	Honorable Mayor and Members of the City Commission	
FROM:	Interim City Manager Rickelle Williams	
DATE:	June 26, 2024	First Reading

**TITLE:** CONFORM FINES FOR COMMERCIAL USE OF SINGLE-FAMILY HOMES 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.

### **RECOMMENDATION**

This item was requested by the Office of the City Attorney.

The Administration recommends that the City Commission approve the subject ordinance at First Reading and schedule a Second Reading Public Hearing.

### **BACKGROUND/HISTORY**

On January 31, 2024, at the request of Mayor Steven Meiner, the Mayor and City Commission referred the proposed ordinance (Item C4 B) to the Planning Board.

### **ANALYSIS**

The purpose of the attached ordinance amendment is to conform the penalties in the Resiliency Code to statutorily prescribed limits, in order to ensure that the City's prohibition on the commercial use of single-family homes is fully enforced with the maximum penalties allowed under Florida law.

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. Property owners found in violation have been subject to mandatory fines, administered by special masters/magistrates, under the City's "alternate code enforcement system," which was expressly adopted pursuant to the authority of Part I of Chapter 162, Florida Statutes, also known as the "Local Government Code Enforcement Boards Act" (the "Act").

In 2018, a property owner filed a lawsuit in Circuit Court, challenging the City's Ordinance by alleging that the Ordinance conflicted with the Act by imposing fines in excess of the fines authorized by the Act. Following extensive litigation, the Third District Court of Appeal held that the City could not lawfully impose fines in excess of the fines authorized under the Act, and therefore the City was bound to impose fines within statutorily prescribed limits.

An amendment to the fines set forth in Section 7.2.2.2(d) of the City's Resiliency Code is necessary to bring the Ordinance into full compliance with statutorily prescribed limits, to ensure that the City's prohibition on the commercial use of single-family homes is fully enforced with the maximum penalties allowed under Florida law.

#### PLANNING BOARD REVIEW

On March 26, 2024, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (6-0).

#### APPLICATION FEE WAIVER

The subject amendment is proposed on a comprehensive, citywide basis, and not on behalf of a private applicant or third party. Pursuant to section 2.4.1.c of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 2.2.3.5, 2.2.3.6, and appendix A to the City Code. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

1. The City Commission determines that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning, or based on circumstances unique to the proposed amendment.
2. Upon the written recommendation of the City Manager acknowledging a documented financial hardship of a property owner(s) or developer(s).
3. If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

The Administration recommends that the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

#### BUSINESS IMPACT ESTIMATE

In accordance with Section 166.041(4), Florida Statutes, the City of Miami Beach is required to assess whether a Business Impact Estimate is required for the subject ordinance. A Business Impact Estimate is not required for the subject ordinance as it implements an amendment to the Land Development Regulations.

#### **FISCAL IMPACT STATEMENT**

N/A

**Does this Ordinance require a Business Impact Estimate?** No  
(FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:  
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

#### **FINANCIAL INFORMATION**

#### **CONCLUSION**

The Administration recommends the following:

1. The City Commission approve the subject ordinance at First Reading and schedule a Second Reading Public Hearing.

2. In accordance with section 2.4.1.c.1 of the Land Development Regulations of the City Code, the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

**Applicable Area**

Citywide

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?**

**Is this item related to a G.O. Bond Project?**

Yes

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

**Department**

Planning

**Sponsor(s)**

Mayor Steven Meiner

**Co-sponsor(s)**