

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Eric Carpenter, City Manager  
DATE: February 26, 2025  
TITLE: REFERRAL TO THE PLANNING BOARD – VOTE REQUIREMENT FOR RELEASE OF COVENANT REQUIRING NONTRANSIENT USES.

### **RECOMMENDATION**

The Administration recommends that the Mayor and City Commission (City Commission) refer the attached draft ordinance to the Planning Board.

### **BACKGROUND/HISTORY**

On November 20, 2024, at the request of Commissioner Alex Fernandez, the City Commission referred a discussion pertaining to establishing a 6/7 vote requirement for the release of future covenants regulating non-transient residential uses (C4 R) to the Land Use and Sustainability Committee (LUSC). On January 16, 2025, the LUSC recommended that the City Commission refer an amendment to the Land Development Regulations of the City Code (LDRs) to the Planning Board, in accordance with the recommendations in the LUSC memorandum.

### **ANALYSIS**

On November 20, 2024, the City Commission adopted a residential use incentive ordinance, which amended Chapter 7, Article I of the LDR's. Specifically, Section 7.1.11, which is applicable to all zoning districts in the city where non-transient residential uses may be incentivized, was created, inclusive of the following regarding a future release of the covenant:

*The covenant shall expressly provide that an affirmative vote of six-sevenths of all members of the city commission shall be required in order to release the covenant or to modify the covenant in such a manner as to impose a less stringent restriction after it is executed.*

To apply this provision to all future covenants that require non-transient residential uses, the attached draft ordinance adds as a separate section under Chapter 7, Article I, as follows:

#### **7.1.12 COVENANT RESTRICTING TRANSIENT USES ON A PROPERTY**

*In all instances where a property owner(s), either voluntarily or as an applicable requirement, executes a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that throughout the building and at all times, no residential units on the property shall be leased or rented for a period of less than six months and one day, and that no transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house, shall be permitted on the property, the covenant shall expressly provide that an affirmative vote of six-sevenths of all members of the city commission shall be required in order to release the covenant or to modify the covenant in such a manner as to impose a less stringent restriction after it is executed.*

### **APPLICATION FEE WAIVER**

The subject amendment is proposed on a comprehensive 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.

Should this proposal be referred to the Planning Board, the Administration recommends that the City Commission determine that the proposed amendment is necessary based on circumstances unique to the proposed amendment and waive the applicable fees.

### **FISCAL IMPACT STATEMENT**

No Fiscal Impact

### **Does this Ordinance require a Business Impact Estimate?** (FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

### **FINANCIAL INFORMATION**

Not Applicable

### **CONCLUSION**

The Administration recommends the following:

1. The City Commission refer the attached draft ordinances to the Planning Board.
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?**

Yes

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

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)**

Commissioner Alex Fernandez

**Co-sponsor(s)**

Commissioner Joseph Magazine

**Condensed Title**

Ref: PB - Vote Requirement for Release of Covenant Requiring Nontransient Uses.  
(Fernandez/Magazine) PL

**Previous Action (For City Clerk Use Only)**