

Mandatory Progress Report Requirements for CUP

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "MIAMI BEACH RESILIENCY CODE," CHAPTER 2, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE V, ENTITLED "REZONINGS AND DEVELOPMENT APPROVALS," SECTION 2.5.2, ENTITLED "CONDITIONAL USE," TO ESTABLISH MANDATORY PROGRESS REPORT REQUIREMENTS FOR CONDITIONAL USE PERMITS ISSUED FOR NEIGHBORHOOD IMPACT ESTABLISHMENTS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission desire to amend and enhance the current requirements in the City Code pertaining to Neighborhood Impact Establishments (NIE); and

WHEREAS, NIEs, if not properly regulated, can become a nuisance and negatively impact adjacent residential properties, the impacts of which can be difficult to control; and

WHEREAS, NIEs can negatively impact the character of neighborhoods and quality of life for surrounding residents and businesses; and

WHEREAS, mandatory progress reports for NIEs will promote the general health, safety and welfare of the residents of the City; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

SECTION 1. Chapter 2 of the Miami Beach Resiliency Code, entitled "General Provisions," Article V, entitled "Rezoning and Development Approvals," is hereby amended as follows:

**CHAPTER 2
ADMINISTRATION AND REVIEW PROCEDURES**

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ARTICLE V. REZONINGS AND DEVELOPMENT APPROVALS

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2.5.2 Conditional Use.

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2.5.2.5 Compliance with conditions; revocation or modification.

- a. No occupational license, certificate of use, certificate of occupancy, or certificate of completion shall be issued until all conditions of approval have been met. The establishment of a conditional use without complying with the conditions of approval shall constitute a violation of these land development regulations and shall be subject to enforcement procedures as set forth chapter 1, and as provided herein.
- b. Within a reasonable time after a conditional use application or amendment has been approved, the applicant shall record the planning board's action and conditions in the public records of the county. No building permit, certificate of use, certificate of occupancy, certificate of completion or occupational license shall be issued until compliance with this regulation has demonstrated.
- c. The following mandatory progress reports shall apply to any application that includes approval for a Neighborhood Impact Establishment (NIE):
 1. Within 6 months of the issuance of a certificate of use (CU) for an establishment that received a CUP that includes an NIE, the applicant shall be required to provide a progress report to the Board.
 2. The applicant shall be required to provide annual progress reports to the Board each year following the issuance of a CU for the establishment. At the time of a progress report, the Board may schedule a modification / revocation hearing pursuant to the requirements of section 2.5.2.5.
- d. The board may revoke or modify a conditional use approval pursuant to the following procedures:
 1. The planning director shall notify the applicant by certified mail of the failure to comply with the conditions of the approval;
 2. If, after expiration of a 15-day cure period commencing on the date of the notice, the applicant fails to comply with the conditions, or the applicant has exhibited repeated or intermittent noncompliance with the conditions prior to the cure period and the planning director is concerned about further repeated or intermittent noncompliance, the planning director shall advise the board at the next meeting and the board may consider setting a public hearing for the purpose of examining the noncompliance issues;
 3. If the board elects to set a public hearing, the planning director shall place the matter on the board's agenda in a timely manner and all notice requirements imposed for conditional use applications as set forth in subsection 2.2.4.1 shall be applicable, with the addition of notice to the applicant; and
 4. The board shall hold a public hearing to consider the issue of noncompliance and the possible revocation or modification of the approval, and, based on substantial competent evidence, the board may revoke the approval, modify the conditions thereof, or impose additional or supplemental conditions.
- e. In determining whether substantial competent evidence exists to support revocation, modification or the imposition of additional or supplemental conditions to the approval, intermittent noncompliance with the conditions, as well as the frequency, degree and adverse impact of such intermittent noncompliance, may be considered by the board.
- f. In the event the board takes any of the enforcement actions authorized in this subsection, the applicant shall reimburse the Planning Department for all monies expended to satisfy notice requirements and to copy, prepare or distribute materials in anticipation of the public hearing. The applicant shall not be permitted to submit a new application, for related or unrelated matters, nor shall an application be accepted affecting the subject property for related or unrelated matters, for consideration by the

board of adjustment, planning board, design review board, or historic preservation board, until repayment in full of all monies due and payable pursuant to the foregoing sentence.

- g. In addition to all other enforcement actions available to the board, based upon a board finding that the applicant has failed to comply with the conditions of the approval, the board may recommend that the code compliance director (or his successor in interest with respect to the issuance of occupational licenses and certificates of use), in his discretion, revoke or suspend the certificate of use for the subject property or the applicant's occupational license applicable to the business conducted at the subject property.

SECTION 2. REPEALER.

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

SECTION 3. 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 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2024.

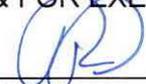
ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

First Reading: June 26, 2024
Second Reading: July 24, 2024

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK Date 6/17/2024

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