

Distance Separation Exemptions for Adult Material in Retail Cosmetics Stores

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 1, ENTITLED "GENERAL PROVISIONS," ARTICLE II, ENTITLED "DEFINITIONS," SECTION 1.2.2, ENTITLED "USE DEFINITIONS," BY ADDING A DEFINITION FOR "COSMETICS STORE," AND BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE V, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," SECTION 7.5.5, ENTITLED "SUPPLEMENTARY USE REGULATIONS," SECTION 7.5.5.2, ENTITLED "ADULT ENTERTAINMENT," BY CREATING EXEMPTIONS FROM THE DISTANCE SEPARATION REQUIREMENTS FOR COSMETIC STORES, WHERE ADULT MATERIAL CONSTITUTES LESS THAN 20% OF THE FLOOR AREA OF THE ESTABLISHMENT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, adult material is a legally protected form of expression under the First Amendment of the United States Constitution, and reasonable zoning regulations can ensure that such expression is balanced with community standards and business operations; and

WHEREAS, the integration of certain material that, absent specific regulations, could meet the definition of "adult material" within a retail cosmetics store, when restricted to designated areas and managed according to applicable zoning and licensing laws, can create a unique and appealing customer experience that differentiates the business in a competitive market; and

WHEREAS, proper oversight and adherence to age restrictions and content guidelines can ensure that adult material remains appropriate for the intended audience and does not interfere with the primary business of the cosmetics store; and

WHEREAS, limiting adult material to specific areas within a retail cosmetics store allows the business to maintain a professional and welcoming atmosphere for all customers while providing a separate space for adult material; and

WHEREAS, for the purposes of regulation and consistency, a "**cosmetics store**" shall be defined as a non-medical retail business that is primarily engaged in retailing cosmetics, perfumes, toiletries, personal grooming products, hair-care products, skin-care products and beauty tools; 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 1 of the Miami Beach Resiliency Code, entitled “General Provisions,” Article II, entitled “Definitions,” is hereby amended as follows:

**CHAPTER 1
GENERAL PROVISIONS**

* * *

ARTICLE II. DEFINITIONS

* * *

1.2.2 USE DEFINITIONS

* * *

1.2.2.4 Commercial

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Cosmetics store is a non-medical retail business that is primarily engaged in retailing cosmetics, perfumes, toiletries, personal grooming products, hair-care products, skin-care products and beauty tools.

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SECTION 2. Chapter 7 of the Miami Beach Resiliency Code, entitled “Zoning Districts and Regulations,” Article V, entitled “Supplementary District Regulations,” is hereby amended as follows:

**CHAPTER 7
ZONING DISTRICTS AND REGULATIONS**

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ARTICLE V. SUPPLEMENTARY DISTRICT REGULATIONS

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7.5.5 SUPPLEMENTARY USE REGULATIONS

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7.5.5.2 ADULT ENTERTAINMENT

a. Adult entertainment establishments prohibited in certain locations.

1. No adult entertainment establishment is permitted on a parcel of land located:

- A. Within 300 feet of any district designated as RS, ~~RM, or RPS~~ on the city's official zoning district map;
 - B. Within 300 feet of any district designated as RM, or RPS on the city's official zoning district map;
 - C. Within 300 feet of any parcel of land upon which a house of worship, ~~school, public park or playground~~ is located;
 - D. Within 300 feet of any parcel of land upon which a school, public park or playground is located; or
 - E. Within 1,000 feet of any parcel of land upon which another adult entertainment establishment is located.
2. The minimum distance separation shall be measured by following a straight line from the main entrance or exit of the adult entertainment establishment to the nearest point of the property designated as RS, RM, or RPS on the city's official zoning district map or used for a house of worship, school, or public park or playground. In cases where a minimum distance is required between an adult entertainment establishment and another adult entertainment establishment, the distance separation shall be determined by measuring a straight line between the principal means of entrance of each use.
 3. A hotel with a minimum of 300 hotel units shall be exempt from subsections ~~7.5.5.2.a.1, 7.5.5.2.a.2, and 7.5.5.2.a.3~~ a.1.A through a.1.E of this section.
 4. A cosmetics store located in a commercial zoning district and where adult material i. is limited to personal massagers that do not resemble specified anatomical areas as defined in Section 1.2.1 of this Code, ii. constitutes less than 10% of the floor area of the establishment, and iii. are not visible from any storefront, nor visible to minors (persons under 18 years of age) shall be exempt from subsections a.1.B, a.1.C, and a.1.E. of this section.

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 _____, 2025.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner Kristen Rosen Gonzalez)

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK Date 5/13/2025

First Reading: May 21, 2025

Second Reading: June 25, 2025

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