

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: October 30, 2024 5:04 p.m. Second Reading Public Hearing

TITLE: NORTH BEACH COMPREHENSIVE USE REGULATIONS  
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 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE 3, ENTITLED "OVERLAY DISTRICTS," AT SECTION 7.3.7, "ART DECO MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT," TO REMOVE THE "OCEAN TERRACE/HARDING TOWNSITE AREA" FROM THE BOUNDARIES OF THE OVERLAY; AND BY ESTABLISHING SECTION 7.3.10, ENTITLED "NORTH BEACH COMMERCIAL CHARACTER OVERLAY" (1) TO INCORPORATE THE PRE-EXISTING REGULATIONS FROM THE ART DECO/MIMO COMMERCIAL CHARACTER OVERLAY THAT ARE APPLICABLE TO THE "OCEAN TERRACE/HARDING TOWNSITE AREA," (2) TO PROVIDE LIMITS ON THE NUMBER OF PACKAGE LIQUOR STORES, CHECK CASHING STORES, CONVENIENCE STORES, AND TATTOO STUDIOS LOCATED NORTH OF 63RD STREET, AND (3) TO PROHIBIT TOBACCO AND VAPE DEALERS, OCCULT SCIENCE ESTABLISHMENTS, VITAMIN STORES, PAWN SHOPS, SOUVENIR AND T-SHIRT SHOPS, AND RELATED NUISANCE USES NORTH OF 63RD STREET; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

### **RECOMMENDATION**

The Administration recommends that the City Commission adopt the ordinance.

### **BACKGROUND/HISTORY**

On September 14, 2022, at the request of Commissioner Alex Fernandez, the City Commission referred a proposed amendment pertaining to use regulations in North Beach (C4 X) to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On October 28, 2022, the LUSC discussed and continued the item to the January 25, 2023 meeting with direction to the Administration to draft an ordinance based upon the geographical boundaries and types of uses identified in the October 28, 2022 LUSC memorandum.

On January 25, 2023, the LUSC discussed the proposed draft ordinance and continued the item to the March 1, 2023, meeting with the following direction:

1. Identify uses that should remain prohibited.
2. Identify those uses that could be regulated by a cap within the area, as well as the application of distance separation standards. These should include check cashing stores, package liquor stores and convenience stores.
3. Create a map of existing uses in North Beach that would be subject to a cap.
4. Under separate review, develop regulations for massage therapy centers in North Beach.

On March 1, 2023, the LUSC discussed the proposal and recommended the following:

1. Move the ordinance to the Planning Board, with direction to continue to study the cap on the number of allowable convenience stores.
2. Perform public outreach to commercial properties and affected stakeholders in North Beach.
3. Continue the discussion pertaining to potential regulations for massage therapy centers to the May 10, 2023 LUSC meeting.

## **ANALYSIS**

### **Background**

In 2020 the City Commission adopted Ordinance No. 2020-4339 which, among other things, restricted certain uses along Normandy Drive and 71st Street in the TC-C and CD-2 districts. Specifically, the following uses were added to the list of prohibited uses in these areas:

- Tobacco and vape dealers;
- Package liquor stores;
- Check cashing stores;
- Occult science establishments; and
- Tattoo studios.

The following is a summary of the current distance separation requirements for tobacco/vape dealers, vitamin stores and package liquor stores in North Beach:

#### **Tobacco/vape dealers:**

- No tobacco/vape dealer shall be located within 1,200 feet of another tobacco/vape dealer.
- Tobacco/vape dealers are currently prohibited within 500 feet of any property used as a public or private, elementary, middle, or secondary school.
- Tobacco/vape dealers are currently prohibited along Normandy Drive and 71<sup>st</sup> Street, within the TC-C North Beach Town Center Central Core district, and within the Ocean Terrace/Harding Townsite Area.

#### **Vitamin stores:**

- Vitamin shops shall not be located within 1,200 feet of another vitamin shop.
- Vitamin shops are currently prohibited within 500 feet of any property used as a public or private elementary, middle, or secondary school.

#### **Package liquor stores:**

- The minimum distance separation between retail stores primarily selling alcoholic beverages for consumption off the premises as a main permitted use shall be 1,500 feet.
- No alcohol beverage shall be sold within 300 feet of any property used as a public or private school.
- No alcohol beverage shall be sold within 300 feet of any property used as a place of worship.
- However, package liquor stores are currently prohibited along Normandy Drive and 71<sup>st</sup> Street, within the TC-C North Beach Town Center Central Core district, and within the Ocean

## Terrace/Harding Townsite Area.

In addition to the above uses, the following are other types of uses that have been regulated in other parts of the city, to prevent an over concentration within defined areas:

- Convenience stores;
- Pharmacy stores;
- Medical cannabis dispensaries;
- Stand-alone bars and/or entertainment uses;
- Vitamin stores; and
- Souvenir and T-shirt stores.

### **Planning Analysis**

Currently there are several commercial and multi-family residential districts in North Beach (RM-3, CD-1, CD-2, TC-1, 2 and 3) where certain nuisance uses are allowed in some form. To regulate these uses more comprehensively within the North Beach area, the attached draft ordinance is proposed. Specifically, the Land Development Regulations of the City Code (LDRs) are proposed to be amended by establishing a new overlay entitled the North Beach Commercial Character Overlay, which would apply to all areas located north of 63<sup>rd</sup> Street (see attached aerial and zoning maps).

The following uses would be prohibited within the entirety of the proposed overlay:

- Tobacco and vape dealers;
- Occult science establishments;
- Vitamin stores;
- Pawn Shops; and
- Souvenir and T-shirt stores.

Other uses have been identified as potentially problematic, particularly when there is an over-concentration of such uses, as the character of commercial areas and the quality of life of residents can be negatively impacted. These uses include package liquor stores, check cashing stores, tattoo studios and convenience stores. However, some of these uses do serve a useful purpose, and provide residents with necessary goods and services. Planning staff surveyed businesses north of 63<sup>rd</sup> Street and compiled the following regarding existing uses:

- Package liquor stores: 6 existing establishments.
- Check cashing stores: 2 existing establishment.
- Convenience stores: 16 – 19 existing establishments.
- Tattoo studios: 9 existing establishment.

To prevent an over-concentration of these types of uses, the following limits on the total number of uses permitted within the overlay is proposed:

- No more than 6 package liquor stores.

- No more than 4 check cashing stores.
- No more than 25 convenience stores.
- No more than 9 tattoo studios.

As it pertains to check cashing, tattoo studio and liquor store uses, considering the limited number of existing establishments, a smaller cap for such uses is proposed. A distance separation requirement was not included, as the proposed cap on the number of these uses is relatively tight. Also, pursuant to the regulations set forth in Chapter 6 of the City Code, a minimum distance separation of 1,500 feet between package liquor stores is already required.

Regarding convenience stores, the draft ordinance includes a limit of 25 convenience stores within the overlay area. Given the existing number of existing convenience stores (16 - 19), this would allow for a more measured increase in this use. Also, with the amount of new development taking place within the North Beach Town Center-Central Core (TC-C) District, it may be beneficial for there to be a limited number of convenience stores to serve those future residents.

The Art Deco/MiMo Commercial Character Overlay is an overlay that provides similar regulations for the South Beach area, as well as the Ocean Terrace/Harding Townsite Area of North Beach. In order to ensure that there are no overlapping regulations or conflicts, the proposed ordinance removes the Ocean Terrace/Harding Townsite Area and related regulations from the Art Deco/MiMo Commercial Character Overlay and relocates them to the North Beach Commercial Character Overlay. The existing regulations that are applicable to the Ocean Terrace/Harding Townsite Area are not proposed to change.

Most of the uses proposed to be further regulated by the proposed ordinance are already prohibited along 71<sup>st</sup> Street, Normandy Drive, the North Beach Town Center, and in the Ocean Terrace/Harding Townsite area. The areas that would be most affected by this ordinance are the CD-2 district located between 65<sup>th</sup> Street and 69<sup>th</sup> Street and the RM-3 properties that have accessory commercial uses.

### **PLANNING BOARD REVIEW**

On April 25, 2023, the Planning Board discussed and continued action on the proposed ordinance to the May 23, 2023 meeting. On May 23, 2023 the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (5-2). The Planning Board also made a separate motion (7-0) recommending the following:

1. The subject ordinance be revised to remove the proposed prohibition on tattoo studios and instead set a cap of up to the current number of such uses within the overlay. This recommendation has been incorporated into the text of the ordinance for First Reading.
2. Additional community outreach in the form of a hybrid (in person and virtual) workshop in the North Beach area.

### **UPDATE**

On June 28, 2023, the City Commission approved the subject ordinance at First Reading, with no changes, and scheduled Second Reading / Adoption for July 26, 2023. The City Commission also waived the applicable fees based on the proposed amendment implementing best practices in urban planning.

On July 26, 2023 the item was continued to a date certain of September 13, 2023, due to the length of the agenda. On September 13, 2023 the item was deferred to December 13, 2023, with no discussion. On December 13, 2023, the item was deferred to January 31, 2024, with no discussion, and on January 31, 2024, the item was deferred to April 3, 2024, with no discussion. The item was not reached at the April 3, 2024 meeting and was moved to the May 15, 2024

meeting.

On May 15, 2024, at the request of the item sponsor, the City Commission referred the item to the LUSC (R5 H). On June 10, 2024, the item was deferred to the July 9, 2024 LUSC meeting, and on July 9, 2024, the item was deferred to a future LUSC meeting. On September 5, 2024, the LUSC discussed the proposal and recommended that the City Commission adopt the ordinance at Second Reading.

### **FISCAL IMPACT STATEMENT**

No Fiscal Impact

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

If applicable, the Business Impact Estimate (BIE) was published on: 9/27/2024.  
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

### **FINANCIAL INFORMATION**

Not Applicable

### **CONCLUSION**

The Administration recommends the City Commission adopt the ordinance.

### **Applicable Area**

North Beach

**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)**

### **Condensed Title**

5:04 p.m. 2nd Rdg, North Beach Comprehensive Use Regulations. (Fernandez) PL