

# MIAMIBEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

## PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: April 8, 2025

FROM: Thomas R. Mooney, AICP  
Planning Director

<sup>DS</sup> For TRM  


SUBJECT: **PB24-0746. Vote Requirement for Release of Covenants Requiring Non-Transient Uses**

### **RECOMMENDATION**

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

### **HISTORY/BACKGROUND**

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 (LDR's) to the Planning Board.

On February 26, 2025, at the request of Commissioner Alex Fernandez, the City Commission referred the proposed ordinance to the Planning Board (C4 F). Commissioner Joseph Magazine is a co-sponsor.

### **REVIEW CRITERIA**

Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

**Consistent** – The proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

**Not applicable** – The proposed amendment does not modify district boundaries.

**3. Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

**Not applicable** – The proposed Ordinance does not affect the overall scale of development.

**4. Whether the proposed change would tax the existing load on public facilities and infrastructure.**

**Consistent** – The proposed amendment does not increase loads on public facilities or infrastructures.

**5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

**Not applicable** – The proposed change does not modify existing district boundaries.

**6. Whether changed or changing conditions make the passage of the proposed change necessary.**

**Consistent** – The proposed change is necessary in order to ensure that non-transient residential projects that take advantage of residential use incentives, remain non-transient in nature.

**7. Whether the proposed change will adversely influence living conditions in the neighborhood.**

**Consistent** – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood.

**8. Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

**Consistent** – The proposed change will not affect traffic congestion.

**9. Whether the proposed change will seriously reduce light and air to adjacent areas.**

**Consistent** – The proposed change will not reduce light and air to adjacent areas.

**10. Whether the proposed change will adversely affect property values in the adjacent area.**

**Consistent** – The proposed change will not adversely affect property values in the adjacent areas.

**11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

**Not applicable**

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

**Not applicable –**

13. **Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

**Not applicable.**

### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 7.1.2.4 of the LDRs establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

- (1) **Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.**

**Not Applicable**

- (2) **Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

**Not Applicable**

- (3) **Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.**

**Not Applicable**

### **ANALYSIS**

On November 20, 2024 the City Commission adopted a residential use incentive ordinance, which amended Chapter 7, Article I of the LDRs. 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**

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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.

**RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed Ordinance to the City Commission with a favorable recommendation.

## Vote Requirement for the Release of Covenants Requiring Non-Transient Uses

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” ARTICLE I, ENTITLED “GENERAL TO ALL ZONING DISTRICTS,” TO ESTABLISH A MINIMUM VOTING THRESHOLD FOR THE RELEASE OF A COVENANT RESTRICTING TRANSIENT USES; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the proliferation of transient uses may exacerbate housing affordability issues by reducing the availability of traditional rental housing options for families and individuals, including the city’s workforce; and

**WHEREAS**, creating development incentives for non-transient residential uses in the City of Miami Beach would enable the implementation of more equitable and comprehensive housing policies that prioritize the well-being and economic stability of all residents; and

**WHEREAS**, the City Commission has adopted policies and ordinances that utilize the voluntary proffer of a property owner to forgo transient uses on a property, as an incentive for the develop of non-transient, residential uses; 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 7, entitled “Zoning District Regulations,” Article I, entitled “General to All Zoning Districts,” is hereby amended as follows:

### **CHAPTER 7 ZONING DISTRICTS AND REGULATIONS**

#### **ARTICLE I. GENERAL TO ALL ZONING DISTRICTS**

\* \* \*

##### **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.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same 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:

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Steven Meiner, Mayor

First Reading: \_\_\_\_\_, 2025

Second Reading: \_\_\_\_\_, 2025

Verified by: \_\_\_\_\_

Thomas R. Mooney, AICP  
Planning Director

APPROVED AS TO  
FORM AND LANGUAGE  
AND FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date