

15. PB25-0746. Vote Requirement for the Release of Covenants Requiring Non-Transient Uses.

# MIAMI BEACH

## Land Use Boards

### Planning Board

TO: Planning Board  
FROM: Thomas Mooney, Director  
DATE: April 8, 2025  
TITLE: PB25-0746. VOTE REQUIREMENT FOR THE RELEASE OF COVENANTS  
REQUIRING NON-TRANSIENT USES.

#### **PROPERTY**

PB25-0746. Vote Requirement for the Release of Covenants Requiring Non-Transient Uses.

#### **FILE NO.**

PB25-0746

#### **APPLICANT**

City of Miami Beach

#### **IN RE:**

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

#### **PRIOR ORDER NUMBER:**

#### **Applicable Area**

Citywide

**Is this a "Residents Right to Know" item,  
pursuant to City Code Section 2-14?**

Yes

**Does this item utilize G.O. Bond  
Funds?**

No

**NEW COMPREHENSIVE PLAN & CODE AMENDMENTS (Filed pursuant to Chapter 2,  
Arti... 1**

# MIAMIBEACH

## PLANNING DEPARTMENT

1700 Convention Center Drive, Miami Beach, Florida 33139; Tel: 305.673.7550; Web: [www.miamibeachfl.gov/planning](http://www.miamibeachfl.gov/planning)

### LAND USE BOARD HEARING APPLICATION

The following application is submitted for review and consideration of the project described herein by the land use board selected below. A separate application must be completed for each board reviewing the proposed project.

<b>Application Information</b>			
FILE NUMBER PB25-0746		Is the property the primary residence & homestead of the applicant/property owner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (if "Yes," provide office of the property appraiser summary report)	
<b>Board of Adjustment</b> <input type="checkbox"/> Variance from a provision of the Land Development Regulations <input type="checkbox"/> Appeal of an administrative decision <input type="checkbox"/> Modification of existing Board Order		<b>Design Review Board</b> <input type="checkbox"/> Design review approval <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
<b>Planning Board</b> <input type="checkbox"/> Conditional Use Permit <input type="checkbox"/> Lot Split <input checked="" type="checkbox"/> Amendment to the Land Development Regulations or Zoning Map <input type="checkbox"/> Amendment to the Comprehensive Plan or Future Land Use Map <input type="checkbox"/> Modification of existing Board Order		<b>Historic Preservation Board</b> <input type="checkbox"/> Certificate of Appropriateness for design <input type="checkbox"/> Certificate of Appropriateness for demolition <input type="checkbox"/> Historic District/Site Designation <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
<input type="checkbox"/> <b>Other:</b>			
<b>Property Information – Please attach Legal Description as "Exhibit A"</b>			
ADDRESS OF PROPERTY N/A			
FOLIO NUMBER(S)			
<b>Property Owner Information</b>			
PROPERTY OWNER NAME N/A			
ADDRESS		CITY	STATE
			ZIPCODE
BUSINESS PHONE		CELL PHONE	EMAIL ADDRESS
<b>Applicant Information (if different than owner)</b>			
APPLICANT NAME City of Miami Beach			
ADDRESS 1700 Convention Center Drive		CITY Miami Beach	STATE FL
			ZIPCODE 33139
BUSINESS PHONE 3056737550		CELL PHONE	EMAIL ADDRESS N/A
<b>Summary of Request</b>			
PROVIDE A BRIEF SCOPE OF REQUEST SEE AFFIDAVIT			

<b>Project Information</b>			
Is there an existing building(s) on the site?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If previous answer is "Yes", is the building architecturally significant per sec. 142-108?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the project include interior or exterior demolition?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Provide the total floor area of the new construction.		SQ. FT.	
Provide the gross floor area of the new construction (including required parking and all usable area).		SQ. FT.	
<b>Party responsible for project design</b>			
NAME		<input type="checkbox"/> Architect <input type="checkbox"/> Contractor <input type="checkbox"/> Landscape Architect <input type="checkbox"/> Engineer <input type="checkbox"/> Tenant <input type="checkbox"/> Other_____	
ADDRESS		CITY	STATE    ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
<b>Authorized Representative(s) Information (if applicable)</b>			
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other_____	
ADDRESS		CITY	STATE    ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other_____	
ADDRESS		CITY	STATE    ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other_____	
ADDRESS		CITY	STATE    ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	

**Please note the following information:**

- A separate disclosure of interest form must be submitted with this application if the applicant or owner is a corporation, partnership, limited partnership or trustee.
- All applicable affidavits must be completed and the property owner must complete and sign the "Power of Attorney" portion of the affidavit if they will not be present at the hearing, or if other persons are speaking on their behalf.
- To request this material in alternate format, sign language interpreter (five-day notice is required), information on access for persons with disabilities, and accommodation to review any document or participate in any City sponsored proceedings, call 305.604.2489 and select (1) for English or (2) for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

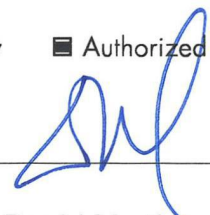
**Please read the following and acknowledge below:**

- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
- All disclosures must be submitted in CMB Application format and be consistent with CMB Code Sub-part A Section 2-482(c):
  - (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
- In accordance with Section 118-31. – Disclosure Requirement. Each person or entity requesting approval, relief or other action from the Planning Board, Design Review Board, Historic Preservation Board or the Board of Adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional service rendered or to be rendered. The disclosure shall: (I) be in writing, (II) indicate to whom the consideration has been provided or committed, (III) generally describe the nature of the consideration, and (IV) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board. Upon determination by the applicable board that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then (I) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (II) no application form said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
- When the applicable board reaches a decision a final order will be issued stating the board's decision and any conditions imposed therein. The final order will be recorded with the Miami-Dade Clerk of Courts. The original board order shall remain on file with the City of Miami Beach Planning Department. Under no circumstances will a building permit be issued by the City of Miami Beach without a copy of the recorded final order being included and made a part of the plans submitted for a building permit.

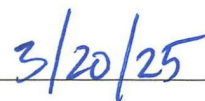
The aforementioned is acknowledged by:

☐ Owner of the subject property

☒ Authorized representative

  
 \_\_\_\_\_  
**SIGNATURE**  
 David Martinez

\_\_\_\_\_  
**PRINT NAME**

  
 \_\_\_\_\_

**DATE SIGNED**



# AFFIDAVIT

I, David Martinez, being duly sworn, depose and say that I am the Assistant City Manager of the City of Miami Beach and as such, have been authorized by the city, to file the following application for a Planning Board public hearing:

**PB25-0746. Vote Requirement for the Release of Covenants Requiring Non-Transient Uses.**  
**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.

This instrument is executed pursuant to the requirements of the Planning Department and attests to the accuracy of the above statement. Execution hereof does not constitute approval or disapproval of the application which it addresses.

ASSISTANT CITY MANAGER'S SIGNATURE

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE) SS

Sworn to and subscribed before me this 21<sup>st</sup> day of March, 2025. The foregoing instrument was acknowledged before me by David Martinez, who is personally known to me and who did/did not take an oath.

My commission expires:

NOTARY PUBLIC  
STATE OF FLORIDA  
(Type, print or stamp name)



**NAIMA DE PINEDO**  
Notary Public  
State of Florida  
Comm# HH284392  
Expires 9/26/2026

# 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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April 8, 2025

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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