

R5 S COMMERCIAL USE OF SINGLE-FAMILY HOMES

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 7 OF THE MIAMI BEACH RESILIENCY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE II, ENTITLED "DISTRICT REGULATIONS," BY AMENDING SECTION 7.2.2, ENTITLED "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS" BY AMENDING SUBSECTION 7.2.2.2, ENTITLED "USES (RS)" TO CLARIFY AND AMEND REGULATIONS ON THE COMMERCIAL USE OF SINGLE-FAMILY HOMES; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: April 23, 2025 10:35 a.m. First Reading Public Hearing

TITLE: COMMERCIAL USE OF SINGLE-FAMILY HOMES
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 7 OF THE MIAMI BEACH RESILIENCY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE II, ENTITLED "DISTRICT REGULATIONS," BY AMENDING SECTION 7.2.2, ENTITLED "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS" BY AMENDING SUBSECTION 7.2.2.2, ENTITLED "USES (RS)" TO CLARIFY AND AMEND REGULATIONS ON THE COMMERCIAL USE OF SINGLE-FAMILY HOMES; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission (City Commission) approve the subject ordinance at First Reading and schedule a Second Reading public hearing for May 21, 2025.

BACKGROUND/HISTORY

On September 11, 2024, at the request of Commissioner Alex Fernandez, the Mayor and City Commission (City Commission) referred an item regarding the regulation of the use of generators, sound systems, audiovisual equipment and stages at private residences used as party houses (C4 R) to the Land Use and Sustainability Committee (LUSC),

On February 20, 2025, the LUSC recommended that the City Commission refer the proposed ordinance, clarifying the City's prohibition on commercial uses of single-family homes, to the Planning Board. On February 26, 2025, at the request of Commissioner Alex Fernandez, and Commissioners Laura Dominguez and Tanya K. Bhatt, the City Commission referred the proposed ordinance (C4 I) to the Planning Board.

ANALYSIS

Section 7.2.2.2(d) of the Land Development Regulations of the City Code (LDRs) contains regulations specific to prohibited uses in single family (RS) districts. The attached ordinance expands the current prohibitions on the commercial use of single-family homes. The following is a summary (underscore) of the proposed amendments to Section 7.2.2.2(d)(1)1.A.I, pertaining to donations associated with the commercial use of homes in single-family districts:

- All of the goods, property or services offered, or donations that are solicited or accepted, are donated to or for charitable, religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax-exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with applicable election laws; or
- All of the proceeds from any sales or donations are directly payable and paid to charitable,

religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax-exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with applicable election laws. An organization or candidate may reimburse donors for goods or property donated; or

- Any advertising, marketing, or promotion of any party, event, assembly, or gathering in any print, film, social networking platform, or any other media occurs; or
- Any party, event, assembly, or gathering is sponsored, managed, or promoted by any entity other than a charitable, religious or political organization(s) or candidate(s) for public office, that has received 501(c)(3) or other tax-exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with applicable election laws.

PLANNING BOARD REVIEW

On April 8, 2025, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (7-0).

APPLICATION FEE WAIVER

The subject amendment is proposed on a comprehensive, citywide basis, and not on behalf of a private applicant or third party. Pursuant to section 2.4.1.c of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 2.2.3.5, 2.2.3.6, and appendix A to the City Code. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

1. The City Commission determines that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning, or based on circumstances unique to the proposed amendment.
2. Upon the written recommendation of the City Manager acknowledging a documented financial hardship of a property owner(s) or developer(s).
3. If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

The Administration recommends that the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

SUMMARY

The proposed ordinance prohibits sponsorship of events in a single-family home by a for-profit entity and prohibits the promotion of any party event via social media platforms. Also, the sponsor has requested that the City Commission waive the annual zoning cycle restriction for the subject amendment, pursuant to Section 2.3.2 of the LDRs, and schedule a Second Reading public hearing for May 21, 2025.

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:

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

Not Applicable

CONCLUSION

The Administration recommends the following:

1. The City Commission approve the subject ordinance at First Reading.
2. Pursuant to Section 2.3.2 of the LDRs, the City Commission waive the annual zoning cycle restriction for the subject amendment and schedule a Second Reading public hearing for May 21, 2025.
3. In accordance with section 2.4.1.c.1 of the Land Development Regulations of the City Code, the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

Applicable Area

Citywide

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)

Commissioner Tanya K. Bhatt
Commissioner Laura Dominguez

Condensed Title

10:35 a.m. 1st Rdg PH, Commercial Use of Single-Family Homes. (AF/TB/LD) PL

Previous Action (For City Clerk Use Only)

Commercial Use of Single-Family Homes – LDR Amendment

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 7 OF THE MIAMI BEACH RESILIENCY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE II, ENTITLED "DISTRICT REGULATIONS," BY AMENDING SECTION 7.2.2, ENTITLED "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS" BY AMENDING SUBSECTION 7.2.2.2, ENTITLED "USES (RS)" TO CLARIFY AND AMEND REGULATIONS ON THE COMMERCIAL USE OF SINGLE-FAMILY HOMES; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, as presently drafted, the City's Land Use Regulations prohibit commercial use of a single-family home, but loopholes exist that create workarounds for property owners to sponsor commercial uses of their homes, particularly for large parties and events; and

WHEREAS, for example, the current LDRs do not prohibit sponsorship of an event in a single-family home by a for-profit entity. Also, promotion on social media is not currently expressly prohibited; and

WHEREAS, the Mayor and City Commission desire to enact legislation to better prevent commercial uses (particularly large-scale commercial parties and events) under present-day conditions in the City; and

WHEREAS, the accompanying ordinance prohibiting sponsorship of an event in a single-family home by a for-profit entity and prohibiting promotion on, *inter alia*, social media will advance the City's interests and better protect neighbors in residential neighborhoods.

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

SECTION 1. That Section 7.2.2.2 of Chapter 7 the Miami Beach Resiliency Code, entitled "Zoning Districts and Regulations," is hereby amended as follows:

MIAMI BEACH RESILIENCY CODE

* * *

CHAPTER 7 ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. DISTRICT REGULATIONS

* * *

SECTION 7.2.2 RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

* * *

Subsection 7.2.2.2. Uses (RS)

* * *

(d) Supplemental Prohibited uses Regulations (RS)

* * *

(1) Commercial use of single-family homes prohibited (RS)

* * *

1. Commercial use of single-family homes prohibited (RS).

A. *Intent and purpose.* The land development regulations restrict residential properties to residential and compatible accessory uses. Commercial uses on residential properties are prohibited, with limited exceptions. While residents are entitled to enjoy the use of their property consistent with the applicable regulations, in order to ensure and protect the enjoyment, character and value of residential neighborhoods and buildings, the provisions herein are established.

B. *Definitions.*

- I. *Use of residential property or use of the property* in this section shall mean occupancy of residential property for the purpose of holding commercial parties, events, assemblies or gatherings on the premises.

C. *Regulations: Determination of commercial use.*

- I. Accessory use of residential property shall be deemed commercial and not permitted, except as otherwise provided for in the Code, if:
 1. *Compensation to owner.* The owner, lessee or resident receives payment or other consideration, e.g., goods, property or services, ~~in excess of \$100.00 per party or event~~ for the commercial use of the property, including payment by any means, direct or indirect, including security deposits; or;
 2. *Goods, property or services offered or sold; donations solicited or accepted.* Goods, property or services are offered for sale or sold on or at the property, or donations are solicited or accepted, during use of the property; however, this subsection shall not apply, if:
 - i. All of the goods, property or services offered, or donations that are solicited or accepted, are donated to or for charitable, religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax exempt status under the U.S.

Internal Revenue Code, as amended, or in accordance with applicable election laws; or

- ii. All of the proceeds from any sales or donations are directly payable and paid to charitable, religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with applicable election laws. An organization or candidate may reimburse donors for goods or property donated; or
- iii. The sale is of the property itself or personal property of the owner or resident (excluding property owned by a business), and if publicly advertised, comply with section 7.2.2.2.d.1.C.III below;
- iv. Notwithstanding the restrictions in section 7.2.2.2.d.1.C.I.(2).[i]-[iii], limited commercial use of the property by the owner or resident for the sale of goods, property or services shall be allowed under the following criteria. The event:
 - 1. Is by private invitation only, not publicly advertised;
 - 2. Creates no adverse impacts to the neighborhood;
 - 3. The activity and its impacts are contained on the property;
 - 4. Parking is limited to that available on-site, plus 11 vehicles legally self-parked near the property, with no busing or valet service; and
 - 5. Frequency is no greater than one event per month;
- v. The owner or resident must provide the city manager an affidavit that identifies the limited commercial use of the residential property at least 72 hours before the applicable limited commercial use is scheduled to commence pursuant to section 7.2.2.2.d.1.C.I.(2)., and the affidavit must include the applicable information set forth within section 7.2.2.2.d.1.C.I.(2).[i]-[iv], setting forth detailed information supporting the exempted limited commercial use provided there. The submission of a false affidavit is a misdemeanor of the second

degree, punishable as provided in sections 775.082 or 775.083 of the Florida Statutes; or

3. *Admittance fees.* Use of the property by attendees requires an admittance or membership fee or a donation, excluding donations directly payable and paid by attendees to charitable, religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with applicable election laws; or
 4. Any advertising that promotes the occupancy or use of the residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or advertisement that promotes the occupancy of a residence for less than six months and one day, as provided herein, or use of the residential premises in violation of this section; ;
 5. Any advertising, marketing, or promotion of any party, event, assembly, or gathering in any print, film, social networking platform, or any other media occurs; or
 6. Any party, event, assembly, or gathering is sponsored, managed, or promoted by any entity other than a charitable, religious or political organization(s) or candidate(s) for public office, that has received 501(c)(3) or other tax exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with applicable election laws.
- II. *Signs or advertising.* Signs or other forms of advertising in connection with goods, property or services offered in connection with commercial use of the property, including the actual goods, property (except real property and structures thereon) or services, shall not be visible from the public right-of-way. This section shall not be construed to prohibit the display of real estate for sale or lease signs for the property.
- III. *Real estate open houses.* The following events are permitted: Open houses (open to the public) organized for the purpose of promoting the sale or lease of the residence where the open house is located, to potential buyers or renters, or events organized by the listing agent limited to licensed real estate brokers and/or agents, subject to the following:
- IV. No sale or display of goods, property or services by sponsoring businesses unrelated to the property; and
- V. No charging admittance fees.

VI. Events described in this subsection must end by 8:00 p.m.

VII. *Enforcement.*

1. Violations of this section shall be subject to the following fines. The special magistrate shall not waive or reduce fines set by this section.
 - i. If the violation is the first violation \$1,000 per day, per violation.
 - ii. If the violation is the second or greater violation, \$5,000 per day per violation.
 - iii. However, if the special magistrate finds the violation to be irreparable or irreversible in nature, the special magistrate may impose a fine not to exceed \$15,000.00 per violation.
 - iv. The director of the code compliance department must remit a letter to the Miami-Dade Property Appraiser and Miami-Dade Tax Collector, with a copy of the special magistrate order adjudicating the violation, that notifies these governmental agencies that the single-family residential property was used for the purpose of holding a commercial party, event, assembly or gathering at the premises.
2. The advertising or advertisement for the commercial use of a residential property for the purpose of holding commercial parties, event, assemblies or gatherings on the residential premises is direct evidence that there is a violation of section 7.2.2.2.d.1.C, which is admissible in any proceeding to enforce section 7.2.2.2.d.1. The advertising or advertisement evidence raises a rebuttable presumption that the residential property named in the notice of violation or any other report or as identified in the advertising or advertisement is direct evidence that the residential property was used in violation of section 7.2.2.2.d.1.
3. In addition to or in lieu of the foregoing, the city must close down the commercial use of the property pursuant to section 7.2.2.2.d.1, or may seek an injunction against activities or uses prohibited under this section.
4. Any city police officer or code compliance officer may issue notices for violations of this section, with alternative enforcement as provided in chapter 1 of this Code. Violations shall be issued to the homeowner, and/or to any

realtor, real estate agent, real estate broker, event planner, promoter, caterer, or any other individual or entity that facilitates or organizes the prohibited activities. In the event the record owner of the property is not present when the violation occurred, a copy of the violation shall be provided to such owner.

5. Charitable, religious or political organizations or candidates for public office shall receive one courtesy notice in lieu of the first notice of violation only, after which fines will accrue starting with the first violation as prescribed. No courtesy notice in lieu of first notice of violation shall be available if a courtesy notice in lieu of first notice of violation has already been granted in the preceding 18 month period, regardless of location.
 6. The city recognizes peoples' rights of assembly, free expression, religious freedom, and other rights provided by the state and federal constitutions. It is the intent of the city commission that no decision under this section shall constitute an illegal violation of such rights, and this section shall not be construed as such a violation.
 7. The city manager or designee may adopt administrative rules and procedures to assist in the uniform enforcement of this section.
- VIII. *No variances shall be granted from this section.* This section does not authorize commercial activities in residential neighborhoods that are otherwise prohibited or regulated by applicable law, unless expressly provided for herein.
- IX. *Enhanced penalties.* The following enhanced penalties must be imposed, in addition to any mandatory fines set forth in (editor) section 7.2.2.2.d.1.D above, for violations of section 7.2.2.2.d.1:
1. Enhanced penalties for this section:
 - i. The commercial use must be immediately terminated, upon confirming a violation has occurred, by the Miami Beach Police Department and the code compliance department.
 - ii. A certified copy of an order imposing the civil fines and penalties must be recorded in the public records, and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the

personal property, but shall not be deemed to be a court judgment except for enforcement purposes. The certified copy of an order must be immediately recorded in the public records, and the city may foreclose or otherwise execute upon the lien.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

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

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Miami Beach Resiliency Code. The sections of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 2025.

Steven Meiner, Mayor

ATTEST:

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

Rafael E. Granado, City Clerk

City Attorney

4/15/2025
Date

ATC

(Sponsored by Commissioner Alex J. Fernandez)

First Reading: April; 23, 2025

Second Reading: May 21, 2025

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

T:\Agenda\2025\04 April 23, 2025\Planning\Commercial Use of Single Family Homes - First Reading ORD.docx