

C7 AM A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RELATING TO ZONING INCENTIVES FOR NON-TRANSIENT, LONG-TERM RESIDENTIAL DEVELOPMENT; AND ESTABLISHING A POLICY THAT, WHENEVER A COVENANT RESTRICTING TRANSIENT USES ON A PROPERTY IS SUBMITTED AS A CONDITION OF ELIGIBILITY FOR RESIDENTIAL ZONING INCENTIVES, THAT THE COVENANT SHOULD REQUIRE A 6/7TH SUPERMAJORITY VOTE OF THE ENTIRE CITY COMMISSION BEFORE THE COVENANT MAY BE RELEASED OR AMENDED IN SUCH A MANNER AS TO WEAKEN A RESTRICTION ON THE TRANSIENT USE OF THE PROPERTY.

Applicable Area:

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: October 30, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RELATING TO ZONING INCENTIVES FOR NON-TRANSIENT, LONG-TERM RESIDENTIAL DEVELOPMENT; AND ESTABLISHING A POLICY THAT, WHENEVER A COVENANT RESTRICTING TRANSIENT USES ON A PROPERTY IS SUBMITTED AS A CONDITION OF ELIGIBILITY FOR RESIDENTIAL ZONING INCENTIVES, THAT THE COVENANT SHOULD REQUIRE A 6/7THS SUPERMAJORITY VOTE OF THE ENTIRE CITY COMMISSION BEFORE THE COVENANT MAY BE RELEASED OR AMENDED IN SUCH A MANNER AS TO WEAKEN A RESTRICTION ON THE TRANSIENT USE OF THE PROPERTY.

### **RECOMMENDATION**

### **BACKGROUND/HISTORY**

Pursuant to the request of Vice Mayor Alex J. Fernandez, the above Resolution has been placed on the City Commission meeting agenda.

In recent years, a number of zoning incentives have been considered and/or adopted by the City Commission to encourage non-transient, long-term residential development. As a condition of eligibility for these incentives, which are voluntary in nature, the property owner is required to record a declaration of restrictive covenants, restricting future transient uses on the property. Several of these incentives have been in the form of voluntary FAR incentives approved by the City's voters or adopted by a 6/7ths vote of the City Commission.

### **ANALYSIS**

The main purpose of the incentives is to encourage long-term residential development. Accordingly, this Resolution establishes a policy that, whenever a covenant restricting transient uses on a property is submitted as a condition of eligibility for residential zoning incentives, the covenant should require a 6/7ths supermajority vote of the entire City Commission in order to release the covenant or amend the covenant in such a manner as to weaken a restriction on the transient use of the property.

### **FISCAL IMPACT STATEMENT**

N/A

### **Does this Ordinance require a Business Impact Estimate?**

(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**

## **CONCLUSION**

### **Applicable Area**

Citywide

**Is this a "Residents Right to Know" item,  
pursuant to City Code Section 2-17?**

No

**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**

City Attorney

### **Sponsor(s)**

Commissioner Alex Fernandez

### **Co-sponsor(s)**

Commissioner David Suarez  
Commissioner Joseph Magazine

### **Condensed Title**

Resolution Requiring 6-7ths to Release Transient Use Covenant. (Fernandez/Suarez/Magazine)  
CA

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RELATING TO ZONING INCENTIVES FOR NON-TRANSIENT, LONG-TERM RESIDENTIAL DEVELOPMENT; AND ESTABLISHING A POLICY THAT, WHENEVER A COVENANT RESTRICTING TRANSIENT USES ON A PROPERTY IS SUBMITTED AS A CONDITION OF ELIGIBILITY FOR RESIDENTIAL ZONING INCENTIVES, THAT THE COVENANT SHOULD REQUIRE A 6/7THS SUPERMAJORITY VOTE OF THE ENTIRE CITY COMMISSION BEFORE THE COVENANT MAY BE RELEASED OR AMENDED IN SUCH A MANNER AS TO WEAKEN A RESTRICTION ON THE TRANSIENT USE OF THE PROPERTY.**

**WHEREAS**, in recent years, a number of zoning incentives have been considered and/or adopted by the City Commission to encourage non-transient, long-term residential development; and

**WHEREAS**, as a condition of eligibility for these incentives, which are voluntary in nature, the property owner is required to record a declaration of restrictive covenants, restricting future transient uses on the property; and

**WHEREAS**, several of these incentives have been in the form of voluntary FAR incentives approved by the City's voters or adopted by a 6/7ths vote of the City Commission; and

**WHEREAS**, the main purpose of the incentives is to encourage long-term residential development; accordingly, any release of a covenant tied to the incentives should require a 6/7ths supermajority vote of the City Commission; and

**WHEREAS**, the City Commission now desires to adopt a policy that, whenever a covenant restricting transient uses on the property is submitted as a condition of eligibility for residential zoning incentives, that the covenant should require a 6/7ths supermajority vote of the entire City Commission before the covenant may be released or amended in such a manner as to weaken a restriction on transient use.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, as it relates to zoning incentives for non-transient, long-term residential development, that the City Commission hereby establishes a policy that, whenever a covenant restricting transient uses on a property is submitted as a condition of eligibility for residential zoning incentives, that the covenant should require a 6/7ths supermajority vote of the entire City Commission in order to release the covenant or amend the covenant in such a manner as to weaken a restriction on the transient use of the property.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2024.


ATTEST:

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

(Sponsored by Vice-Mayor Alex J. Fernandez)

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

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

 \_\_\_\_\_ 10/22/2024  
City Attorney NK Date