

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

^{DS}
 For TRM

SUBJECT: **PB25-0744. Commercial Use of Single-Family Homes Amendment**

RECOMMENDATION

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

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.

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 potential negative impacts from commercial uses in single family homes are sufficiently reviewed and mitigated.

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 residential neighborhoods.

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 increase 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.

Consistent – The proposed change will not be a deterrent to the improvement or development of adjacent properties.

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.**

Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

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

Consistent – The proposal does not affect the resiliency of the City.

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

Consistent – The proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

The following is a summary of the current regulations applicable to commercial uses in single-family homes, as set forth in the Land Development Regulations of the City Code (LDRs):

- Goods, property, or services offered are donated to or for 501(c)(3) or other tax-exempt organizations, or candidates for public office (under applicable election laws). All proceeds from sales go directly to charitable, religious, or political organizations or candidates with tax-exempt status.
- Sale of personal property by the owner or resident, excluding business-owned property, is allowed with certain conditions, including public advertisement requirements.
- Owners or residents may host a private, limited commercial event by private invitation only with no adverse neighborhood impacts that are contained on the property.
- Vehicular parking is limited to on-site spaces, plus up to 11 vehicles legally parked nearby (no valet or busing).

- The event frequency is limited to once per month and an affidavit must be submitted to the City Manager at least 72 hours in advance with event details.
- Events requiring an admittance or membership fee, or donations to tax-exempt charitable, religious, or political organizations, are allowed. Donations directly payable to tax-exempt entities are excluded from this regulation.
- Advertising goods, property, or services related to commercial use of residential property must not be visible from the public right-of-way.
- There shall be no sale or display of unrelated goods or services by businesses and the events must end by 8:00 p.m.

The following is a summary (underscore) of the proposed amendments to commercial uses 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

In summary, the draft ordinance prohibits sponsorship of an event in a single-family home by a for-profit entity, and prohibits the promotion of any party event via social media platforms.

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.

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 LDR does 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; or
 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 on the _____ day of _____, 2025.

PASSED AND ADOPTED this _____ day of _____, 2025.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

Underline denotes additions
~~Strikethrough~~ denotes deletions

(Sponsored by Commissioner Alex J. Fernandez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney _____
Date