

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

DATE: November 4, 2025

TO: Chairperson and Members
Planning Board

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: PB25-0805, **Temporary Conditional Use Regulations in Commercial Districts.**

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "MIAMI BEACH RESILIENCY CODE," BY AMENDING CHAPTER 2, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE V, ENTITLED "REZONINGS AND DEVELOPMENT APPROVALS," SECTION 2.5.2 ENTITLED "CONDITIONAL USE," BY CREATING AN EXCEPTIONS PROVISION FOR CONDITIONAL USE REGULATIONS IN DESIGNATED COMMERCIAL DISTRICTS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

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

BACKGROUND

On July 23, 2025, at the request of Commissioner Alex Fernandez, the Mayor and City Commission (City Commission) referred a proposal pertaining to temporary regulations for vacant storefronts in commercial districts (C4 J) to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On September 11, 2025, the LUSC recommended that the Planning Board transmit an ordinance to the City Commission, with a favorable recommendation, in accordance with the draft text in the LUSC memo, including a penalty provision.

On October 16, 2025 the Board reviewed and continued the subject application to a date certain of November 4, 2025.

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.
Consistent
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 should not increase loads on public facilities or infrastructure.
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 creates temporary exceptions to the conditional use process for restaurant uses in defined commercial areas of the City filling vacant commercial spaces.
7. Whether the proposed change will adversely influence living conditions in the neighborhood.
Consistent
The proposed ordinance amendment should 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 should 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

As noted in the Background Section of this report, on September 11, 2025, the LUSC discussed and considered amendments to the Land Development Regulations of the City Code (LDRs) to establish a temporary deregulation initiative that would suspend or relax certain zoning regulations, including a review of CUP thresholds that apply to small bars, restaurants, or venues with music. This proposed time-limited initiative is intended to catalyze the reactivation of vacant storefronts and buildings by streamlining the development review process.

UPDATE

On October 16, 2025 the Planning Board reviewed and continued the proposed ordinance to address concerns expressed members of the Board. Since the October meeting, the following modifications have been incorporated into the ordinance:

- 41st Street between Alton Road and Pine Tree Drive has been included as one of the commercial corridors where the ordinance would be applicable.
- The criteria have been modified to include the following:
 - Existing businesses with a previously approved or existing Conditional Use Permit (CUP) as of January 1, 2026, shall not be eligible for administrative review of a Neighborhood Impact Establishment (NIE) application.
 - Rooftop activation is not permitted as part of an administrative review of an NIE application.
 - The maximum occupancy associated with the NIE application shall not exceed 750 persons, as determined by the fire marshal.
- The administrative approval procedures were clarified to indicate that a business tax

receipt (BTR) for the NIE is required prior to the commencement of operations.

- The enforcement and penalties section has been modified to indicate that the BTR associated with the NIE's administrative approval may be revoked by the City Manager if the establishment is in violation of Section 102-381 of the City Code (attached to this report for reference), consistent with the procedures for all BTRs.

During the October 16, 2025 discussion, several members of the Board indicated a desire to provide a public notice to inform nearby residents of an administrative NIE application review. After considering different options, staff does not recommend including a notice requirement, as any notice would be for informational purposes only and would not impact the review and/or issuance of a building permit or certificate of use related to the NIE.

Should the Board still endeavor to recommend a notice provision, staff has drafted the following text:

For an Neighborhood Impact Establishment Application (NIE application) submitted under this section, the applicant shall mount a laminated posting, in a form prescribed by the planning director, at the front of the property in a manner and location clearly visible from the public right-of-way, indicating that an application for an NIE application has been filed. At a minimum, such posting shall include a description of the application, as well as contact information for the operator and property owner. The applicant shall provide evidence to the planning director that the posting has been installed on site prior to the issuance of a building permit or certificate of use for the NIE. The posting shall be for informational purposes only and the validity of any building permit or certificate of use shall not be affected by any failure to mount or continuously maintain the posting.

STAFF 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.

Sec. 102-381. Grounds for suspension, revocation and denial.

- (a) The city manager or his or her designee shall either revoke or temporarily suspend the business tax receipt of any person where it is determined by the city manager or his or her designee that:
- (1) The taxee has misrepresented or failed to disclose material information required by this article to be included in the business tax application form.
 - (2) The taxee, as part of the taxee's business activity within the city, is engaged in conduct that is an actual threat to the public health, welfare or safety.
 - (3) The taxee is conducting business from premises that do not possess a valid and current certificate of occupancy and/or certificate of use as may be required by city and county laws.
 - (4) Habitual conduct has occurred at the taxee's premises that violates city, county or state law.
 - (5) The tax receipt issued by the city depended upon the taxee's compliance with specific provisions of federal, state, city or county law and the taxee has violated such specific provisions of law.
 - (6) The taxee has violated any provision of this article and has failed or refused to cease or correct the violation after notification thereof.
 - (7) The taxee, as part of the licensee's business activity within the city, knowingly lets, leases or gives space for unlawful gambling purposes at the taxee's premises.
 - (8) The taxee, within the preceding five years in this state or any other state or in the United States, has been adjudicated guilty of or forfeited a bond when charged with soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or illegally dealing in narcotics.
 - (9) The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy.
 - (10) The taxee's premises have been found to constitute a public nuisance by the nuisance abatement board.
 - (11) A business has permitted an untaxed promoter to hold a dance or entertainment event on the premises of the business on more than one occasion within a 12-month period.
- (b) The suspension or revocation shall be of the business tax receipt in effect at the date of such suspension or revocation, even though it may have been issued to a taxee other than the person who held the tax receipt at the time the cause for such suspension or revocation arose.
- (c) No tax receipt shall be suspended under this section for a period of more than 12 months. No new tax receipt shall be issued during the period of suspension/revocation to the taxee, or to any other firm in which the taxee or any of its general partners, limited partners, officers or stockholders owning 20 percent or more of its stock or agents, employees or other persons who were actively involved in the business under suspension/revocation. At the end of such period of suspension or revocation, the taxee and/or agents, general or limited partners, officers or stockholders may apply for a new tax receipt.
- (d) The city manager shall deny a business tax receipt to any person as provided by sections 102-371 and 102-372.
- (e) In addition to the grounds set forth in subsection 102-381(a), the city manager or his or her designee shall either revoke or temporarily suspend the tax receipt of any promoter where it is determined by the city manager or his or her designee that:

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- (1) A promoter has held a dance or entertainment event on the premises of an untaxed business on more than one occasion within a 12-month period.
 - (2) Habitual conduct has occurred at, or in connection with, a promoter's dance or entertainment event that violates city, county, or state laws including, but not limited to, laws prohibiting:
 - a. The serving of alcoholic beverages to minors;
 - b. Littering;
 - c. Excessive noise; and
 - d. Disorderly conduct.

(Ord. No. 95-2995, § 2(20-40), 6-7-95; Ord. No. 99-3173, § 9, 3-3-99; Ord. No. 2007-3553, § 1, 4-11-07)

Temporary Conditional Use Regulations in Commercial Districts

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 2, ENTITLED “ADMINISTRATION AND REVIEW PROCEDURES,” ARTICLE V, ENTITLED “REZONINGS AND DEVELOPMENT APPROVALS,” SECTION 2.5.2, ENTITLED “CONDITIONAL USE,” BY AMENDING SECTION 2.5.2.1, ENTITLED “PURPOSE,” TO PROVIDE FOR EXCEPTIONS FROM CONDITIONAL USE REGULATIONS FOR CERTAIN NEIGHBORHOOD IMPACT ESTABLISHMENTS IN DESIGNATED COMMERCIAL DISTRICTS, AND PROVIDE FOR ADMINISTRATIVE REVIEW AND ENFORCEMENT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, conditional uses are subject to the review of the Planning Board in all commercial zoning districts within the City; and

WHEREAS, in response to recommendations from the Land Use and Sustainability Committee (LUSC), land use incentives aimed at filling vacant commercial spaces have been developed; and

WHEREAS, this Ordinance temporarily creates exceptions to the conditional use process for restaurant uses in defined commercial areas of the City, and provides for administrative review and enforcement; and

WHEREAS, the City Commission finds that these land use incentives will promote desirable activity within vacant buildings and align with the City’s planning goals.

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

SECTION 1. Chapter 2, entitled “Administration and Review Procedures”, Article V, entitled “Rezoning and Development Approvals”, Section 2.5.2, entitled “Conditional Use”, is hereby amended as follows:

CHAPTER 2. ADMINISTRATION AND REVIEW PROCEDURES

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ARTICLE V. Rezoning and Development Approvals

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2.5.2 Conditional Use

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2.5.2.1 Purpose and exceptions

a. Purpose. The purpose of this subsection is to establish a process and standards to determine if certain uses, referred to as conditional uses, should be permitted at a given location. Special review of conditional uses is required not only because these generally are of a public or semi-

public character and are essential and desirable for the general convenience and welfare of the community, but also because the nature of the uses and their potential impact on neighboring properties requires the exercise of planning judgment as to location and site plan.

b. Exceptions.

1. Definitions. For the purposes of this subsection, the following definitions shall apply:
 - A. "NIE application" means an application filed by an authorized person or entity seeking administrative review of a proposed Neighborhood Impact Establishment for a property.
 - B. "NIE approval" means an administrative approval for a Neighborhood Impact Establishment.
2. Criteria. Notwithstanding the applicable use regulations set forth in Chapter 7, Neighborhood Impact Establishments (NIE) shall not require conditional use approval from the Planning Board if the following criteria are satisfied:
 - A. The NIE application is located on a commercially zoned property within one of the following geographic boundaries:
 - I. Washington Avenue between 5th Street and Lincoln Road;
 - II. Lincoln Road between Collins Avenue and Alton Road;
 - III. Collins Avenue between 65th and 75th Streets;
 - IV. 71st Street or Normandy Drive, between Collins Avenue and Rue Notre Dame; and
 - V. 41st Street between Alton Road and Pine Tree Drive.
 - B. The NIE application is for an existing building, which has a certificate of occupancy that was issued on or before January 1, 2025.
 - C. The NIE application is located within a property or unit that is not subject to an existing conditional use permit and was not subject to a previous conditional use permit that was issued prior to January 1, 2026.
 - D. No outdoor entertainment is proposed.
 - E. No portion of the NIE shall be located on the top floor of a building, whether fully enclosed, partially open, or open to the sky, including all open-air portions above the roof-top.
 - F. The maximum occupancy associated with the NIE shall not exceed 750 persons, as determined by the fire marshal.
 - G. The NIE applicant may operate the business as a restaurant or a bar, as those terms are defined in Chapter 1, if no entertainment is provided. The NIE applicant may operate the business as a restaurant or a restaurant supper club, as those terms are defined in Chapter 1, if only indoor entertainment is provided.
3. Administrative approval of Neighborhood Impact Establishments. The planning department may administratively review a request for a Neighborhood Impact Establishment (NIE) authorized under this subsection b. For purposes of this paragraph, the application requirement for NIE approval shall be satisfied by the submission of a corresponding building permit application, if required, a certificate of use application, and any other permit application form required by the planning department. Subsequent to the issuance of a certificate of use for an NIE authorized under this subsection b and prior to the commencement and continued operation of an NIE authorized under this subsection b, the applicant shall obtain a Business Tax Receipt (BTR) for the NIE authorized under this subsection b.
4. Enforcement and penalties. The BTR associated with a Neighborhood Impact Establishment approved pursuant to this section shall be subject to revocation by the city manager in accordance with the requirements and procedures set forth in Section 102-381 through -385 of the City Code. The city manager shall be authorized to issue

an immediate notice to the Neighborhood Impact Establishment revoking the BTR associated with the NIE approval and suspending any activities conducted in furtherance thereof, and the Neighborhood Impact Establishment must cease any such activities. In the event the BTR associated with the NIE approval is revoked by the city manager, the Neighborhood Impact Establishment may apply for conditional use approval by the planning board.

5. Sunset and automatic repealer. This Subsection 2.5.2.1.b shall sunset and stand automatically repealed on December 31, 2026, unless extended by the City Commission as an amendment to these land development regulations.

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

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

City Attorney

Date

First Reading: December 17, 2025

Second Reading: January ____, 2026

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