

JANUARY 17, 2007
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ALTERNATE - REVISED JANUARY 17, 2007

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," OF THE CITY CODE, BY AMENDING DIVISION 2, "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," BY ADDING NEW SECTION 142-109 ENTITLED "COMMERCIAL USE OF SINGLE FAMILY HOMES PROHIBITED"; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Land Development Regulations restrict single-family residential properties to residential and compatible uses, and commercial uses on such properties are prohibited; and

WHEREAS, the Code Compliance Department has reported numerous instances of residential properties being used as party houses, where the house is used for a commercial enterprise for parties instead of as a single family residential use; and

WHEREAS, when a single family residence is used as a party house, including having the party advertised, sometimes on the internet, and admission fee charged, excessive numbers of guests, vehicles and noise is generated, causing adverse impacts on the surrounding residences and residential neighborhood; and

WHEREAS, such parties are more appropriately held in the commercial districts of the City at venues that are designed for such numbers of persons, with the impacts resulting therefrom more appropriately mitigated; and

WHEREAS, Code Compliance has also reported that houses for sale are also being used for the advertising of various commercial products, which are sometimes displayed to and visible to the public street in front of the house; and

WHEREAS, the City Commission finds that charitable events, and open houses for the purpose of promoting the sale or lease of a single family residence to potential buyers or renters, are uses that may be permitted in single family neighborhoods if regulated to minimize their adverse impacts; and

WHEREAS, while residents are entitled to enjoy the use of their single family homes consistent with the applicable regulations in the single family residential districts, in order to ensure and protect the enjoyment, character and

value of the single family residential neighborhoods and homes, the provisions herein are hereby adopted.

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

Section 1. That Section 142-109, "Commercial Use Of Single Family Homes Prohibited," of the Miami Beach City Code, is hereby created as follows:

Sec. 142-109. Commercial Use Of Single Family Homes Prohibited.

(a) Intent and Purpose:

The Land Development Regulations restrict single-family residential properties to residential and compatible uses. Commercial uses on residential properties are prohibited. 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) Regulations:

(1) Use of single-family residential property shall be deemed commercial and prohibited, except as otherwise provided for in the Code, if:

a. The owner receives payment or other consideration in excess of \$100 for a party or event for the use of the property, including payment by any other means, including security deposits; or

b. Goods or services are provided or sponsored on or at the property, valued in excess of \$100 per event, providing a promotional opportunity plainly visible from the public right of way or adjoining property, or publicly advertised; or

c. An event at the property is publicly advertised, publicized or announced, including but not limited to on the internet, as open to the general public; or

d. An event at the property charges attendees an admittance fee or seeks a donation other than as provided in this article.

(2) Charitable or fundraising events may be held on residential properties only in accord with the following restrictions:

a. The property owner provides to the City Manager or designee no later than 3 business days before the event: (i) sworn written notification (an affidavit) from an officer of the 501(c)(3)-approved charitable organization, confirming the charitable nature of the event and its compliance with this ordinance, and (ii) a security and parking plan, including valet services as set forth in section 18-343, as necessary to mitigate adverse impacts to the neighborhood;

b. No payment or consideration, including services, valued in

excess of \$100.00 per event, including payment by any other means, including security deposits, shall be provided to the owner or lessee for the use of the property; and

- c. All donations (including goods or services by sponsors) to the event, and proceeds derived from the event, shall be made to and payable to the charitable or fundraising organization.

(3) Political gatherings and political fundraising events are exempt from (b)(1) and (2) above. Organizers of large events, if appropriate, should notify the City of Miami Beach Police Department to provide details of the event in order to insure the public health, safety and welfare.

(4) Open houses organized for the purpose of promoting the sale or lease of a single family residence to potential buyers or renters, including events organized by the listing agent limited only to licensed real estate brokers and/or agents are permitted, except that the following are prohibited:

- a. Sponsorship activities providing a benefit to the sponsoring business; and**
- b. Charging admittance fees; and**
- c. Open houses must end by 8:00 p.m.**

(c) Enforcement:

(1) Violations of this section shall be subject to the following fines. The special master may not waive or reduce fines set by this ordinance if a violation of the ordinance is established.

- a. First violation in one calendar year: \$1,000.00;
- b. Second violation in one calendar year: \$5,000.00;
- c. Third violation in one calendar year: \$7,500.00;
- d. Fourth violation in one calendar year: \$10,000.00;
- e. Fifth and subsequent violations in one calendar year: \$15,000.00.

(2) In addition to or in lieu of the foregoing, the City may close down the event and/or seek an injunction against activities prohibited under this section.

(3) Any city police officer or code compliance officer may issue notices for violations of this ordinance, with alternative enforcement as provided in section 1-14 and Chapter 30 of this Code. Violations shall be issued to the homeowner, or to any realtor, real estate agent, real estate broker, event planner, promoter or any other individual who facilitates or organizes the prohibited activities. In the event the registered owner of the property is not present when the violation occurred, a copy of the violation shall be provided to the record owner of the property.

(d) No variances shall be granted from this section.

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. **This ordinance does not repeal or affect the opinion of the Planning Director that prohibits the rental for less than six months of single- or multi-family residences in any district that does not expressly authorize such transient occupancy.**

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 _____, 2007.

ATTEST:

MAYOR

CITY CLERK

First Reading:
Second Reading:

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

Verified by: _____
Jorge G. Gomez, AICP
Planning Director

City Attorney _____
Date

Underscore denotes new language
Bold denotes new language as of January 17, 2007.