

# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee

FROM: Alina T. Hudak, City Manager 

DATE: January 25, 2023

**TITLE: DISCUSSION REGARDING WHETHER TO PROHIBIT APARTMENT HOTELS IN ADDITIONAL DISTRICTS OR THROUGHOUT THE CITY OF MIAMI BEACH**

### **HISTORY:**

On October 13, 2021, at the request of Commissioner Steven Meiner, the City Commission referred the subject discussion item to the Land Use and Sustainability Committee (C4 H). The sponsor is requesting that the LUSC discuss whether to prohibit apartment hotels in additional districts or throughout the city.

On March 4, 2022 the LUSC discussed the item and continued it to the April 8, 2022 meeting, with the following direction:

1. In the revised definition of apartment-hotel, include a minimum lobby size and further study the minimum number of apartment units.
2. Further study the provision for allowing unit access from outside the lobby.
3. Provide information on resort taxes and the impact of increasing the minimum number of required apartment units.

On April 8, 2022, the item was deferred to the May 13, 2022, LUSC meeting, with no discussion. On May 13, 2022, the LUSC discussed the item and continued it to the July 7, 2022 LUSC meeting with the following direction to the Administration:

1. Further analyze potential impacts that the conversion of an existing apartment use to transient use (hotel, Apartment-Hotel or STR).
2. Consider additional security and management strategies for smaller properties.

On July 7, 2022 the item was deferred to the September 23, 2022 LUSC with no discussion. On September 28, 2022 the item was deferred to November 18, 2022 with no discussion. On November 18, 2022 the item was deferred to the January 25, 2023 LUSC meeting with no discussion.

### **ANALYSIS:**

#### **PLANNING ANALYSIS**

The following is the current definition of apartment hotel in Section 114-1 of the LDR's:

Apartment hotel means a building containing a combination of suite hotel unit, apartment units and hotel units, under resident supervision, and having an inner lobby through which all tenants must

pass to gain access. An apartment hotel must contain at least one unit apartment.

Apartment hotels are permitted in those zoning districts that allow for other hotel uses, such as hotel, suite hotel and/or hostels. Apartment hotel has been an allowable use in the City Code since at least 1989 and provides a needed definition for those properties containing a mix of residential and transient uses.

The Administration would not recommend prohibiting this use, either city-wide, or within additional districts, for the following reasons:

- Apartment hotels are generally less intense than a hotel use.
- Most legal conforming apartment hotel uses reflect an historic configuration of a building, when there was a better balance of residential and transient units.
- Other than larger development projects that incorporate a greater mix of residential and transient uses (e.g., the FAENA overlay, the Carillon/Canyon Ranch) very few new apartment hotel projects have been proposed because most transient uses prefer to be all transient.
- Prohibiting this use, particularly city-wide, would create a number of legal-nonconforming uses with districts that allow for transient uses.

**UPDATE (May 13, 2022 LUSC):**

As noted previously, the Administration reviewed the definition of apartment hotel and drafted modifications to address the potential imbalance in the make-up of units. Additionally, at the recommendation of the Independent Planning Reviewer for apartment hotels in the South of 5th area, as well as the recommendation of the OIG, the definition was amended to address the requirement for an inner lobby.

Pursuant to the discussion at the March 4, 2022 LUSC meeting, the proposed new definition for apartment hotel has been modified as follows:

1. A minimum size for the required lobby has been added (250 square feet).
2. The requirement for a direct connection from the lobby to all units is limited to buildings constructed after 1965. This will allow for the conversion of older buildings to an apartment hotel in districts that permit such use. Also, in regular hotels, direct access to hotel units from an inner lobby is not required.
3. The minimum number of apartment units has been increased from a single unit to at least 20% of the units. This would allow for continued flexibility for both new and existing structures, in those districts where an apartment hotel use is permitted.

Additionally, The LUSC members requested that the Administration explore whether there would be any resort tax implications if the minimum number of residential apartment units was increased, and apartment-hotels had less hotel units within the building. Staff has discussed the potential impact on resort taxes with the City's Chief Financial Officer and is providing the following general information:

- Resort taxes are the same for hotel units and the short term rental of apartment units, as both types of units pay a 2% room tax. The only difference is hotel guests usually go out to eat more than those staying on a short term basis in a residential apartment unit, so there would likely be more resort tax from the 2% food & beverage tax.

- In general, it is fair to conclude that resort taxes would be less if the minimum number of residential apartment units was increased. However, there's no way to know the dollar impact, although it would likely be a minimal impact to resort taxes. Notwithstanding, any decision on the ratio of apartment and hotel units should be based on non-financial factors.

**UPDATE (January 25, 2023 LUSC)**

Based upon the direction of the LUSC on May 13, 2022, the Administration has further examined the potential impacts of apartment-hotel uses. As it pertains to potential impacts by converting an existing residential apartment use to a transient use (Hotel, Apartment-Hotel or STR), it would depend largely on the intensity (number of units) and the extent of accessory uses (e.g. restaurants). In this regard, anytime that new transient units are added to a property, either by converting a residential or commercial property, or via new construction, there will always be more activity and impacts on infrastructure. Conversely, these types of uses can also provide much needed activation within a given urban streetscape

Regarding additional security and management strategies for smaller properties with transient uses, successful mechanisms for preventing a spillover of unwanted behavior include perimeter fencing, surveillance cameras and requiring security personnel during nighttime hours. Also, ensuring responsible onsite management and supervision is important, not just for the operation of the establishment, but to ensure that there is a contact person for the establishment.

**CONCLUSION:**

The Administration recommends that the Land Use and Sustainability Committee discuss the item and recommend that the City Commission refer the attached draft Ordinance to the Planning Board.

**Applicable Area**

Citywide

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?**

Yes

**Does this item utilize G.O. Bond Funds?**

No

**Departments**

Planning

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Draft ORD	Ordinance