

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, URGING CITY OF MIAMI BEACH PROPERTY OWNERS, THROUGH THEIR RESPECTIVE CONDOMINIUM AND COMMUNITY ASSOCIATIONS, AND WITH THE ADVICE OF ASSOCIATION COUNSEL, TO AMEND THEIR GOVERNING DOCUMENTS, TO PROHIBIT OR REGULATE RENTAL AGREEMENTS IN THEIR COMMUNITIES PURSUANT TO APPLICABLE LAW, IN ORDER TO ADDRESS THE QUALITY OF LIFE ISSUES ASSOCIATED WITH THE PROLIFERATION OF SHORT TERM RENTAL UNITS IN THEIR COMMUNITIES.

WHEREAS, in 2011, the Florida Legislature adopted a new law, providing that local governments are only permitted to enforce the short-term rental prohibitions that they had in place prior to June 1, 2011; and

WHEREAS, prior to June 1, 2011, the City banned short-term rentals in single family residential zoning districts; however, at that time, the City allowed short-term rentals in certain multi-family and commercial zoning districts; and

WHEREAS, accordingly, based on Section 509.032(7)(b), Florida Statutes, in those zoning districts where short-term rentals were allowed as of June 1, 2011, such as certain multi-family or commercial zoned districts, the City cannot prohibit short-term rentals altogether, or restrict their duration or frequency; and

WHEREAS, as a result of the legal restrictions imposed on the City by legislators in Tallahassee, the City instead regulates these short-term rentals to the maximum extent possible, by imposing requirements on the conduct of short-term rental business activity in the City, such as requiring registration of units, requiring payment of resort taxes for short-term rentals, and establishing minimum compliance standards with respect to occupancy, parking, noise, and other matters; and

WHEREAS, although the Florida Legislature has "preempted" local governments and restricted the City's ability to prohibit short-term rentals by law, the Florida Legislature has not prohibited Condominium Associations and certain Homeowner Associations (collectively, "Associations") from adopting provisions in their respective governing documents to ban short-term rentals and assert local control over the character and tranquility of their buildings; and

WHEREAS, properties that are part of Associations and subject to the restrictions set forth in a recorded Condominium Declaration, HOA Declaration of Covenants, or any other governing document for an Association (collectively, "Governing Documents"), have the ability to regulate or prohibit short-term rental agreements in communities that are subject to restrictive covenants; and

WHEREAS, pursuant to Section 718.110(13), Florida Statutes, an amendment to the Condominium Association Governing Documents, prohibiting unit owners from renting their units on a short-term basis, or altering the duration of the rental term, or specifying or limiting the number of times unit owners are entitled to rent their units during a specified period, applies only to unit owners who consent to the amendment and unit owners who acquire title to their units after the effective date of the amendment; and

WHEREAS, pursuant to Section 720.306((1)(h)(1), Florida Statutes, an amendment to an HOA Association's Declaration of Covenants or any other Governing Document or amendment thereto, that is enacted after July 1, 2021, and that prohibits or regulates rental agreements,

applies only to a parcel owner who acquires title to the parcel after the effective date of the Governing Document or amendment thereto, or to a parcel owner who consents, individually or through a representative, to the Governing Document or amendment thereto; and

WHEREAS, Section 720.306(1)(h)(2), Florida Statutes, does, however, permit an HOA Association to amend its Declaration of Restrictive Covenants or any other Governing Document or amendment thereto, to prohibit or regulate rental agreements for a term of less than six (6) months and to prohibit the rental of a parcel more than three (3) times in a calendar year, with such amendments being applicable immediately to all parcel owners; and

WHEREAS, based upon the foregoing, Commissioner Alex J. Fernandez, the sponsor of this Resolution, recommends that the Mayor and City Commission adopt a Resolution urging the City of Miami Beach property owners, through their respective Associations, and with the advice of Association counsel, to commence amending their Governing Documents, to include the desired prohibition or restrictions of short-term rentals in their communities, so that, at a minimum, the unit/parcel owners who vote for the short-term rental restrictions will be included in the pool of restricted units/parcels, and moving forward, the remaining units/parcel owners will be subject to the short-term rental restrictions upon the sale of the units/parcels.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby urge City of Miami Beach property owners, through their respective condominium and community Associations, and with the advice of Association counsel, to amend their Governing Documents, to prohibit or regulate rental agreements in their communities pursuant to applicable law, in order to address the quality of life issues associated with the proliferation of short-term rental units in their communities.

PASSED and ADOPTED this 28th day of April, 2023.

ATTEST:

Rafael E. Granado, City Clerk

Dan Gelber, Mayor

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

4-19-23

Date