

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, AT CHAPTER 18, ENTITLED "BUSINESSES," BY CREATING ARTICLE XIX, ENTITLED "CO-OWNED HOUSING UNIT MANAGERS," BY CREATING SECTION 18-940 THEREOF, ENTITLED "CO-OWNED HOUSING UNIT MANAGERS," TO ADOPT BUSINESS REGULATIONS APPLICABLE TO THE MANAGEMENT OF RESIDENTIAL PROPERTIES BY CO-OWNED HOUSING UNIT MANAGERS, INCLUDING DEFINITIONS, MINIMUM REQUIREMENTS AND MANAGEMENT REGULATIONS, AND A CODE OF CONDUCT, AND PROVIDE FOR ENFORCEMENT AND PENALTIES; AND AMENDING CHAPTER 102, ENTITLED "TAXATION," ARTICLE V, ENTITLED "LOCAL BUSINESS TAX," AT SECTION 102-379, ENTITLED "SCHEDULE OF TAXES, EFFECTIVE OCTOBER 1, 2016," TO ESTABLISH A BUSINESS TAX CATEGORY FOR CO-OWNED HOUSING UNIT MANAGER; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, a new business model has emerged which facilitates the co-ownership (including property management and maintenance) of individual residential properties; and

WHEREAS, this Ordinance adopts business regulations applicable to individuals or entities that manage co-owned housing units; and

WHEREAS, the City Commission has the legislative authority to adopt reasonable business regulations on the management of co-owned housing units.

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

SECTION 1. That Article XIX, entitled "Co-owned housing unit managers," of Chapter 18, entitled "Businesses," of the City Code of the City of Miami Beach is hereby created as follows:

**CHAPTER 18
BUSINESSES**

* * *

ARTICLE XIX. CO-OWNED HOUSING UNIT MANAGERS

Sec. 18-940. Co-owned housing unit managers.

(a) Definitions

- (1) For purposes of this section, a "Co-owned Housing Unit" means a residential dwelling unit managed by a Co-owned Housing Unit Manager and utilized

exclusively for dwelling, lodging, or sleeping purposes by owners or members of a limited liability company, partnership, corporation, or other entity that owns the dwelling unit, as well as authorized guests who have not provided compensation to any party for use of the unit.

- (2) For purposes of this section, a "Co-owned Housing Unit Manager" means a person, corporation, trust, or other entity that manages a Co-owned Housing Unit, including providing cleaning services and maintenance of the Co-owned Housing Unit, on behalf of the owners of the Co-owned Housing Unit.
- (b) No Co-owned Housing Unit Manager shall engage in the business of managing a Co-owned Housing Unit within the city without first having secured a current business tax receipt for such activity. As part of the application to secure a business tax receipt, each Co-owned Housing Unit Manager shall provide the City with a list of the addresses of each Co-owned Housing Unit in Miami Beach that is managed by the Co-owned Housing Unit Manager. A Co-owned Housing Unit Manager shall provide an updated list to the City within 30 days of any change to the list of Co-owned Housing Units managed by the Co-owned Housing Unit Manager.
- (c) A Co-owned Housing Unit Manager shall at all times comply with the following minimum requirements and management regulations:

 - (1) A Co-owned Housing Unit Manager must maintain a physical office located in Miami-Dade County ~~or, alternatively,~~ and must identify a designated responsible party that is a property management company, real estate broker or agent, lawyer, owner, or other individual, who resides within 25 miles of the property. The designated responsible party must be available by telephone, or otherwise, twenty-four (24) hours per day, and must be able to respond to telephone inquiries within two (2) hours of the receipt of an inquiry. The designated responsible party shall also be designated as the agent for receiving all official communications from the City. The name, physical address, email address, and telephone number associated with any Co-owned Housing Unit Manager and designated responsible party shall be provided to the City in writing, and written notice of any change to the foregoing shall promptly be provided to the City.
 - (2) As applicable only to Co-owned Housing Units that are located in zoning districts where short-term rentals are prohibited, the Co-owned Housing Unit Manager and each individual owner shall be required to sign a sworn affidavit agreeing and acknowledging that, pursuant to the Land Development Regulations, short-term rentals are prohibited in the Co-owned Housing Unit.
 - (3) A Co-owned Housing Unit Manager must provide or contract for the provision of yard maintenance services, including landscaping, weed control, and irrigation to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties.
 - (4) A Co-owned Housing Unit Manager must provide or contract for the provision of structural maintenance services as necessary for the maintenance of any buildings on the property.

- (5) A Co-owned Housing Unit Manager must provide or contract for the provision of routine upkeep, including painting and repair, to a level that is consistent with the level of maintenance on adjoining or nearby properties.
- (6) A Co-owned Housing Unit Manager must provide or contract for the provision of garbage collection, and must ensure that garbage receptacles are retrieved and secured on the property within twenty-four (24) hours of collection. The property shall be kept free from accumulated garbage and refuse.
- (7) The use of a Co-owned Housing Unit shall at all times comply with all applicable use restrictions in the Land Development Regulations. The Co-owned Housing Unit Manager shall ensure that the Co-owned Housing Unit is not used in violation of the Land Development Regulations.
- (8) A Co-owned Housing Unit Manager must require the co-owners of any Co-owned Housing Unit to adopt and adhere to a Code of Conduct that, at a minimum, includes compliance with the requirements of this section, and also includes rules implementing the following:

- a. A prohibition on hosting any event or party that would cause disruption to the neighborhood.
- b. Requiring owners to adhere to quiet hours from 9:00 pm to 7:00 am each night. During these hours, all reasonable efforts shall be taken to ensure noise is not audible from the right-of-way or neighboring properties.
- c. Requiring owners to park in a designated garage or driveway, whenever possible.
- d. Requiring owners to comply with every applicable requirement of this Code, including without limitation Chapter 46, Article III ("Litter") and Article IV ("Noise Ordinance"); Chapter 58 (including applicable property maintenance requirements); Chapter 90 (including applicable sanitation requirements); and all applicable zoning requirements in the Land Development Regulations.

(d) Any violation of the requirements of this section or any other provision of this Code by a Co-owned Housing Unit Manager shall subject the Co-owned Housing Unit Manager to code enforcement proceedings under Chapter 30 of this Code.

(e) Penalties and enforcement.

(1) The following penalties shall be imposed for a violation of this section:

- a. The penalty for the first violation by a person or entity within a 12-month period shall be a civil fine of \$250.00;
- b. The penalty for the second violation by a person or entity within a 12-month period shall be a civil fine of \$500.00;

- c. The penalty for the third or subsequent violation by a person or entity within a 12-month period shall be a civil fine of \$1,000.00.
- (2) Enforcement. The code compliance department shall enforce this section. This shall not preclude other law enforcement agencies or regulatory bodies from any action to assure compliance with this section and all applicable laws. If a code compliance officer (which, as defined in section 70-66, includes a police officer) finds a violation of this section, the code compliance officer shall issue a notice of violation in the manner prescribed in chapter 30 of this Code. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special magistrate within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.
- (3) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.
 - a. A violator who has been served with a notice of violation must elect to either:
 - i. Pay the civil fine in the manner indicated on the notice of violation; or
 - ii. Request an administrative hearing before a special magistrate to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.
 - b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code.
 - c. If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special magistrate, the special magistrate may be informed of such failure by report from the officer. The failure of the named violator to appeal the decision of the officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate, and shall be treated as an admission of the violation for which fines and penalties shall be assessed accordingly.
 - d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the 61st day following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien.

e. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.

vi. The special magistrate shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.

SECTION 2. That Article V, entitled "Local Business Tax," of Chapter 102, entitled "Taxation," of the City Code of the City of Miami Beach is hereby amended as follows:

**CHAPTER 102
TAXATION**

* * *

ARTICLE V. LOCAL BUSINESS TAX

* * *

Sec. 102-379. Schedule of taxes, effective October 1, 2016.

(a) Business taxes for the following businesses, occupations or professions are hereby levied and imposed as follows:

* * *

Occupation Code	Business Tax Category	Amount
	* * *	
	<u>Co-owned Housing Unit Manager</u>	<u>269.00</u>
	* * *	

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 4. 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 re-numbered or re-lettered to accomplish

such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this ____ day of _____, 2023.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK 4-20-23
Date

(Sponsored by Commissioner Alex J. Fernandez)