

R5 C AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE MIAMI BEACH CITY CODE, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE IV, ENTITLED "OFFICERS AND EMPLOYEES," BY AMENDING DIVISION 5 THEREOF, ENTITLED "OFFICE OF INSPECTOR GENERAL", BY AMENDING SECTION 2-256 THEREOF, ENTITLED "OFFICE OF INSPECTOR GENERAL," TO AUTHORIZE "RED FLAG" REVIEW BY THE OFFICE OF THE INSPECTOR GENERAL OF PROPOSED OR IMPENDING CITY ACTION; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: March 19, 2025 9:25 a.m. Second Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE MIAMI BEACH CITY CODE, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE IV, ENTITLED "OFFICERS AND EMPLOYEES," BY AMENDING DIVISION 5 THEREOF, ENTITLED "OFFICE OF INSPECTOR GENERAL", BY AMENDING SECTION 2-256 THEREOF, ENTITLED "OFFICE OF INSPECTOR GENERAL," TO AUTHORIZE "RED FLAG" REVIEW BY THE OFFICE OF THE INSPECTOR GENERAL OF PROPOSED OR IMPENDING CITY ACTION; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

BACKGROUND/HISTORY

ANALYSIS

The proposed ordinance is presented for the consideration on first reading by the sponsor, Commissioner Alex Fernandez.

The City's Finance and Economic Resiliency Committee ("FERC") discussed the proposed "Red Flag" ordinance and passed a motion to forward the ordinance to the full City Commission with a favorable recommendation at its October 18, 2024 meeting.

The proposed ordinance amends City Code Section 2.256(d) to add additional responsibilities for the Office of the Inspector General ("OIG"), to include notifying the City Commission and/or City Administration when any proposed or impending City action would result in a violation of City policies or rules, or governing law, or when such action would result in waste, fraud, abuse, or inefficiency.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? Yes
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on: 3/6/2025
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

Citywide

**Is this a “Residents Right to Know” item,
pursuant to City Code Section 2-17?**

No

**Is this item related to a G.O. Bond
Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481,
includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Condensed Title

9:25 a.m. 2nd Rdg, OIG "Red Flag" Ordinance. (Fernandez) CA

Previous Action (For City Clerk Use Only)

First Reading Public Hearing on 2/26/2025 – R5 K

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE MIAMI BEACH CITY CODE, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE IV, ENTITLED "OFFICERS AND EMPLOYEES," BY AMENDING DIVISION 5 THEREOF, ENTITLED "OFFICE OF INSPECTOR GENERAL", BY AMENDING SECTION 2-256 THEREOF, ENTITLED "OFFICE OF INSPECTOR GENERAL", TO AUTHORIZE "RED FLAG" REVIEW BY THE OFFICE OF THE INSPECTOR GENERAL OF PROPOSED OR IMPENDING CITY ACTION; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City's Finance and Economic Resiliency Committee ("FERC") discussed the proposed "Red Flag" ordinance and passed a motion to forward the ordinance to the full City Commission with a favorable recommendation at its October 18, 2024 meeting; and

WHEREAS, the proposed ordinance amends City Code Section 2.256(d) to add additional responsibilities for the Office of the Inspector General ("OIG"), to include notifying the City Commission and/or City Administration when any proposed or impending City action would result in a violation of City policies or rules, or governing law, or when such action would result in waste, fraud, abuse, or inefficiency; and

WHEREAS, the Mayor and City Commission find that OIG monitoring of proposed or impending acts of the City, through either the City Commission or the City Administration, adds a valuable additional tool to ensure the provision of lawful, ethical, and efficient provision of government services to the residents of the City.

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

SECTION 1. Section 2.256 of Article IV, of Chapter 2 of the City Code, entitled "Administration," is hereby amended as follows:

**CHAPTER 2
ADMINISTRATION**

* * *

ARTICLE IV. OFFICERS AND EMPLOYEES

* * *

Sec. 2.256. Office of inspector general.

* * *

(d) *Functions, authority, and powers.*

* * *

- (16) The Inspector General shall notify members of the City Commission and/or City Administration whenever the Inspector General has concluded, after consultation with the City Attorney, that an action expected to be taken by the City Commission, or by any official or employee of the city, would violate any city policy, procedure, ordinance or other applicable law unless such notice would interfere with an ongoing criminal investigation or ongoing litigation matter or adversarial administrative proceeding. The notice may be made orally or in writing in such form and detail as the Inspector General shall determine will best serve the interests of the City.
- (17) The Inspector General shall notify members of the City Commission and/or City Administration whenever the Inspector General has conclusively determined that any item appearing on a meeting agenda of the City Commission or any of its committees will have a significant negative impact involving waste, fraud, abuse, or inefficiency in connection with any city program, project, contract, or expenditure, and the notice could serve to avoid or diminish such impact. The notice may be made orally or in writing in such form and detail as the Inspector General shall determine will best serve the interests of the City.
- (18) The Inspector General shall respond, publicly or privately, to any inquiry made by any member of the City Commission or any other city official regarding any city matter whenever, in the judgment of the Inspector General, such response would serve to support or promote integrity and efficiency in city operations without interfering with an ongoing investigation, audit, inspection, review or any matter requiring confidentiality.
- (19) The Inspector General shall exercise the functions, authority, and powers provided for in this section in such a manner that will assist the City Commission and City Manager in protecting the public trust while carrying out their respective duties under the City Charter, and maintain the independence of the Office of the Inspector General pursuant to the City Charter and the Independence Standard for Offices of Inspector General established by the Association of Inspectors General.

* * *

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

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 10 days after passage.

PASSED AND ADOPTED this _____ day of _____, 2025.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner Alex J. Fernandez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *RR*

2/18/2025

Date



Joseph M. Centorino, Inspector General

TO: Finance and Economic Resiliency Committee Members
FROM: Joseph Centorino, Inspector General *JMC*
DATE: October 8, 2024
RE: OIG Comments on Proposed Red Flag Ordinance C4J
OIG No. 24-23

This item involves a proposal of Vice-Mayor Alex Fernandez that was referred to the Finance and Economic Resiliency Committee ((FERC) that would enact a Red Flag Ordinance requiring the Office of the Inspector General to review City Commission agendas and make recommendation concerning all agenda items that would likely result in an expenditure greater than \$100,000.

The OIG values the opportunity to express its views on issues of importance in the City falling within its mandate to ferret out waste, fraud, abuse and inefficiency. It does so regularly in audits, investigations, reviews and inspections carried out by OIG staff, resulting in written reports with findings on matters to which it has dedicated significant research. Final reports generated in this fashion are usually forwarded directly to the City Commission with affected members of the City Administration copied. As public records, they are also accessible on the OIG website and are made available to the public as well as the media.

The OIG follows the procedural requirements set out in the City's enabling ordinance for the OIG, which requires that reports containing findings affecting any party be provided in draft form to such parties who may provide written responses to the reports within 30 working days. Such responses are attached to or incorporated within the reports before they are finalized and made public. The OIG also follows the Independence Standard for Offices of Inspector General set out in the "Principles and Standards for Offices of Inspectors General," established by the Association of Inspectors General. Key provisions of these guidelines are intended to ensure that an OIG maintain its independence as an oversight agency that is not under the direct control or influence of the governing body of an agency or its administration.

The OIG's independence requires as a corollary to its function that it maintain a separation between its oversight work and managerial decisions of the City Administration. While it may comment as it deems appropriate on issues under consideration, as well as specific proposals or decisions that may address such issues, it must do so in a way that does not compromise its independence. Any given policy, program, contract, or expenditure may at some point fall within its purview and be subject to an OIG analysis and report. However, the OIG maintains no administrative decision-making or policy-making authority, and it is not suitable for an OIG to

critically review any administration decision or Commission policy proposal in which it played an authoritative role.

Additionally, the OIG must maintain strict confidentiality on information pertaining to certain investigative and/or audit matters for it to properly perform its functions. On such matters, no comment may be made to anyone not authorized to receive the confidential information, which may preclude even an acknowledgement of the existence of any given investigation or audit to a public official.

With these parameters in mind, the OIG met on more than one occasion with the Vice-Mayor, who proposed the Red Flag Ordinance, as well as with the City Attorney, to work on the wording of an ordinance that would fulfill the beneficial intention of the original proposal to maximize the value that the OIG may add to the City Commission and Administration consideration of matters within OIG authority, but also maintain its independence and not stretch its limited resources beyond what is available to it.

The attached amendment to the OIG's enabling ordinance provides four separate means of accomplishing the stated intent of the original proposed ordinance for the OIG, within appropriate procedural guidelines, to take the following actions:

- (1) Notify members of the City Commission and/or City Administration regarding the violation of any city policy, procedure, ordinance or law.
- (2) Notify members of the City Commission and/or City Administration regarding agenda items that may pose a significant negative impact involving waste, fraud, abuse or inefficiency.
- (3) Respond to an inquiry made by a member of the City Commission or any other City official.
- (4) Assist the City Commission and City Manager in carrying out their respective duties under the City Charter.

It should be noted that the OIG has taken some of these actions in the past without the benefit of these more specific guidelines. The adoption of these provisions will provide the basis for the OIG to expand its mission within these stated guidelines in a way that will further promote the City's commitment to high standards of transparency, accountability, and integrity, as well as protect the OIG's independence under the City Charter.

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