

1. DISCUSS AND CONSIDER AMENDMENTS TO PENALTIES FOR VIOLATIONS OF THE CONSTRUCTION, PARKING, AND TRAFFIC MANAGEMENT PLAN (CPMP) REQUIREMENT IN CHAPTER 106 OF THE CITY CODE, INCLUDING, WITHOUT LIMITATION, THE SUSPENSION OF A BUILDING PERMIT OR ISSUANCE OF A STOP WORK ORDER; AND DISCUSS PROACTIVE ENFORCEMENT EFFORTS BY THE POLICE, CODE COMPLIANCE, AND PARKING DEPARTMENTS WITH REGARD TO PARKING OR TRAFFIC VIOLATIONS RELATING TO CONSTRUCTION PROJECTS.

Applicable Area:

## PRIORITY ITEMS 1

# MIAMI BEACH

## COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members

FROM: Eric Carpenter, City Manager

DATE: April 15, 2025

TITLE: DISCUSS AND CONSIDER AMENDMENTS TO PENALTIES FOR VIOLATIONS OF THE CONSTRUCTION, PARKING, AND TRAFFIC MANAGEMENT PLAN (CPMP) REQUIREMENT IN CHAPTER 106 OF THE CITY CODE, INCLUDING, WITHOUT LIMITATION, THE SUSPENSION OF A BUILDING PERMIT OR ISSUANCE OF A STOP WORK ORDER; AND DISCUSS PROACTIVE ENFORCEMENT EFFORTS BY THE POLICE, CODE COMPLIANCE, AND PARKING DEPARTMENTS WITH REGARD TO PARKING OR TRAFFIC VIOLATIONS RELATING TO CONSTRUCTION PROJECTS.

### **RECOMMENDATION**

The City Administration ("Administration") recommends pursuing legislative amendments to expand the enforcement capabilities and penalties associated with violations of Chapter 106 of the City of Miami Beach ("City") Code as it relates to the Construction Parking Management Plan ("CPMP"). In addition, the Administration recommends evaluating potential strategies for increased coordination and communication between the Police, Code Compliance, and Parking departments to proactively and more effectively enforce CPMP requirements and violations.

### **BACKGROUND/HISTORY**

At the February 26, 2025 City Commission meeting, at the request of Commissioner Alex Fernandez and Commissioner Tanya K. Bhatt, the Mayor and City Commission ("City Commission") referred an agenda item (C4 J) to the Land Use and Sustainability Committee ("LUSC") to discuss and consider amendments to penalties for violations of the CPMP requirement in Chapter 106 of the City Code, including, without limitation, the suspension of a building permit or issuance of a stop work order; and discuss proactive enforcement efforts by the Police, Code Compliance, and Parking departments with regard to parking or traffic violations relating to construction projects.

Currently, Chapter 106 of the City Code (Ordinance No. 2015-3922) requires that all construction projects with a value of \$250,000 or higher develop and obtain approval of a CPMP to obtain a building and/or grading and shoring permit. CPMPs are reviewed and approved by the Parking Department, and enforced by the Code Compliance, Police, and Parking departments. Recently, concerns from the community have arisen regarding the growing issue of construction vehicles illegally parking and/or blocking the public rights-of-way, adversely affecting residents' quality of life.

### **ANALYSIS**

A CPMP, as outlined in Chapter 106 of the City Code (Attachment A), is designed to regulate appropriate construction parking throughout the City. The CPMP requirement holds construction contractors and property owners accountable for disruptions to traffic flow and addressing parking challenges that often arise in residential areas.

However, violations of CPMP requirements have continued to pose significant parking challenges in certain areas of the City. Current penalties may not be sufficient to deter noncompliance or to ensure timely and effective enforcement. As such, there is a growing need to consider potential amendments to the existing penalties, including, but not limited to, the suspension of building permits or the issuance of stop-work orders.

Moreover, proactive enforcement efforts by key City departments, including Code Compliance, Police, and Parking departments, are essential in addressing parking and traffic violations that arise in relation to active construction projects. This item presents an opportunity to explore ways of improving coordination between these departments to enhance the efficiency and effectiveness of enforcement efforts. It is important to note that the Parking Department currently has one (1) dedicated Engineer Assistant who is solely responsible for the CPMP process and enforcement of the applicable Code regulations.

The Administration recommends discussing and reviewing the current penalties for violations of CPMP requirements and considering amendments to strengthen these penalties, including options such as suspending building permits or issuing stop-work orders in cases of serious or repeated violations. Another possible recommendation would be to explore the potential for increased fines or other enforcement actions that might incentivize compliance.

Section 106-103 of the City Code, entitled “Enforcement”, states that all violations of this chapter are civil infractions. Each violation of this chapter shall constitute a separate offense. Violations of this chapter will be punished as follows:

- For a first offense: A \$5,000.00 fine issued to both contractor and property owner/tenant.
- For a second offense: A \$10,000.00 fine issued to both contractor and property owner/tenant.
- For a third offense: A \$15,000.00 fine issued to both contractor and property owner/tenant.
- For each additional/subsequent offense: A one-day stop-work order issued by the City's building official.
- For purposes of this section, an offense shall be deemed to have occurred on the date that the violation occurred.
- The failure of any person to pay the appropriate fine within the time allowed or to appeal the violation shall constitute a waiver of the right to an administrative hearing before the special magistrate and fines may be assessed accordingly.
- 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 and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the recording of any such lien which remains unpaid, the City may foreclose or otherwise execute upon the lien.

It is also important to evaluate potential strategies for increased coordination and communication between the relevant City departments to proactively enforce CPMP requirements and violations.

Consideration should also be given to gathering public input or feedback from affected communities regarding construction-related disruptions and their quality of life. This feedback can provide valuable insight into how any potential changes to penalties or enforcement practices might affect the local construction industry and residents.

## **FISCAL IMPACT STATEMENT**

N/A

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

The Business Impact Estimate (BIE) was published on .

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

**FINANCIAL INFORMATION**

N/A

**CONCLUSION**

The Administration recommends pursuing legislative amendments to strengthen the enforcement capabilities and penalties for violations related to the CPMP as outlined in Section 106 of the City Code. Given growing concerns regarding the impact of construction vehicles blocking the public rights-of-way and ongoing challenges in enforcing current regulations, it is crucial to consider amendments to existing penalties, including the suspension of building permits, stop-work orders, and increased fines for repeated violations. Additionally, enhancing coordination among Code Compliance, Police Department, and the Parking Department is vital for improving proactive CPMP enforcement efforts.

**Applicable Area**

Citywide

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

Yes

**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**

Parking

**Sponsor(s)**

Commissioner Alex Fernandez

**Co-sponsor(s)**

Commissioner Tanya K. Bhatt

**Condensed Title**

Discuss/Consider Amendments to Penalties for CPMP Violations. (Fernandez/Bhatt) PK

# ATTACHMENT A

## Sec. 106-98. - Creation of Construction Management Plan (CMP).

- (1) In order to obtain or maintain a building and/or grading and shoring permit for all projects with a value in excess of \$250,000.00, the contractor of record shall be required to provide to the city a CMP. The parking director shall review the CMP. Failure to provide the CMP, or obtain parking director approval of the CMP shall preclude the issuance of a building or grading and shoring permit. The CMP shall minimize CEVPI to the surrounding commercial or residential areas. The CMP must:
  - a. Reduce CEVPI related to the proposed construction;
  - b. Contain construction related parking within the project site, whenever possible;
  - c. Document where the parking areas will be provided for the employees, subcontractors, and contractors, if not on site; and
  - d. The contractor, owner of the property, and tenant are required to sign, under oath, the proposed CMP, confirming their understanding of the plan, and the penalties associated with noncompliance.
- (2) Development orders issued prior to enacting of the ordinance codified in this division shall be exempt from application of this division 1.
- (3) The city's municipal garage located at 42 Street may not be used for CEVPI or CEV uses.
- (4) To use any other city municipal garage for CEVPI or CEV uses shall require city manager and parking director authorization and final authorization of the city commission.

(Ord. No. 2015-3922, § 1(106-118), 2-11-15)

## Sec. 106-99. - Requirements of CMP.

- (1) The CMP shall contain the following required elements to address the CEVPI:
  - (a) A copy of the building permit application/processing number, that is not expired, with the building department.
  - (b) A system to minimize the effect of CEV parking in commercial and residential neighborhoods.
  - (c) Document the number of workers: identify by description and vehicle license plate number all vehicles that will be present on the site during various phases of construction; and indicate whether sufficient privately owned/operated off-street parking will be provided. Provide proof of such off-street private parking arrangements.
  - (d) The construction contractor, owner/developer shall schedule a pre-construction meeting with city staff after permit issuance, but prior to start of work, to review CMP implementation.
- (2) The construction site parking and staging plan shall provide the following specific information:
  - (a)

All construction related parking (whether for employees, contractors, subcontractors, suppliers, etc.) shall be located on-site where the construction is to take place, or at an approved off-site locations, as approved by city staff. Swale right-of-way, or parking metered locations may be permitted, upon approval of the parking director, to be used for loading, deliveries, and supplies. However, this temporary authorization shall not be considered a proper parking area for employees, subcontractors or contractors under the CMP.

- (b) Delineate the details as to the number of proposed vehicles; type of vehicles accessing the construction site; identify the vehicles by year, make, model, and Florida license plate number.
- (c) Identify where all on-site parking will be located (minimum 8.5 feet x 18 feet per stall) and how vehicles will enter and exit the construct site from or the street.
- (d) If off-site parking is required to accommodate employee, subcontractor or contractor parking needs, identify the off-site location to be used and how the employees, subcontractors or contractors will get to and from the construction site. Provide proof of lease, exclusive use, etc., to the parking director as park of the CMP.
- [(e) Reserved.]
- (f) Identify any fencing around the construction site and all access points. A site plan may be required.
- (g) Identify material staging area(s).
- (h) Provide any other notes necessary to clarify the CMP, as may be applicable.

(Ord. No. 2015-3922, § 1(106-119), 2-11-15)

#### Sec. 106-100. - Review and approval.

The CMP shall be reviewed and require the approval of the parking director.

(Ord. No. 2015-3922, § 1(106-120), 2-11-15)

#### Sec. 106-101. - Issuance of permit.

- (1) A CMP permit shall be issued upon approval of the CMP and payment of fees.
- (2) A CMP permit fee shall be assessed for each CMP and related building permit, as set forth in appendix "A" to this Code.
- (3) Thereafter a building or a grading and shoring permit may issue. Failure to obtain parking department authorization of a CMP permit shall preclude the issuance of building permit.

(Ord. No. 2015-3922, § 1(106-121), 2-11-15; Ord. No. 2022-4473, § 2, 3-9-22)

#### Sec. 106-102. - Parking in designated areas.

- (1) Pursuant to the requirements of section 106-109, contractors, subcontractors and construction employees shall register and provide vehicle make, model, year, color, and license plate to the parking department.
- (2) CEVs shall prominently display a parking permit for the corresponding parking facility(ies) related to the building permit/construction project identified in the underlying CMP. Such parking permit shall be displayed so as to be clearly visible to the city's enforcement personnel.
- (3) CEVs found at any location other than those stipulated in the CMP shall be in violation of this section.

(Ord. No. 2015-3922, § 1(106-122), 2-11-15)

Sec. 106-103. - Enforcement.

- (1) A city code inspector may issue a citation for a violation of this chapter. Enforcement shall be through chapter 30 of the city's Code. A city code inspector means the code compliance officers, parking department employees, a parking enforcement specialist, or any authorized agent or employee of the city whose duty it is to assure code compliance.
- (2) All violations of this chapter are civil infractions. Each violation of this chapter shall constitute a separate offense. Violations of this chapter will be punished as follows:
  - (a) For a first offense: A \$5,000.00 fine issued to both contractor and property owner/tenant.
  - (b) For a second offense: A \$10,000.00 fine issued to both contractor and property owner/tenant.
  - (c) For a third offense: A \$15,000.00 fine issued to both contractor and property owner/tenant.
  - (d) For each additional/subsequent offense: A one-day stop work order issued by the city's building official.
  - (e) For purposes of this section, an offense shall be deemed to have occurred on the date that the violation occurred.
  - (f) The failure of any person to pay the appropriate fine within the time allowed or to appeal the violation shall constitute a waiver of the right to an administrative hearing before the special magistrate and fines may be accessed accordingly.
  - (g) 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 and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the recording of any such lien that which remains unpaid, the city may foreclose or otherwise execute upon the lien.

(Ord. No. 2015-3922, § 1(106-123), 2-11-15; Ord. No. 2021-4431, 7-28-21)

Sec. 106-104. - Revocation of permits and other penalties.

Any contractor, subcontractor, property owner or tenant who has obtained a valid citation under section 106-103, and who has failed to pay the fine, and failed to cure the violation, shall have the building permit revoked. Failure to comply shall subject such participant to enforcement procedures by the city and may result in fines of up to an additional \$500.00, per day, and liens as provided by law.

(Ord. No. 2015-3922, § 1(106-124), 2-11-15)





**COMMISSION MEMORANDUM**

TO: Honorable Mayor and Members of the City Commission

FROM: Commissioner Alex Fernandez

DATE: February 26, 2025

TITLE: REFERRAL TO THE LAND USE AND SUSTAINABILITY COMMITTEE TO DISCUSS AND CONSIDER AMENDMENTS TO PENALTIES FOR VIOLATIONS OF THE CONSTRUCTION, PARKING, AND TRAFFIC MANAGEMENT PLAN (CPTMP) REQUIREMENT IN CHAPTER 106 OF THE CITY CODE, INCLUDING WITHOUT LIMITATION THE SUSPENSION OF A BUILDING PERMIT OR ISSUANCE OF A STOP WORK ORDER; AND DISCUSS PROACTIVE ENFORCEMENT EFFORTS BY THE POLICE, CODE COMPLIANCE, AND PARKING DEPARTMENTS WITH REGARD TO PARKING OR TRAFFIC VIOLATIONS RELATING TO CONSTRUCTION PROJECTS.

**RECOMMENDATION**

Please place on the February 26, 2025, City Commission agenda a referral to the Land Use and Sustainability Committee (LUSC) to discuss and consider amending penalties for violations of the Construction, Parking, and Traffic Management Plan (CPTMP) requirement. This could include, without limitation, the suspension of a building permit or issuance of a stop work order, to the extent permitted under the Florida Building Code.

I would also like the LUSC to discuss proactive enforcement efforts by the Police, Code Compliance, and Parking Departments with regard to construction parking plans, contractor safety protocols, and other non-compliance issues that disrupt neighborhood quality of life or public safety.

The committee should also consider implementing a scaled penalty schedule for ongoing or repeated violations, with the fee structure increasing based on the frequency or severity of the non-compliance.

**BACKGROUND/HISTORY**

**ANALYSIS**

**FISCAL IMPACT STATEMENT**

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

**If applicable, the Business Impact Estimate (BIE) was published on:**

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?**

Yes

**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

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### **Department**

Office of Commissioner Alex Fernandez

### **Sponsor(s)**

Commissioner Alex Fernandez

### **Co-sponsor(s)**

Commissioner Tanya K. Bhatt

### **Condensed Title**

Ref: LUSC - Enforcement/Penalties for Traffic and Parking Violations by Contractors.  
(Fernandez/Bhatt)

### **Previous Action (For City Clerk Use Only)**