

R5 AA AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED, "ADMINISTRATION," BY AMENDING ARTICLE II, ENTITLED "CITY COMMISSION," BY AMENDING SECTION 2-14 THEREOF, ENTITLED "MEETING PROCEDURES AND AGENDAS," TO CLARIFY THAT ANY ORDINANCES OR RESOLUTIONS PLACED ON A CITY COMMISSION AGENDA WITH A FISCAL IMPACT GREATER THAN \$75,000 SHALL BE FIRST REFERRED TO THE FINANCE AND ECONOMIC RESILIENCY COMMISSION COMMITTEE, AND FURTHER, TO REQUIRE AN AFFIRMATIVE VOTE OF FIVE-SEVENTHS OF THE CITY COMMISSION FOR APPROVAL OF ANY ORDINANCES OR RESOLUTIONS PLACED ON A CITY COMMISSION AGENDA BY THE MAYOR OR A CITY COMMISSIONER THAT WILL HAVE A RECURRING FISCAL IMPACT OF MORE THAN \$25,000 PER FISCAL YEAR; 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: October 30, 2024 First Reading

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED, "ADMINISTRATION," BY AMENDING ARTICLE II, ENTITLED "CITY COMMISSION," BY AMENDING SECTION 2-14 THEREOF, ENTITLED "MEETING PROCEDURES AND AGENDAS," TO CLARIFY THAT ANY ORDINANCES OR RESOLUTIONS PLACED ON A CITY COMMISSION AGENDA WITH A FISCAL IMPACT GREATER THAN \$75,000 SHALL BE FIRST REFERRED TO THE FINANCE AND ECONOMIC RESILIENCY COMMISSION COMMITTEE, AND FURTHER, TO REQUIRE AN AFFIRMATIVE VOTE OF FIVE-SEVENTHS OF THE CITY COMMISSION FOR APPROVAL OF ANY ORDINANCES OR RESOLUTIONS PLACED ON A CITY COMMISSION AGENDA BY THE MAYOR OR A CITY COMMISSIONER THAT WILL HAVE A RECURRING FISCAL IMPACT OF MORE THAN \$25,000 PER FISCAL YEAR; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

BACKGROUND/HISTORY

ANALYSIS

The attached Ordinance was prepared at the request of Commissioner Joseph Magazine for consideration by the Mayor and City Commission.

The City Commission has established procedures for the conduct of its monthly meetings in Chapter 2 of the Code. On June 22, 2022, the Mayor and City Commission adopted Ordinance No. 2022-4496 to strengthen the City's procedural requirements, including adopting a requirement that any ordinance or resolution initiated by a member of the City Commission with a fiscal impact greater than \$75,000.00 must be first referred to a commission committee for review and recommendation, unless it is waived by five-sevenths vote.

The sponsor of this Ordinance wishes to amend subsection 2-14(d)(1)(a) of the City Code to clarify that any ordinance or resolution initiated by a member of the City Commission with a fiscal impact greater than \$75,000.00 must be first referred to the Finance and Economic Resilience Commission Committee for review and recommendation. Furthermore, the sponsor of this Ordinance wishes to establish a 5/7ths voting requirement for the approval of any ordinance or resolution initiated and sponsored by the Mayor or a Commissioner that will have a recurring fiscal impact of more than \$25,000 per fiscal year to ensure fiscal responsibility and transparency in the allocation of public funds.

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

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 Joseph Magazine

Co-sponsor(s)

Commissioner Alex Fernandez

Condensed Title

1st Rdg, Ch. 2, Require Ref to FERC Agenda Items w/ Fiscal Impact Greater Than \$75K.
(Magazine/Fernandez) CA

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED, "ADMINISTRATION," BY AMENDING ARTICLE II, ENTITLED "CITY COMMISSION," BY AMENDING SECTION 2-14 THEREOF, ENTITLED "MEETING PROCEDURES AND AGENDAS," TO CLARIFY THAT ANY ORDINANCES OR RESOLUTIONS PLACED ON A CITY COMMISSION AGENDA WITH A FISCAL IMPACT GREATER THAN \$75,000 SHALL BE FIRST REFERRED TO THE FINANCE AND ECONOMIC RESILIENCY COMMISSION COMMITTEE, AND FURTHER, TO REQUIRE AN AFFIRMATIVE VOTE OF FIVE-SEVENTHS OF THE CITY COMMISSION FOR APPROVAL OF ANY ORDINANCES OR RESOLUTIONS PLACED ON A CITY COMMISSION AGENDA BY THE MAYOR OR A CITY COMMISSIONER THAT WILL HAVE A RECURRING FISCAL IMPACT OF MORE THAN \$25,000 PER FISCAL YEAR; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission strive to provide the residents of Miami Beach with efficient public service, much of which is initiated through legislative action; and

WHEREAS, the City Commission has established procedures for the conduct of its monthly meetings in Chapter 2 of the Code; and

WHEREAS, on June 22, 2022, the Mayor and City Commission adopted Ordinance No. 2022-4496 to strengthen the City's procedural requirements, including adopting a requirement that any ordinance or resolution initiated by a member of the City Commission with a fiscal impact greater than \$75,000.00 must be first referred to a commission committee for review and recommendation, unless it is waived by five-sevenths vote; and

WHEREAS, the Mayor and City Commission desire to amend subsection 2-14(d)(1)(a) of the City Code to clarify that any ordinance or resolution initiated by a member of the City Commission with a fiscal impact greater than \$75,000.00 must be first referred to the Finance and Economic Resilience Commission Committee for review and recommendation; and

WHEREAS, furthermore, the Mayor and City Commission desire to establish a 5/7ths voting requirement for the approval of any ordinance or resolution initiated and sponsored by the Mayor or a Commissioner that will have a recurring fiscal impact of more than \$25,000 per fiscal year to ensure fiscal responsibility and transparency in the allocation of public funds.

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

SECTION 1. That Section 2-14 of Chapter 2 of the City Code is hereby amended as follows:

Chapter 2

ADMINISTRATION

* * *

ARTICLE II. CITY COMMISSION

* * *

Section 2-14. Meeting procedures and agendas.

* * *

(d) *Agenda items.*

- (1) *Item details.* Items published in a city commission meeting agenda shall include sufficient detail and information for the city commission and the public to evaluate the items in a reasonable and timely manner and, whenever possible, endeavor to sufficiently advise the city commission and the public of the nature of any requested actions that may be taken on the items. A draft of any resolution or ordinance sponsored and initiated by the mayor or a member of the city commission shall be shared with the city administration sufficiently in advance of the publication of the agenda to provide sufficient time for response or comment during the scheduled meeting.

- a. Fiscal impact statement required; referrals to finance and economic resiliency committee; Items having a recurring fiscal impact. As part of the commission memorandum that accompanies any ordinance or resolution placed on a city commission meeting agenda (including any resolution calling for a voter referendum on any measure), the city administration shall, to the extent applicable, prepare a written statement, to be included as a stand-alone section of the commission memorandum, briefly describing the estimated or anticipated increase or decrease of the revenues or expenditures of the city associated with the proposed measure, if any, for the current fiscal year and the subsequent fiscal year. If an ordinance or resolution sponsored and initiated by the mayor or a city commissioner is determined to have a fiscal impact greater than \$75,000., the item shall first be referred to a—the finance and economic resiliency commission committee for review and recommendation, unless the city commission waives this requirement by a five-sevenths vote. An ordinance or resolution sponsored and initiated by the mayor or a city commissioner that will have a recurring fiscal impact of more than \$25,000 per fiscal year shall require an affirmative vote of 5/7th of the city commission.
- b. To the extent determined applicable by the city administration, the fiscal impact statement may include:
 - (i) Historical data concerning the revenues or expenditures at issue;
 - (ii) Any assumptions, sources of information or methodologies used to estimate the fiscal impact to the city;
 - (iii) An estimate of the staff time or other resources that may be needed to implement the proposed measure;
 - (iv) Whether the proposed measure could be absorbed in the current fiscal year's budget, or whether an additional appropriation is required to implement the proposed measure;
 - (v) Whether the fiscal impact in subsequent years (up to, but no more than, five years, from adoption of the measure) materially differs from the fiscal impact in the first year;

- (vi) Whether the proposed measure will involve pension liability, and the estimated costs thereof; and
 - (vii) Any capital requirements or infrastructure constraints associated with the proposed measure.
- c. If the fiscal impact on the current or future revenues or expenditures of the city cannot be determined at the time the proposed measure is considered by the city commission, the fiscal impact statement shall include a description of the risk factors or variables involved, and the administrative actions that will be required in order to determine the anticipated impact on future revenues and expenditures. In such cases, the fiscal impact statement should, to the extent possible, use ranges to estimate the impact on revenues or expenditures.
 - d. With respect to proposed agenda items related to the procurement of goods and services, including construction services, that are awarded pursuant to a previously approved budget, or which involve expenditures that are specifically authorized in a previously approved budget, the requirements of this section shall be deemed satisfied by a statement of the budget code or funding source that will be used to cover the proposed item, and the contract amount associated with the proposed item, if any.
 - e. If a proposed item has a fiscal impact on revenues or expenditures of the city in the amount of \$25,000.00 or less, the fiscal impact statement shall state that the item involves an estimated fiscal impact of \$25,000.00 or less, and no further information or analysis shall be required.
 - f. The failure to comply with the requirements of this section shall not constitute grounds for canceling the consideration of a proposed measure or rendering invalid any determination made by the city commission.
- (2) *Time certain.* Except for the setting of time certain for public hearings as required by law, the mayor shall be authorized to set time certain for all matters to be discussed or considered on a city commission agenda. The mayor may consider and set a time certain based upon the request of a city commissioner, the city administration, or a member of the public if such request is made prior to the commission meeting.
- (3) *Deferred items.* If an agenda item that is not set as a time certain for a public hearing is not reached during a city commission meeting, and the city commission does not specifically defer the item, the item shall be deemed to be deferred:
- a. To the next regularly scheduled commission meeting if the item was on a regular commission meeting agenda; or
 - b. To the next regularly scheduled presentations and awards meeting if the item was on a presentations and awards meeting agenda.
- Any agenda item that has been deferred by the sponsor and has not been heard for a period of 120 days or more following the meeting date the item was first placed on a city commission agenda shall be automatically withdrawn. For purposes of this paragraph, the term "deferred" shall not include an item postponed by the city commission due to a lack of time. No item based on the same proposal may be placed on another commission agenda for a 90-day period; however, the 90-day period may be waived by a six-sevenths vote of the city commission.
- (4) *Time certain public hearing items.* If a time certain public hearing agenda item is to be reset to another commission meeting agenda, the public hearing must either be:

- a. Specifically opened and continued to another commission meeting date and time certain; or
 - b. Re-advertised for another commission meeting date and time certain.
- (5) *Previously proposed ordinances and resolutions: exceptions.*
- a. *Previously proposed ordinances.* Should an ordinance fail on first or second reading due to the lack of the requisite vote for passage or adoption, or should an ordinance fail to receive a second on a motion for passage or adoption on first or second reading, an ordinance based on the same proposal shall not be placed on another commission agenda for a three month 90-day period; however, the three month 90-day period may be waived by a six-sevenths commission vote. This subsection shall not:
 - i. Prevent a reconsideration vote pursuant to subsection (i) hereof; or
 - ii. Permit the earlier consideration of a previously submitted ordinance if not otherwise permitted in this Code. In such event, the City Code provision with the more stringent time period for the consideration of a previously proposed ordinance shall control.
 - b. *Previously proposed resolutions.* Should a resolution fail due to the lack of the requisite vote for passage or adoption, or should a resolution fail to receive a second on a motion for adoption, a resolution based on the same proposal shall not be placed on another commission agenda for a 60-day period: however, the 60-day period may be waived by a six-sevenths commission vote. This subsection shall not:
 - i. Prevent a reconsideration vote pursuant to subsection 2-14(i) hereof; or
 - ii. Permit the earlier consideration of a previously submitted resolution if not otherwise permitted in this Code. In such event, the City Code provision with the more stringent time period for the consideration of a previously proposed resolution shall control.
- (6) *Referrals to commission committees.* City commissioners are encouraged, wherever possible, to refer new business to a commission committee prior to consideration by the full city commission. There shall be no limit on the number of commissioner-sponsored referral items per meeting agenda.
- (7) *Limit on number of commissioner-initiated discussion items and resolutions per meeting agenda.* No more than eight discussion items and resolutions, combined, may be placed on a regular meeting agenda by the mayor or by each member of the city commission. The requirement in this paragraph may be waived by a five-sevenths vote of the city commission. The mayor and members of the city commission are encouraged to first request a referral to committee, prior to introducing new business by sponsoring a discussion item or resolution, in order to promote efficiency, obtain a fiscal impact analysis from the city administration, seek public input, and thoroughly develop new policy proposals.
- (8) *Limit on number of new ordinances per meeting agenda.* No more than four ordinances may be sponsored and initiated by the mayor or by each member of the city commission and placed on the same agenda for first reading (excluding items that were transmitted to the city commission by a city commission committee or land use board). The requirement in this paragraph shall not apply to ordinances initiated by the city administration, and may be waived by a five-sevenths vote of the city commission.

- (9) *Informational items requiring no action: responses to constituent inquiries.* Each meeting agenda shall include a separate section for mayor or commissioner-initiated informational items requiring no action by the city commission. Such information may include correspondence from the mayor or a commissioner to a resident, business owner, or other constituent in response to an inquiry relating to city business which may be of general interest to the city commission or the public at large, or an update relating to any matter on which the mayor or commissioner is directly working with the administration.
- (10) *Items not reached.* Any ordinances or resolutions that were not reached during a city commission meeting shall take precedence over all other items on the agenda at the next regularly scheduled city commission meeting, with the exception of previously scheduled time certain items.
- (e) *Presentations and awards meetings.* The presentation of proclamations, awards, certificates, and all other recognitions made by the mayor and city commission shall only occur at separate regularly scheduled meetings of the city commission specifically dedicated for these purposes, which presentations and awards meetings shall be scheduled to take place every other month to the extent possible, or on such other dates as the city commission may determine at its discretion, provided that at least six presentations and awards meetings are scheduled each year. No other business may be conducted at presentations and awards meetings.
- (f) *Special city commission meetings.* Agenda items for special city commission meetings called pursuant to section 2.04 of the city Charter must be related to the subject matter for which the meeting was called.
- (g) *Quorum.* A majority of the entire city commission shall constitute a quorum. In the event that a commissioner is required to depart a commission meeting prior to adjournment, and the departure causes a loss of quorum, no further official action may be taken unless or until a quorum is restored, other than adjournment. Should no quorum attend within 30 minutes after the hour appointed for the meeting of the commission, or upon a meeting having commenced with a quorum, which quorum shall have been lost, the chairperson or, in the chairperson's absence, another commissioner in order of seniority, shall adjourn the meeting.
- (h) *Minutes.* Meeting minutes shall reflect any motions, votes on motions, formal direction, and the conclusion of each discussion on each agenda item including any future action that shall be taken.
- (i) *Parliamentary procedure.* Robert's Rules of Order Newly Revised, 11th Edition, and all subsequent amendments thereto and all subsequent editions thereof, shall be the recognized authority for general parliamentary procedure applicable to meetings of the city commission in those instances when the city's Charter, Related Special Acts, and Code do not expressly dictate parliamentary procedure.
- (j) *Virtual participation.* As applicable to meetings of the city commission and city commission committees, the city shall use its best efforts to permit members of the public to attend and provide public comment via telephone or video conferencing software.
- (k) *Effect.* The validity of any action or determination of the city commission or city personnel, board, or committee shall not be affected by the failure of any person to comply with the provisions of this section.

* * *

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

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

SECTION 4. 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 Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the ____ day of _____, 2024.

PASSED AND ADOPTED this ____ day of _____, 2024.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk

(sponsored by Commissioner Joseph Magazine)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

10/23/2024
Date