

R5 I AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ENVIRONMENT," BY CREATING ARTICLE XII, ENTITLED "LIGHT POLLUTION," AND CREATING SECTION 46-250 ENTITLED "GARISH FLASHING, STROBING, AND/OR MULTICOLORED LIGHTS PROHIBITED" TO PROHIBIT GARISH FLASHING, STROBING AND/OR MULTICOLORED LIGHTS ON RESIDENTIAL PROPERTIES THAT UNREASONABLY DISTURBS THE QUIET ENJOYMENT OF A NEIGHBORING RESIDENCE BY A NEARBY RESIDENT AND ESTABLISHING ENFORCEMENT AND PENALTY PROVISIONS; 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: July 24, 2024 10:55 a.m. Second Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ENVIRONMENT," BY CREATING ARTICLE XII, ENTITLED "LIGHT POLLUTION," AND CREATING SECTION 46-250 ENTITLED "GARISH FLASHING, STROBING, AND/OR MULTICOLORED LIGHTS PROHIBITED" TO PROHIBIT GARISH FLASHING, STROBING AND/OR MULTICOLORED LIGHTS ON RESIDENTIAL PROPERTIES THAT UNREASONABLY DISTURBS THE QUIET ENJOYMENT OF A NEIGHBORING RESIDENCE BY A NEARBY RESIDENT AND ESTABLISHING ENFORCEMENT AND PENALTY PROVISIONS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

ANALYSIS

See attached Memorandum.

FISCAL IMPACT STATEMENT

N/A

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

The Business Impact Estimate (BIE) was published on 7/5/2024. See BIE at:
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

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 Kristen Rosen Gonzalez

Co-sponsor(s)

Commissioner Joseph Magazine
Commissioner David Suarez



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Steven Meiner and Members of the City Commission

FROM: Ricardo J. Dopico, City Attorney

SECOND READING

DATE: July 24, 2024

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ENVIRONMENT," BY CREATING ARTICLE XI, ENTITLED "LIGHT POLLUTION," AND CREATING SECTION 46-250 ENTITLED "GARISH FLASHING, STROBING, AND/OR MULTICOLORED LIGHTS PROHIBITED" TO PROHIBIT GARISH FLASHING, STROBING AND/OR MULTICOLORED LIGHTS ON RESIDENTIAL PROPERTIES THAT WOULD UNREASONABLY DISTURB THE QUIET ENJOYMENT OF A NEIGHBORING RESIDENCE BY A NEARBY RESIDENT AND ESTABLISHING ENFORCEMENT AND PENALTY PROVISIONS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

The proposed Ordinance (the "Ordinance"), which is sponsored by Commissioner Kristen Rosen Gonzalez, was submitted to the City Commission for First Reading on June 26, 2024. The proposed Ordinance would potentially preserve and enhance the environment of the City of Miami Beach in residential neighborhoods and the improve the quality of life of residents.

On January 31, 2024, the Mayor and City Commission referred a discussion regarding potential solutions to light pollution from multi-colored decorative lighting emanating from adjacent properties to the Public Safety and Neighborhood Quality of Life Committee ("PSNQLC") for the Committee's deliberation.

A discussion was held at the March 20, 2024 PSNQLC meeting, where the Committee voted to return the item to the full City Commission with a positive recommendation to enact an ordinance to regulate party lighting on residential properties that would unreasonably disturb the quiet enjoyment of a neighboring residence by a nearby resident.

The proposed Ordinance was presented to, and approved at First Reading, by the Mayor and City Commission on First Reading at the June 26, 2024 City Commission Meeting, subject to certain minor clarifications.

Specifically, the proposed Ordinance was amended by the sponsor to strike the original exemption for periods before and after holidays, to clarify that the Ordinance only prohibits flashing, strobing, or other "disco-ball" type lights, to raise the applicable fines, and to change the word "special master" to "special magistrate" throughout the proposed Ordinance. All of these changes are indicated by double underlining in the Second Reading version of the proposed Ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ENVIRONMENT," BY CREATING ARTICLE XII, ENTITLED "LIGHT POLLUTION," AND CREATING SECTION 46-250 ENTITLED "GARISH FLASHING, STROBING, AND/OR MULTICOLORED LIGHTS PROHIBITED" TO PROHIBIT GARISH FLASHING, STROBING AND/OR MULTICOLORED LIGHTS ON RESIDENTIAL PROPERTIES THAT UNREASONABLY DISTURBS THE QUIET ENJOYMENT OF A NEIGHBORING RESIDENCE BY A NEARBY RESIDENT AND ESTABLISHING ENFORCEMENT AND PENALTY PROVISIONS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, on January 31, 2024, the Mayor and City Commission referred a discussion regarding potential solutions to light pollution from multi-colored decorative lighting emanating from adjacent properties to the Public Safety and Neighborhood Quality of Life Committee ("PSNQLC") for the Committee's deliberation; and

WHEREAS, a discussion was held at the March 20, 2024 PSNQLC meeting where the Committee voted to return the item to the full City Commission with a positive recommendation to enact an ordinance to prohibit garish flashing, strobing and/or multicolored lights on residential properties that would unreasonably disturb the quiet enjoyment of a neighboring residence by a nearby resident; and

WHEREAS, this Ordinance will preserve and enhance the environment of the City of Miami Beach in residential neighborhoods and the improve the quality of life of residents.

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

SECTION 1. Article XII of Chapter 46 and Section 46-250 of the Code of the City Miami Beach are hereby created as follows:

**CHAPTER 46
ENVIRONMENT**

* * *

ARTICLE XII. LIGHT POLLUTION

Sec. 46-250. ~~Garish Flashing, and/or strobing, and/or multicolored lights prohibited.~~

- (a) The use of ~~garish flashing, and/or strobing, and/or multicolored~~ lights and/or multidirectional moving light beams on, or emanating from, on residential properties that unreasonably disturbs the quiet enjoyment of a neighboring residence by a nearby resident is hereby prohibited.

~~(b) The prohibition contained herein shall be abated for a period thirty days before and ten days after national holidays and major religious holidays.~~

(b)(c) Enforcement.

- (1) If a code compliance officer finds a violation of this article, the code compliance officer shall first issue a written warning for a first violation, and if the violation is not cured within 24 hours, then issue a notice of violation to the property owner or the landscape maintenance company. The notice of violation 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 master 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.
- (2) A violator who has been served with a notice of violation must elect to either:
 - a. Pay the following civil fine:
 - i. First violation within a 12-month period \$500 ~~250.00~~:
 - ii. Second violation within a 12-month period \$750 ~~500.00~~:
 - iii. Third or subsequent violation within a 12-month period \$1,000.00; or
 - b. Request an administrative hearing before a special master magistrate to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation. 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. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.
- (3) Failure to pay the civil fine, or to timely request an administrative hearing before a special master magistrate, shall constitute a waiver of the violator's right to an administrative hearing before the special master magistrate, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
- (4) 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. After three months following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien for the amount of the lien plus accrued interest.
- (5) The special master 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. The special master magistrate shall not have discretion to alter the penalties prescribed in this article. Any party

aggrieved by a decision of a special master magistrate may appeal that decision to a court of competent jurisdiction.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same 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 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 5. EFFECTIVE DATE.

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

PASSED AND ADOPTED this ____ day of _____, 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk


APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Underline denotes additions


~~Strikethrough~~ denotes deletions

Double underline denotes additions on second reading

(Sponsored by Commissioner Kristen Rosen Gonzalez)



City Attorney



Date