

R5 K AN ORDINANCE OF THE MAYOR AND COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 30 OF THE MIAMI BEACH CITY CODE, ENTITLED "CODE ENFORCEMENT," BY AMENDING ARTICLE III, ENTITLED "ENFORCEMENT PROCEDURE," BY AMENDING SECTION 30-72 THEREOF, ENTITLED "CONDUCT OF HEARINGS," BY CREATING SUBSECTION (D) ALLOWING ONLY ONE EXTENSION OF TIME TO EXTEND A COMPLIANCE DATE; 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 11:05 a.m. Second Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 30 OF THE MIAMI BEACH CITY CODE, ENTITLED "CODE ENFORCEMENT," BY AMENDING ARTICLE III, ENTITLED "ENFORCEMENT PROCEDURE," BY AMENDING SECTION 30-72 THEREOF, ENTITLED "CONDUCT OF HEARINGS," BY CREATING SUBSECTION (D) ALLOWING ONLY ONE EXTENSION OF TIME TO EXTEND A COMPLIANCE DATE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

ANALYSIS

At the request of the sponsor, Vice Mayor Laura Dominguez, this proposed ordinance is presented to the Mayor and City Commission for your consideration.

The enforcement of the provisions of the Code of the City of Miami Beach is a priority of the Mayor and City commission. Efficient, speedy, and just resolution of City Code violations heard before the City's special magistrates is an indispensable component of achieving this priority.

Multiple requests to extend compliance dates frustrates this goal and leads to inefficient, late, and unjust resolution of City Code violations.

The proposed legislation amends City Code Sec. 30-72 by adding subsection (d) to codify to codify that after an initial request for an extension of time is heard and granted by the special magistrate, a subsequent request for an extension of time to extend a previously extended compliance date shall be denied by the special magistrate.

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?**

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

City Attorney

Sponsor(s)

Commissioner Laura Dominguez

Co-sponsor(s)

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 30 OF THE MIAMI BEACH CITY CODE, ENTITLED "CODE ENFORCEMENT," BY AMENDING ARTICLE III, ENTITLED "ENFORCEMENT PROCEDURE," BY AMENDING SECTION 30-72 THEREOF, ENTITLED "CONDUCT OF HEARINGS," BY CREATING SUBSECTION (D) ALLOWING ONLY ONE EXTENSION OF TIME TO EXTEND A COMPLIANCE DATE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, enforcement of the provisions of the Code of the City of Miami Beach is a priority of the Mayor and City Commission; and

WHEREAS, efficient, speedy, and just resolution of City Code violations heard before the City's special magistrates is an indispensable component of achieving this priority; and

WHEREAS, multiple requests for extension of time to extend a compliance date of a prior order of the special magistrate frustrates this goal and leads to inefficient, late, and unjust resolution of City Code violations; and

WHEREAS, the Mayor and City Commission desire to facilitate timely resolution of matters heard before the City's special magistrates by limiting requests to extend a compliance date set by a prior order of the special magistrate that may be granted by the special magistrates to a maximum of one request for an extension of time to extend a compliance date set by a prior order of the special magistrate; and

WHEREAS, the Mayor and City Commission future desire to codify that after an initial request for an extension of time is heard and granted by the special magistrate, a subsequent request for an extension of time to extend a previously extended compliance date shall be denied by the special magistrate.

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

SECTION 1. That Section 30-72 of Article III of Chapter 30 of the City Code, entitled "Conduct of hearings," is hereby amended to state as follows:

CHAPTER 30. CODE ENFORCEMENT

* * *

ARTICLE III. ENFORCEMENT PROCEDURE

* * *

Sec. 30-72. Conduct of hearings.

- (a) Upon request of the code inspector or at such other times as may be necessary, the special magistrate may call hearings. The special magistrate at any hearing may set a future hearing date. The special magistrate shall attempt to convene no less frequently than once every month but may meet more or less often as the demand necessitates. Minutes shall be kept of all hearings, and all hearings shall be open to the public. The city manager shall provide clerical and administrative personnel as may be reasonably required for the proper performance of the special magistrate's duties. If the local governing body prevails in prosecuting a case before the special magistrate, it shall be entitled to recover all costs and fees incurred in prosecuting the case before the special magistrate, including, but not limited to, costs for enforcement, inspections, preparation of enforcement reports, photographs, testing, monitoring, title search, postage, service of notice and or orders, translator, audio/video of proceeding, recordings, administrative and clerical costs, special magistrate fees as approved by a resolution of the city commission, and hearing facility costs; such costs and fees may be included in the lien authorized under F.S. § 162.09(3).
- (b) Except as provided in article II of this chapter, the special magistrate shall proceed to hear the cases on the agenda for that day and shall take testimony from the code inspector and alleged violator. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern said proceedings.
- (c) Motions for continuance shall be filed with the clerk of the special magistrate. The special magistrate may grant a maximum of one continuance to the alleged violator and one continuance to the city, each for good cause shown. Subsequent motions for continuance shall be denied except in the most exceptional circumstances when the movant has shown, through sworn testimony accompanying the motion, that fundamental due process would be denied if the subsequent continuance was not granted.
- (d) Any owner or authorized representative may request a hearing to seek an extension of the timeframe for compliance set forth in an order of the special magistrate. Any such request must be in writing directed to the clerk of the special magistrate. The special magistrate shall not be authorized to extend any deadline for compliance set forth in a prior order unless the clerk of the special magistrate receives a written request for the extension prior to the deadline specified in the initial order. The special magistrate shall not grant more than one extension of time for compliance to the initial order except in the most exceptional circumstances when the movant has shown, through sworn testimony accompanying the motion, that fundamental due process would be denied if the request for more time was not granted.
- (~~d~~) (e) At the conclusion of the hearing, the special magistrate shall issue findings of fact based on evidence and conclusions of law and shall issue an order affording the proper relief consistent with the powers granted herein. The order may include a

notice that it must be complied with by a specified date, and that a fine may be imposed if the order is not complied with by that date, and, under the conditions specified in section 30-74, the cost of repairs may be included along with the fine if the order is not complied with by the specified date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchases, successors in interests, or assigns. If an order is recorded in the public records pursuant to this section and the order is complied with by the date specified in the order, the special magistrate shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

SECTION 4. REPEALER.

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

SECTION 6. 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. 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 renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

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 new language
Strikethrough denotes removed language

(Sponsored by Commissioner Laura Dominguez)

City Attorney *SH*

6/15/2024

Date