

R5 E 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," AND CREATING SECTION 2-18 ENTITLED "STOP THE PAUSE POLICY" TO ESTABLISH MINIMUM VOTING THRESHOLDS RELATING TO CRITICAL INFRASTRUCTURE PROJECTS HAVING AN ESTIMATED CONSTRUCTION COST ABOVE A STATED THRESHOLD; 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: Ricardo J. Dopico, City Attorney

DATE: September 11, 2024 10:30 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 CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE II, ENTITLED "CITY COMMISSION," AND CREATING SECTION 2-18 ENTITLED "STOP THE PAUSE POLICY" TO ESTABLISH MINIMUM VOTING THRESHOLDS RELATING TO CRITICAL INFRASTRUCTURE PROJECTS HAVING AN ESTIMATED CONSTRUCTION COST ABOVE A STATED THRESHOLD; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

BACKGROUND/HISTORY

ANALYSIS

At the request of the Commissioner Alex Fernandez, the proposed Ordinance is presented to the Mayor and City Commission for consideration.

The City of Miami Beach recognizes the importance of critical infrastructure projects that are essential to the health, safety, and well-being of its residents, commuters, and visitors.

As recognized by the Mayor and City Commission in Resolution No. 2024-33144 and by the Office of the Inspector General in OIG Opinion Nos. 24-05 and 24-12, it is in the best interest of the City to ensure that such critical infrastructure projects proceed without unnecessary interruptions or modifications once they have reached advanced stages of design or are shovel-ready.

The proposed Ordinance would codify more stringent voting thresholds necessary to take any action that would have the effect of pausing, delaying, stopping or materially modifying critical infrastructure projects at advanced stages to ensure continuity and completion, while allowing for exceptions in the case of unforeseen site conditions that materially impact the cost of the project, funding limitations, and/or funding emergencies, and provided, the Ordinance would not in any way limit the Commission's ability to accept the recommendation of the City Manager to reject all bids, to take any action the Commission deems necessary to protect the City's rights under a contract with a design consultant or contractor. In addition, the Ordinance contemplates that the approval of (a) material changes to increase the scope of a critical infrastructure project having an estimated construction cost of \$1,000,000 or more or (b) to approve an increase to the contract price relating to such a critical infrastructure project shall continue to require only a simple majority (i.e. 4/7th) vote of the City Commission.

The proposed Ordinance also clarifies its scope by defining “critical infrastructure projects” as only the following:

- (i) Projects relating to fire flow, stormwater systems, potable water, and sanitary sewer projects deemed by the city manager to be critical due to risk of failure;
- (ii) Utility projects to replace and/or upgrade systems that are at or near capacity; and
- (iii) Neighborhood Improvement Projects (“NIPs”) that have been approved by the city commission, that may include resiliency-related improvements such as road raising and harmonization.

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 8/21/2024.
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?

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 Alex Fernandez

Co-sponsor(s)

Commissioner David Suarez

Condensed Title

10:30 a.m. 2nd Rdg, Ch. 2, Stop the Pause Policy. (Fernandez/Suarez) 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," AND CREATING SECTION 2-18 ENTITLED "STOP THE PAUSE POLICY" TO ESTABLISH MINIMUM VOTING THRESHOLDS RELATING TO CRITICAL INFRASTRUCTURE PROJECTS HAVING AN ESTIMATED CONSTRUCTION COST ABOVE A STATED THRESHOLD; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach recognizes the importance of critical infrastructure projects that are essential to the health, safety, and well-being of its residents, commuters, and visitors; and

WHEREAS, such critical infrastructure projects, which for purposes of this Section, shall be defined to include:

- Projects relating to fire flow, stormwater systems, potable water, and sanitary sewer projects deemed critical due to risk of failure.
- Utility projects to replace and/or upgrade systems that are at or near capacity.
- Neighborhood Improvement Projects (NIPs) that have been approved by the city commission, that may include resiliency-related improvements such as road raising and harmonization; and

WHEREAS, it is in the best interest of the City to ensure that such critical infrastructure projects proceed without unnecessary interruptions or modifications once they have reached advanced stages of design or are shovel-ready; and

WHEREAS, the City Commission believes it is prudent to establish a higher threshold of approval to pause, delay, stop, or materially modify critical infrastructure projects at advanced stages to ensure continuity and completion, while allowing for exceptions in the case of unforeseen site conditions that materially impact the cost of the project, funding limitations, and/or funding emergencies, and provided, this policy shall not in any way limit the Commission's ability to accept the recommendation of the City Manager to reject all bids or to take any action the Commission deems necessary to protect the City's rights under a contract with a design consultant or contractor; and

WHEREAS, establishing such higher thresholds of approval to pause, delay, stop or materially modify projects will also result in substantial cost savings to taxpayers.

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

SECTION 1. Article II of Chapter 2 of the Code of the City Miami Beach is hereby amended to create Section 2-18 as follows:

**CHAPTER 2
ADMINISTRATION**

* * *

ARTICLE II. CITY COMMISSION

* * *

Sec. 2-18. Stop the Pause Policy.

(1) Definitions.

For purposes of this section only:

(a) critical infrastructure projects shall be defined to include:

(i) Projects relating to fire flow, stormwater systems, potable water, and sanitary sewer projects deemed by the city manager to be critical due to risk of failure;

(ii) Utility projects to replace and/or upgrade systems that are at or near capacity; and

(iii) Neighborhood Improvement Projects (“NIPs”) that have been approved by the city commission, that may include resiliency-related improvements such as road raising and harmonization.

(2) Voting Requirements to Pause, Delay, Stop or Materially Modify Critical Infrastructure Projects.

(a) A 5/7th vote of the City Commission shall be required before the City Commission may take any action that has the effect of pausing, delaying, stopping or materially modifying a critical infrastructure project (as defined herein) having an estimated construction cost of \$1,000,000 or more that is at least at 60% design.

(b) A 6/7th vote of the City Commission shall be required before the City Commission may take any action that has the effect of pausing, delaying, stopping or materially modifying a critical infrastructure project having an estimated construction cost of \$1,000,000 or more that has obtained all permits and is shovel-ready.

(c) Notwithstanding the requirements of subsections (a) and (b), only a 4/7th vote shall be required for the Commission to take any action that has the effect of pausing, delaying, stopping or materially modifying a critical infrastructure project having an estimated construction cost of \$1,000,000 or more in the event of (i) unforeseen site conditions that materially impact the cost of construction, (ii) funding limitations, and/or (iii) funding emergencies, and provided, the provisions of this section shall not in any way limit the Commission’s ability, on a 4/7th vote, to accept the recommendation of the City Manager to reject all bids or to take any action the Commission deems necessary to protect the City’s rights under a contract with a design consultant or contractor.

(d) Notwithstanding anything to the contrary in this section, with regard to critical infrastructure projects having an estimated construction cost of \$1,000,000 or more, the approval of (i) material changes to increase the scope of any such critical infrastructure project or (ii) an increase to the contract price for any such project shall continue to require a simple majority (i.e. 4/7th) vote of the commission.

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 Code of the City of Miami Beach, Florida. 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:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

(Sponsored by Commissioner Alex J. Fernandez)

Underline denotes additions
~~Strike through~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

7/16/2024

Date