

R5 AF NOTICE REQUIREMENTS FOR LAND USE BOARDS

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "MIAMI BEACH RESILIENCY CODE," CHAPTER 2, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE II, ENTITLED "GENERAL DEVELOPMENT APPLICATION AND HEARING PROCEDURES," SECTION 2.2.4, ENTITLED "PUBLIC HEARING," SECTION 2.2.4.1, ENTITLED PUBLIC NOTIFICATION," BY MODIFYING THE PUBLISHED NOTICE REQUIREMENTS FOR THE CITY'S LAND USE BOARDS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: November 20, 2024 First Reading

TITLE: NOTICE REQUIREMENTS FOR LAND USE BOARDS
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "MIAMI BEACH RESILIENCY CODE," CHAPTER 2, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE II, ENTITLED "GENERAL DEVELOPMENT APPLICATION AND HEARING PROCEDURES," SECTION 2.2.4, ENTITLED "PUBLIC HEARING," SECTION 2.2.4.1, ENTITLED PUBLIC NOTIFICATION," BY MODIFYING THE PUBLISHED NOTICE REQUIREMENTS FOR THE CITY'S LAND USE BOARDS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission (City Commission) approve the subject ordinance at First Reading and schedule a Second Reading public hearing for January 2025.

BACKGROUND/HISTORY

On June 26, 2024, at the request of Commissioner David Suarez, the Mayor and City Commission referred a proposal pertaining to notice requirements for land use boards (C4 P) to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On September 5, 2024, the LUSC discussed the item and recommended that the Planning Board transmit the ordinance to the City Commission with a favorable recommendation.

ANALYSIS

The proposed ordinance amends section 2.2.4.1 of the Land Development Regulations of the City Code (LDRs) by replacing the current requirement for a 30-day published notice in a newspaper of general circulation with a 30-day on-line notice, published on a website hosted by Miami-Dade County. This includes public hearing notices required pursuant to Section 2.2.4.1 of the LDRs for applications before the City's four land use boards (Board of Adjustment, Design Review Board, Historic Preservation Board and Planning Board).

The proposed ordinance is consistent with the requirements of section 50.0311, Florida Statutes:

50.0311 Publication of advertisements and public notices on a publicly accessible website and governmental access channels.

(1) For purposes of this chapter, the term "governmental agency" means a county, municipality, school board, or other unit of local government or political subdivision in this state.

(2) For purposes of notices and advertisements required under s. 50.011, the term "publicly accessible website" means a county's official website or other private website designated by the county for the publication of legal notices and advertisements that is accessible via the Internet.

All advertisements and public notices published on a website as provided in this chapter must be in searchable form and indicate the date on which the advertisement or public notice was first published on the website.

(3) A governmental agency may use the publicly accessible website of the county in which it lies to publish legally required advertisements and public notices if the cost of publishing advertisements and public notices on such website is less than the cost of publishing advertisements and public notices in a newspaper.

(4) A governmental agency with at least 75 percent of its population located within a county with a population of fewer than 160,000 may use a publicly accessible website to publish legally required advertisements and public notices only if the governing body of the governmental agency, at a public hearing that has been noticed in a newspaper as provided in this chapter, determines that the residents of the governmental agency have sufficient access to the Internet by broadband service, as defined in s. 364.02, or by any other means, such that publishing advertisements and public notices on a publicly accessible website will not unreasonably restrict public access.

(5) A special district spanning the geographic boundaries of more than one county that satisfies the criteria for publishing and chooses to publish legally required advertisements and public notices on a publicly accessible website must publish such advertisements and public notices on the publicly accessible website of each county it spans. For purposes of this subsection, the term "special district" has the same meaning as in s. 189.012.

(6) A governmental agency that uses a publicly accessible website to publish legally required advertisements and public notices shall provide notice at least once per year in a newspaper of general circulation or another publication that is mailed or delivered to all residents and property owners throughout the government's jurisdiction, indicating that property owners and residents may receive legally required advertisements and public notices from the governmental agency by first-class mail or e-mail upon registering their name and address or e-mail address with the governmental agency. The governmental agency shall maintain a registry of names, addresses, and e-mail addresses of property owners and residents who have requested in writing that they receive legally required advertisements and public notices from the governmental agency by first-class mail or e-mail.

(7) A link to advertisements and public notices published on a publicly accessible website shall be conspicuously placed:

(a) On the website's homepage or on a page accessible through a direct link from the homepage.

(b) On the homepage of the website of each governmental agency publishing notices on the publicly accessible website or on a page accessible through a direct link from the homepage.

(8) A governmental agency that has a governmental access channel authorized under s. 610.109 may also include on its governmental access channel a summary of all advertisements and public notices that are published on a publicly accessible website.

(9) A public bid advertisement made by a governmental agency on a publicly accessible website must include a method to accept electronic bids.

Currently, all required public notices are published in the Neighbors section of the Miami Herald on Sundays, which is the most cost-effective way of publishing for Miami Beach. Until several years ago, there was also a Neighbors section published on Thursdays, which provided the City two options for publication of public notices each week. Changing the publication of notices to a website managed by the County will be much more cost effective, as well as provide needed flexibility in the timing for such publications.

Also, as less people are receiving their news (and associated public notices) from printed newspapers, changing the published notice requirements to a website published by the County will provide better and more widespread access to such notices compared to a printed subscription.

PLANNING BOARD REVIEW

On October 29, 2024, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (7-0).

APPLICATION FEE WAIVER

The subject amendment is proposed on a comprehensive, citywide basis, and not on behalf of a private applicant or third party. Pursuant to section 2.4.1.c of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 2.2.3.5, 2.2.3.6, and appendix A to the City Code. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

1. The City Commission determines that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning, or based on circumstances unique to the proposed amendment.
2. Upon the written recommendation of the City Manager acknowledging a documented financial hardship of a property owner(s) or developer(s).
3. If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

The Administration recommends that the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

FISCAL IMPACT STATEMENT

No Fiscal Impact

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

If applicable, the Business Impact Estimate (BIE) was published on: 11/5/2024.
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

Not Applicable

CONCLUSION

The Administration recommends the following:

1. The City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for January 2025.
2. In accordance with section 2.4.1.c.1 of the Land Development Regulations of the City Code, the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

Applicable Area

Citywide

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

Is this item related to a G.O. Bond Project?

Yes

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

Planning

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Condensed Title

1st Rdg, Notice Requirements for Land Use Boards. (Suarez) PL 5/7

Notice Requirements for Land Use Boards

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "MIAMI BEACH RESILIENCY CODE," CHAPTER 2, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE II, ENTITLED "GENERAL DEVELOPMENT APPLICATION AND HEARING PROCEDURES," SECTION 2.2.4, ENTITLED "PUBLIC HEARING," SECTION 2.2.4.1, ENTITLED PUBLIC NOTIFICATION," BY MODIFYING THE PUBLISHED NOTICE REQUIREMENTS FOR THE CITY'S LAND USE BOARDS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission desire to amend the current requirements in the City Code pertaining to notice requirements for land use board approvals; and

WHEREAS, public notice is an important component of the development review process; and

WHEREAS, minimum notice requirements for the City's land use boards promote the general health, safety and welfare of the residents of the City; and

WHEREAS, Section 50.0311, Florida Statutes, authorizes the City to use a publicly accessible website hosted by Miami-Dade County as an alternative means of publishing notices and advertisements otherwise required to be published in a newspaper of general circulation; and

WHEREAS, on May 15, 2024, the Mayor and City Commission adopted Ordinance No. 2024-4618, amending the City Code to authorize the City to publish notices and advertisements on a publicly accessible website hosted by Miami-Dade County, except as otherwise provided by applicable law; and

WHEREAS, this Ordinance amends the Land Development Regulations, also known as the Miami Beach Resiliency Code, to require the City to publish notices of land use board applications on a publicly accessible website, in lieu of the newspaper, consistent with Section 50.0311, Florida Statutes, and Ordinance No. 2024-4618; and

WHEREAS, this Ordinance does not modify existing requirements for mail notice or postings on the property; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

SECTION 1. Chapter 2 of the Miami Beach Resiliency Code, entitled “Administration and Review Procedures,” Article II, entitled “General Development Application and Hearing Procedures,” is hereby amended as follows:

CHAPTER 2 ADMINISTRATION AND REVIEW PROCEDURES

* * *

ARTICLE II – GENERAL DEVELOPMENT APPLICATION AND HEARING PROCEDURES

* * *

2.2.4 PUBLIC HEARING

* * *

2.2.4.1 Public Notification

Hearings before a land use board on an application for development approval shall be noticed to the public in accordance with the following provisions, unless otherwise more specifically provided for in these land development regulations, and the applicant shall pay a fee for such notices pursuant to section 2.2.3.5.

- a. *Advertisement.* At least 30 days prior to the public hearing date, a description of the request, and the date, start time of the meeting and location of the hearing shall be noticed in a newspaper of general circulation on a publicly accessible website hosted by Miami-Dade County, consistent with the requirements of section 50.0311, Florida Statutes.
- b. *Mail notice.* At least 30 days prior to the public hearing date, a description of the request, and the date, start time of the meeting, and location of the hearing shall be given by mail to the owners of record of land lying within 375 feet of the property that is the subject to of the application. Applicants shall submit all information and certifications necessary to meet this requirement, as determined by the planning department. Additionally, courtesy notice shall also be given to any Florida nonprofit community organization which has requested, in writing, that of the Planning Director in writing to be notified provide notice of board hearings.
- c. *Posting.* At least 30 days prior to the public hearing date, a description of the request, and the date, time, and place of such hearing shall be posted on the property. Such posting shall be have a minimum dimension of 11 inches by 17 inches, and shall be located in a visible location at the front of the property, and shall not be posted on a fence or wall that would be obstructed by the operation of a gate.

SECTION 2. REPEALER.

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

SECTION 3. 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. 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. EFFECTIVE DATE.

This Ordinance shall take effect sixty (60) days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2025.

Steven Meiner, Mayor

ATTEST:


Rafael E. Granado, City Clerk

First Reading: November 20, 2024

Second Reading: January __, 2025

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *NL*

11/14/2024

Date