

R5 A AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 58 OF THE MIAMI BEACH CITY CODE, ENTITLED "HOUSING," BY AMENDING ARTICLE III, ENTITLED "PROPERTY MAINTENANCE STANDARDS," BY AMENDING SECTION 58-298 THEREOF, ENTITLED "RESPONSIBILITIES OF OWNERS AND OCCUPANTS", TO REQUIRE PROPERTY OWNERS OF HOUSES AND BUILDINGS WITHIN THE CITY TO TAKE MEASURES TO PROTECT ANIMALS ON THE PROPERTY; 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: December 11, 2024 9:15 a.m. Second Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 58 OF THE MIAMI BEACH CITY CODE, ENTITLED "HOUSING," BY AMENDING ARTICLE III, ENTITLED "PROPERTY MAINTENANCE STANDARDS," BY AMENDING SECTION 58-298 THEREOF, ENTITLED "RESPONSIBILITIES OF OWNERS AND OCCUPANTS", TO REQUIRE PROPERTY OWNERS OF HOUSES AND BUILDINGS WITHIN THE CITY TO TAKE MEASURES TO PROTECT ANIMALS ON THE PROPERTY; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission approve the Amendment to Chapter 58, Section 58-298 of the Miami Beach City Code.

BACKGROUND/HISTORY

On December 13, 2023, the Mayor and City Commission approved the referral of item C4 K to the Public Safety and Neighborhood Quality of Life Committee (PSNQLC or the Committee) for a discussion regarding the humane removal of animals from crawl spaces prior to fumigation tenting. The item, sponsored by Commissioner Dominguez, and subsequently co-sponsored by Commissioner Bhatt and Commissioner Suarez, considers the recommendation made by the City's Animal Welfare Committee at its January 17, 2023, meeting, regarding the need for more humane treatment of animals residing in crawl spaces, particularly before the closure of such spaces and/or fumigation activities.

ANALYSIS

In accordance with Article III, Chapter 8, Section 58-298 of the Miami Beach City Code, owners of houses and buildings within the City shall be responsible for the extermination of any insects, termites, and other insects that destroy the structure of the building, rodents or other pests in the building or on the premises, including public spaces of the building and outside premises. However, the City Code currently does not prescribe protocols for the humane removal of animals from crawl spaces prior to the closure of such spaces due to tenting fumigation activities on the premises.

On February 14, 2024, the PSNQLC discussed the item. The Committee unanimously recommended in favor of requiring owners to post conspicuous signage prior to fumigation tenting or other notification as forth by the City. Additionally, the Committee recommended for owners to install one-way animal doors on crawl spaces to ensure the humane removal of animals that would otherwise be trapped.

Accordingly, the Administration evaluated the existing Ordinance which may be amended to include the following requirements under Section 58-298 (h), entitled "Responsibilities of Owners

and Occupants.” These provisions would ensure the safe removal of animals and/or mitigate animal entrapments:

- (1) All owners of houses and buildings within the City shall prominently display signage two (2) weeks prior to tenting the structure for the extermination of insects and other pests.
- (2) All owners of houses and buildings within the city install one-way doors on crawl or void spaces of the structure for the humane removal of animals.

Between first and second reading, the sponsor amended the proposed ordinance to remove the requirement that a sign be posted two weeks prior to fumigation and the requirement of the installation of one-way doors on crawlspaces prior to fumigation. The proposed ordinance, on second reading, now requires only that property owners humanely remove any animals living in the crawlspace of the structure before closing the crawlspace prior to fumigation. The amended Ordinance shall be implemented upon adoption by the Mayor and City Commission.

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: 11/12/2024.
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

CONCLUSION

The Administration recommends an amendment to Chapter 58 of the Miami Beach City Code, entitled “Housing”, by amending Article III, entitled “Property Maintenance Standards”, by amending Section 58-298 thereof, entitled, “Responsibilities of Owners and Occupants”, to require owners of houses and buildings of the City to place signage two (2) weeks prior to tenting fumigation; and further, installing one-way animal doors on crawl spaces.

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)

Commissioner David Suarez
Commissioner Tanya K. Bhatt
Commissioner Alex Fernandez

Condensed Title

9:15 a.m. 2nd Rdg, Animals in Crawl Spaces. (Dominguez/Suarez/Bhatt/Fernandez) CA

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 58 OF THE MIAMI BEACH CITY CODE, ENTITLED "HOUSING," BY AMENDING ARTICLE III, ENTITLED "PROPERTY MAINTENANCE STANDARDS," BY AMENDING SECTION 58-298 THEREOF, ENTITLED "RESPONSIBILITIES OF OWNERS AND OCCUPANTS", TO REQUIRE PROPERTY OWNERS OF HOUSES AND BUILDINGS WITHIN THE CITY TO TAKE MEASURES TO PROTECT ANIMALS ON THE PROPERTY; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, currently, Section 58-298(h) of the Code of the City of Miami Beach requires all owners of houses and buildings within the city shall be responsible for the extermination of any insects, termites, and other insects that destroy the structure of the building, rodents or other pests in the building or on the premises, including public spaces of the building and outside premises; and

WHEREAS, as such, currently there are no protocols for the humane removal of animals in crawl spaces prior to the closure of such spaces and/or fumigation activities on the premises; and

WHEREAS, on February 14, 2024, the Public Safety and Neighborhood Quality of Life Committee, unanimously recommended in favor of legislation requiring homeowners / property managers to post signage two (2) weeks prior to tenting and fumigation of the premises; and further requiring the installation of one-way animal doors on crawl spaces to ensure the humane removal of animals and legislation to protect animals who may otherwise be trapped during a fumigation; and

WHEREAS, the Mayor and City Commission determined that it is in the best interest of the City to amend Section 58-298 to require owners of houses and buildings within the City to ~~place signage prior two (2) weeks prior to tenting for extermination of insects and other pests; and further,~~ temporarily install one-way animal doors on crawl spaces and humanely remove any animals living under the building before sealing the building for fumigation or any other reason.

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

SECTION 1. Section 58-298 of Article III, of Chapter 58 of the City Code, entitled "Responsibilities of Owners and Occupants," is hereby amended as follows:

CHAPTER 58

HOUSING

* * *

ARTICLE III. PROPERTY MAINTENANCE STANDARDS

* * *

Sec. 58-298. Responsibilities of owners and occupants.

(h) Every occupant of a building containing a single dwelling on any premises shall be responsible for the extermination of any insects, rodents, vermin or other pests in the building or on the premises; however, the extermination of termites, and other insects that destroy the structure of the building, shall be the sole responsibility of the owner. If there is more than one unit in a building, whether owned by individual or multiple owners, including condominiums, co-operatives, townhouses, duplexes and similar structures, the owner shall be responsible for the extermination of all insects, termites, and other insects that destroy the structure of the building, rodents or other pests in the building or on the premises, including public spaces of the building and outside premises. The exterminator shall be permitted reasonable access to any building during daylight hours, except for fumigation and like work for extermination of structural infestation, in which case access for a reasonable amount of time necessary for such work shall be permitted by the occupant and owner. The owner shall be responsible for adequate substitute sleeping facilities of all occupants during the period of extermination for termites or structural infestation.

(1) All owners of houses and buildings within the city shall ~~prominently display signage two (2) weeks~~ humanely remove any animals that may be living in the crawlspace before closing the crawlspace to comply with any law or ordinance or prior to tenting the structure for the extermination of insects and other pests.

(2) All owners of houses and buildings within the city shall install one-way doors on crawl or void spaces of the structure for the humane escape of animals for a period of fourteen days prior to installing permanent screening or lattice work pursuant to Code Sec. 58-292(f), if the homeowner was not in compliance with Sec. 58-292(f) because an opening was allowing to exist without the required cover, or if the covering is removed for any reason, in order to allow animals under the structure to escape before the opening is permanently sealed.

* * *

SECTION 2. 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 3. REPEALER

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

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 10 days after passage.

PASSED AND ADOPTED this _____ day of _____, 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner Laura Dominguez;
cosponsored by Vice Mayor Tanya K. Bhatt, Commissioner Alex J. Fernandez,
and Commissioner David Suarez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *RR*

12/9/2024

Date

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Ricardo J. Dopico, City Attorney

DATE: December 11, 2024 **Second Reading**

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RECOMMENDATION

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ANALYSIS

In accordance with Article III, Chapter 8, Section 58-298 of the Miami Beach City Code, owners of houses and buildings within the City are responsible for the extermination of any insects, termites, and other insects that destroy the structure of the building, rodents or other pests in the building or on the premises, including public spaces of the building and outside premises. However, the City Code currently does not prescribe protocols for the humane removal of animals from crawl spaces prior to the closure of such spaces due to tenting fumigation activities on the premises (or to comply with City Code requirement that all open crawl spaces be closed to prevent animals from gaining access under the building).

On February 14, 2024, the PSNQLC discussed the item. The Committee unanimously recommended in favor of requiring owners to post conspicuous signage prior to fumigation tenting or other notification as forth by the City. Additionally, the Committee recommended that owners install one-way animal doors on crawl spaces to ensure the humane removal of animals that would otherwise be trapped.

Accordingly, the proposed Ordinance was proposed on first reading to include requirements under Section 58-298 (h), entitled "Responsibilities of Owners and Occupants", to ensure the safe removal of animals and/or mitigate animal entrapments, as follows:

- (1) All owners of houses and buildings within the City shall prominently display signage two (2) weeks prior to tenting the structure for the extermination of insects and other pests.
- (2) All owners of houses and buildings within the city install one-way doors on crawl or void spaces of the structure for the humane removal of animals.

The Ordinance was amended for second reading to slightly modify the requirements as follows:

- 1) All owners of houses and buildings within the city shall humanely remove any animals that may be living in the crawlspace before closing the crawlspace to comply with any law or ordinance or prior to tenting the structure for the extermination of insects and other pests.
- (2) All owners of houses and buildings within the city shall install one-way doors on crawl or void spaces of the structure for the humane escape of animals for a period of fourteen days prior to installing permanent screening or lattice work pursuant to Code Sec. 58-292(f), if the homeowner was not in compliance with Sec. 58-292(f) because an opening was allowing to exist without the required cover, or if the covering is removed for any reason, in order to allow animals under the structure to escape before the opening is permanently sealed.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? No
(FOR ORDINANCES ONLY)

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CONCLUSION

Applicable Area

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Vice Mayor Tanya K. Bhatt
Commissioner Alex J. Fernandez
Commissioner David Suarez