

Condensed Title:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE FOLLOWING CHAPTERS IN THE CODE OF THE CITY OF MIAMI BEACH TO PROVIDE CIVIL ENFORCEMENT AND PENALTY PROVISIONS TO REPLACE CRIMINAL MISDEMEANOR ENFORCEMENT AND PENALTY PROVISIONS AS FOLLOWS: AMENDING CHAPTER 70 ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 70-6, ENTITLED "PENALTIES," TO PROVIDE CIVIL PENALTIES AND SPECIAL MASTER ENFORCEMENT PROVISIONS RELATIVE TO THE PROHIBITIONS IN CHAPTER 70, EXCEPT FOR VIOLATIONS OF SECTION 70-3 ENTITLED "VIBRATION"; BY AMENDING CHAPTER 74 OF THE MIAMI BEACH CITY CODE ENTITLED "PEDDLERS AND SOLICITORS," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 74-1 ENTITLED "SOLICITING BUSINESS IN PUBLIC FROM PEDESTRIANS," BY PROVIDING THAT THE SOLICITATION OF ANY FOOD, BEVERAGE OR SERVICE IS ALSO A PROHIBITED ACTIVITY AND PROVIDING CIVIL PENALTIES AND SPECIAL MASTER ENFORCEMENT PROVISIONS; BY AMENDING CHAPTER 82 OF THE MIAMI BEACH CITY CODE ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 82-1, ENTITLED "CONDUCTING BUSINESS ON STREETS, PARKS OR OTHER PUBLIC PROPERTY," BY PROVIDING CIVIL PENALTIES AND SPECIAL MASTER ENFORCEMENT PROVISIONS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

Key Intended Outcome Supported:

Ensure compliance with code within reasonable time frame; Improve Cleanliness of Miami Beach rights of way especially in business areas

Supporting Data (Surveys, Environmental Scan, etc.): According to the 2009 Customer Satisfaction Survey, 73% of residents and 66% of businesses rated cleanliness of streets in business/commercial areas as excellent or good. Additionally, 83% of the City's residents and 85% of the City's businesses rated the overall appearance of beaches as excellent or good.

Issue:

Should the City Commission adopt the proposed ordinance?

Item Summary/Recommendation:**SECOND READING / PUBLIC HEARING**

Currently, Section 70-4 of the City Code of Ordinances prohibits peddling within the City, and Section 70-5 prohibits selling food from open-air stands. Oftentimes, this is seen in the form of people selling water from coolers, CDs or T-shirts on the street during high impact periods. Violations include a fine not to exceed \$500.00, imprisonment in the county jail for not more than 30 days, or both for first-time convictions. Second-time convictions include a fine not to exceed \$1,000.00, imprisonment in the county jail for not more than 12 months, or both. The Police Department is currently responsible for enforcement of this section of the Code. Section 74-1 of the City Code of Ordinances prohibits anyone from soliciting pedestrians to purchase goods while on any public street or sidewalk, or while in any building, doorway, stairway, window or other opening abutting or adjacent to a street or sidewalk. Section 82-1 prohibits selling or offering for sale any goods or services, other than newspapers of general circulation. The Code Compliance division is responsible for enforcing this provision, and fines are established by the Special Master. By decriminalizing the violations of Sections 70-4, 70-5 and 74-1, and assigning enforcement responsibility to the Code Compliance division, enforcement can be more effective, as Code Compliance Officers are more readily available to address these types of violations, particularly during Major Event Periods where Police Officers may be involved in other life-safety issues and/or addressing more serious criminal activities. The Administration is also proposing to establish a set fine schedule for the violation of all four (4) of the above-outlined provisions. The proposed fine schedule is as follows: \$50 for the 1st Offense; \$100 for the 2nd Offense; and \$250 for the 3rd and subsequent violations. The establishment of a set fine schedule will also reduce the number of cases that appear before the Special Master, reducing their already overwhelming caseload. Violators will still have the right to appeal their case before the Special Master, subject to the provisions already in the City Code. The Ordinance was approved on first reading at the March 21, 2012 Commission meeting. Commissioner Libbin requested that the ordinance be amended to reflect that the Special Master not have the ability to reduce fines of violations issued by Code Compliance staff. This provision has been incorporated into the proposed ordinance. The Administration recommends that the City Commission adopt the proposed Ordinance on second reading.

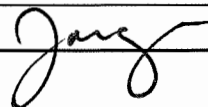
Advisory Board Recommendation:

At a joint meeting of the Neighborhood/Community Affairs and Finance and Citywide Projects Committees on January 19, 2012, the Committees directed the Administration to move forward with amendments to the City Code regarding any enforcement limitations currently in place regarding solicitation and illegal vending.

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
OBPI	Total		

Financial Impact Summary:**City Clerk's Office Legislative Tracking:****Sign-Offs:**

Department Director	Assistant City Manager	City Manager
		

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OFFICE OF THE CITY MANAGER

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: April 11, 2012

 **SECOND READING / PUBLIC HEARING**

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE FOLLOWING CHAPTERS IN THE CODE OF THE CITY OF MIAMI BEACH TO PROVIDE CIVIL ENFORCEMENT AND PENALTY PROVISIONS TO REPLACE CRIMINAL MISDEMEANOR ENFORCEMENT AND PENALTY PROVISIONS AS FOLLOWS: AMENDING CHAPTER 70 ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 70-6, ENTITLED "PENALTIES," TO PROVIDE CIVIL PENALTIES AND SPECIAL MASTER ENFORCEMENT PROVISIONS RELATIVE TO THE PROHIBITIONS IN CHAPTER 70, EXCEPT FOR VIOLATIONS OF SECTION 70-3 ENTITLED "VIBRATION"; BY AMENDING CHAPTER 74 OF THE MIAMI BEACH CITY CODE ENTITLED "PEDDLERS AND SOLICITORS," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 74-1 ENTITLED "SOLICITING BUSINESS IN PUBLIC FROM PEDESTRIANS," BY PROVIDING THAT THE SOLICITATION OF ANY FOOD, BEVERAGE OR SERVICE IS ALSO A PROHIBITED ACTIVITY AND PROVIDING CIVIL PENALTIES AND SPECIAL MASTER ENFORCEMENT PROVISIONS; BY AMENDING CHAPTER 82 OF THE MIAMI BEACH CITY CODE ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 82-1, ENTITLED "CONDUCTING BUSINESS ON STREETS, PARKS OR OTHER PUBLIC PROPERTY," BY PROVIDING CIVIL PENALTIES AND SPECIAL MASTER ENFORCEMENT PROVISIONS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

The Administration recommends the City Commission adopt the proposed Ordinance.

ANALYSIS

Following the 2011 Memorial Day Weekend (MDW) holiday weekend, there were several meetings in the community regarding the events of the weekend, and concerns with issues relating to traffic, public safety, litter, etc. Many recommendations were made. The "debrief" of the MDW Major Events Plan (MEP) by staff also resulted in the compiling of issues observed, and potential actions to address them in the future. On September 1, 2011, a joint meeting of the Neighborhood/Community Affairs Committee and the Finance and Citywide Projects

We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.

Committee was held to discuss planning approaches to address concerns experienced during MDW in 2011. A matrix that provided a summary of the nature of the issues and potential solutions that had been identified by the community and staff was distributed at that meeting.

Also in the Fall of 2011, staff began preparing and planning for MDW in 2012. As part of that preparation, staff identified other actions, not included in previous discussions or the September 2011 matrix, which may address issues and concerns that had been raised. One of those actions was to amend the current ordinances regarding solicitation and illegal vending to address any enforcement limitations.

At a joint meeting of the Neighborhood/Community Affairs and Finance and Citywide Projects Committees held on January 19, 2012, the Administration presented the idea of amending the solicitation and illegal vending ordinances. Direction was provided by the Committees for the Administration to move forward with amendments to the City Code regarding any enforcement limitations currently in place regarding solicitation and illegal vending.

Current Code Provisions

Currently, section 70-4 of the City Code of Ordinances prohibits peddling within the City. Additionally, section 70-5 prohibits the sale of food from open-air stands. Oftentimes, this is seen in the form of people selling water from coolers, CDs or T-shirts on the street during high impact periods. Violations currently include a fine not to exceed \$500.00, imprisonment in the county jail for not more than 30 days, or both for first-time convictions. Second-time convictions include a fine not to exceed \$1,000.00, imprisonment in the county jail for not more than 12 months, or both. The Police Department is currently responsible for enforcement of this section of the Code.

Section 74-1 of the City Code of Ordinances prohibits anyone from soliciting pedestrians to purchase goods while on any public street or sidewalk, or while in any building, doorway, stairway, window or other opening abutting or adjacent to a street or sidewalk. Violations currently include a fine not to exceed \$500.00, imprisonment for not more than 60 days, or both. The Police Department is currently responsible for enforcement of this section of the Code.

Lastly, section 82-1 prohibits selling or offering for sale any goods or services, other than newspapers of general circulation. The Code Compliance division is responsible for enforcing this provision, and fines are established by the Special Master.

Proposed Revisions

The Administration believes that by decriminalizing the violations of Sections 70-4, 70-5 and 74-1, and assigning enforcement responsibility to the Code Compliance division, enforcement can be more effective, as Code Compliance Officers are more readily available to address these types of violations, particularly during major event periods where Police Officers may be involved in other life-safety issues and/or addressing more serious criminal activities.

The Administration is also proposing to establish a set fine schedule for the violation of all four (4) of the above-outlined provisions (sections 70-4, 70-5, 74-1 and 82-1). Since the violation has already occurred at the time of issuing a Notice of Violation (NOV), and often compliance is not achieved, these kinds of violations would be more appropriately addressed through a set

fine schedule as opposed to the subjectivity of the Special Master process.

The proposed fine schedule for violations of all four (4) sections is as follows:

- \$50 for the 1st Offense;
- \$100 for the 2nd Offense; and
- \$250 for the 3rd and subsequent violations.

A violator can elect to pay the fine as outlined in the above schedule, or request an administrative hearing before the Special Master to appeal the decision of the Code Compliance Officer which resulted in the violation being issued. This will ensure that the violator is still afforded due process.

In addition to establishing consistent fines for violations, a set fine schedule will also reduce the number of cases that appear before the Special Master, reducing their already overwhelming caseload. By eliminating a number of cases, it will also expedite the scheduling and holding of hearings for persons receiving notices of violation for other City Code sections, thereby reducing the turnaround time from violation to adjudication, and ultimately compliance.

The Ordinance was approved on first reading at the March 21, 2012. At that time, Commissioner Libbin requested that the ordinance be amended to reflect that the Special Master not have the ability to reduce fines of violations issued by Code Compliance staff. As a result, the ordinance has been amended for second reading to reflect that mitigation provisions in Section 30-76(b) of the Code shall not apply to any fines related to violations issued under these revised Code sections. In other words, the Special Master may decide, based on the merits of the case, to either uphold or dismiss the case, but cannot mitigate the fines.

CONCLUSION

The Administration recommends that the City Commission adopt the proposed Ordinance as amended on second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE FOLLOWING CHAPTERS IN THE CODE OF THE CITY OF MIAMI BEACH TO PROVIDE CIVIL ENFORCEMENT AND PENALTY PROVISIONS TO REPLACE CRIMINAL MISDEMEANOR ENFORCEMENT AND PENALTY PROVISIONS AS FOLLOWS: AMENDING CHAPTER 70 ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 70-6, ENTITLED "PENALTIES," TO PROVIDE CIVIL PENALTIES AND SPECIAL MASTER ENFORCEMENT PROVISIONS RELATIVE TO THE PROHIBITIONS IN CHAPTER 70, EXCEPT FOR VIOLATIONS OF SECTION 70-3 ENTITLED "VIBRATION"; BY AMENDING CHAPTER 74 OF THE MIAMI BEACH CITY CODE ENTITLED "PEDDLERS AND SOLICITORS," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 74-1 ENTITLED "SOLICITING BUSINESS IN PUBLIC FROM PEDESTRIANS," BY PROVIDING THAT THE SOLICITATION OF ANY FOOD, BEVERAGE OR SERVICE IS ALSO A PROHIBITED ACTIVITY AND PROVIDING CIVIL PENALTIES AND SPECIAL MASTER ENFORCEMENT PROVISIONS; BY AMENDING CHAPTER 82 OF THE MIAMI BEACH CITY CODE ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 82-1, ENTITLED "CONDUCTING BUSINESS ON STREETS, PARKS OR OTHER PUBLIC PROPERTY," BY PROVIDING CIVIL PENALTIES AND SPECIAL MASTER ENFORCEMENT PROVISIONS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, currently, the provisions in Chapters 70, 74, and 82 of the Code of the City of Miami Beach concerning peddling, soliciting, and conducting unauthorized businesses on public property are misdemeanor offenses enforced by the City's police department; and

WHEREAS, it is deemed in the best interest of the City that the aforementioned offenses be decriminalized and enforced by the City's Code Compliance Division and pursuant to the City's Special Master procedures.

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

SECTION 1.

That Section 70-4 of Article I of Chapter 70, entitled "Miscellaneous Offenses," of the Miami Beach City Code is hereby amended as set forth below.

CHAPTER 70

MISCELLANEOUS OFFENSES

ARTICLE I. In General

* * *

Sec. 70 - 4. Peddling prohibited.

It shall be unlawful for any person to engage in the business of peddling within the city except in those areas designated and approved by the city manager. The term "peddling" or "peddler" shall be defined as any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this section. The word "peddler" shall include the words "hawker" and "huckster."

Sec. 70-5. Selling food from open-air stands prohibited.

The sale, keeping storage or the offering for sale of any food from open-air stands in the city is prohibited. Such sale, keeping, storage, or the offering for sale of any food from open-air stands in the city shall be made only within the confines of an enclosed building except in those areas as designated and approved by the city manager.

Sec. 70 - 6. Enforcement; pPenalties; appeals; unpaid fines to constitute liens.

~~(a) Unless otherwise provided herein, every person convicted of a violation of this chapter shall be punished by a fine not to exceed \$500.00 or imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment; for a second conviction of a violation of this chapter such person shall be punished by a fine not to exceed \$1,000.00 or imprisonment in the county jail not more than 12 months, or by both such fine and imprisonment.~~

~~(a)(b)~~ The provisions of section 70-3 shall be enforced by enforcement procedures before a special master, appointed as set forth in chapter 30 of this Code, and penalties for violations of those sections shall be as set forth therein.

~~(b)(c) Except as provided in subsection (b) of this section, eEnforcement of sections, 70 - 4, and 70 - 5 of this chapter providing for civil penalties shall be in accordance with the following procedures:~~

- ~~(1)~~ If a code compliance officer finds a violation of this chapter, the compliance officer shall issue a notice of violation to the violator as provided in chapter 30.

The notice shall inform the violator of the nature of the violation, amount of fine for which the violator may be liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within 20 days after service of the notice of violation, and that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing.

(2) A violator who has been served with a notice of violation shall elect either to:

a. Pay the civil fine ~~in the manner indicated on the notice~~ as follows:

(i)	First offense	\$ 50.00;
(ii)	Second offense ...	\$100.00;
(iii)	Third and subsequent offenses ...	\$250.00;or

b. Request an administrative hearing within 20 days before a special master appointed as provided in article II of chapter 30 to appeal the decision of the code compliance officer which resulted in the issuance of the notice of violation.

c. The Special Master shall not have discretion to alter the penalties prescribed in subsection (b)(2)(a).

(3) If the named violator, after notice, fails to pay the civil fine or fails to timely request an administrative hearing before a special master, the special master shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special master. A waiver of the right to an administrative hearing shall be treated as an admission of the violation and penalties may be assessed accordingly.

(4) Any party aggrieved by the decision of the special master may appeal the decision in accordance with law.

(5) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.

(6) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.

(c)(d) The procedures for appeal of the notice of violation by administrative hearing shall be as set forth in sections 102-384 and 102-385.

SECTION 2.

That Section 74-1 of Article I of Chapter 74 of the Code of the City of Miami Beach is hereby amended as follows:

CHAPTER 74

PEDDLERS AND SOLICITORS

ARTICLE I. In General

Sec. 74-1. Soliciting business in public from pedestrians.

- a) *Prohibitions.* It shall be unlawful for any person, while upon any public street or sidewalk or while in any building, doorway, stairway, window or other opening abutting on or adjacent to such street or sidewalk, to accost or attempt to accost any pedestrian on such street or sidewalk for the purpose of soliciting him to purchase any property, real or personal, or any food, beverage, or service, or to solicit him to enter any place of business for the purpose of selling to or inducing or attempting to induce such pedestrian to purchase any property, real or personal, or any food, beverage, or service.
- b) *Enforcement; penalties; appeals; unpaid fines to constitute liens.*

Enforcement of this section shall be in accordance with the following procedures:

- (1) If a code compliance officer finds a violation of this chapter, the compliance officer shall issue a notice of violation to the violator as provided in chapter 30. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator may be liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within 20 days after service of the notice of violation, and that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing.
- (2) A violator who has been served with a notice of violation shall elect either to:
- a. Pay the civil fine as follows:
- | | | |
|-------|-----------------------------------|--------------|
| (i) | First offense | \$ 50.00; |
| (ii) | Second offense ... | \$100.00; |
| (iii) | Third and subsequent offenses ... | \$250.00; or |
- b. Request an administrative hearing within 20 days before a special master appointed as provided in article II of chapter 30 to appeal the decision of the code compliance officer which resulted in the issuance of the notice of violation.
- c. The Special Master shall not have discretion to alter the penalties prescribed in subsection (b)(2)(a).

- (3) If the named violator, after notice, fails to pay the civil fine or fails to timely request an administrative hearing before a special master, the special master shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violators right to administrative hearing before the special master. A waiver of the right to an administrative hearing shall be treated as an admission of the violation and penalties may be assessed accordingly.
- (4) Any party aggrieved by the decision of the special master may appeal the decision in accordance with law.
- (5) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.
- (6) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.
- (c) The procedures for appeal of the notice of violation by administrative hearing shall be as set forth in sections 102-384 and 102-385.

SECTION 3.

That Section 82-1 of Article I of Chapter 82 of the Code of the City of Miami Beach is hereby amended as follows:

CHAPTER 82

PUBLIC PROPERTY

ARTICLE I. In General

Sec. 82-1. Conducting business on streets, parks or other public property; enforcement; penalties; unpaid fines to constitute liens.

- (a) *Prohibitions.* It shall be unlawful for any person, while in or on any public street, avenue or alley, or any park, beach, structure, building or other property or place owned, maintained or operated by the city for public use, to sell, rent or offer for sale or rent to the public any article, commodity or service of any nature whatsoever, other than newspapers of general circulation duly entered in the United States Postal Service.
- (b) *Exemptions.* This section shall not apply to: a) employees of the city acting for and on behalf of the city, or to persons specifically authorized to render service to the public in any place above described, by the city manager, or b)

- (c) ~~This section shall not apply to persons participating in any art show or exhibit held on all city properties under the specific authorization of the city commission and who are exhibiting paintings or objects of art produced or created by such persons.~~

c) Enforcement; penalties; appeals; unpaid fines to constitute liens.

Enforcement of this section shall be in accordance with the following procedures:

- (1) If a code compliance officer finds a violation of this chapter, the compliance officer shall issue a notice of violation to the violator as provided in chapter 30. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator may be liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within 20 days after service of the notice of violation, and that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing.
- (2) A violator who has been served with a notice of violation shall elect either to:
 - a. Pay the civil fine as follows:

(i)	First offense	\$ 50.00;
(ii)	Second offense ...	\$100.00
(iii)	Third and subsequent offenses ...	\$250.00; or
 - b. Request an administrative hearing within 20 days before a special master appointed as provided in article II of chapter 30 to appeal the decision of the code compliance officer which resulted in the issuance of the notice of violation.
 - c. The Special Master shall not have discretion to alter the penalties prescribed in subsection (c)(2)(a).
- (3) If the named violator, after notice, fails to pay the civil fine or fails to timely request an administrative hearing before a special master, the special master shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violators right to administrative hearing before the special master. A waiver of the right to an administrative hearing shall be treated as an admission of the violation and penalties may be assessed accordingly.
- (4) Any party aggrieved by the decision of the special master may appeal the decision in accordance with law.
- (5) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.
- (6) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement

purposes. After two months from the filing of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.

- (c) The procedures for appeal of the notice of violation by administrative hearing shall be as set forth in sections 102-384 and 102-385.

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, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. 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 a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. Effective Date.

This Ordinance shall take effect the ____ day of _____, 2012.

PASSED and ADOPTED this ____ day of _____, 2012.

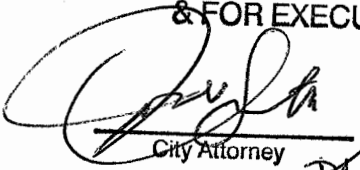
ATTEST:

Robert Parcher, City Clerk

Matti Herrera Bower
Mayor

Underline denotes additions and ~~strike-through~~ denotes deletions

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney
4/4/12

Date



MIAMI BEACH

CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **WEDNESDAY, APRIL 11th, 2012** to consider the following:

10:15 a.m.

Ordinance Amending The Following Chapters In The Code Of The City Of Miami Beach To Provide Civil Enforcement And Penalty Provisions To Replace Criminal Misdemeanor Enforcement And Penalty Provisions As Follows: Amending Chapter 70 Entitled "Miscellaneous Offenses," By Amending Article I, Entitled "In General," By Amending Section 70-6, Entitled "Penalties," To Provide Civil Penalties And Special Master Enforcement Provisions Relative To The Prohibitions In Chapter 70, Except For Violations Of Section 70-3 Entitled "Vibration"; By Amending Chapter 74 Of The Miami Beach City Code Entitled "Peddlers And Solicitors," By Amending Article I, Entitled "In General," By Amending Section 74-1 Entitled "Soliciting Business In Public From Pedestrians," By Providing That The Solicitation Of Any Food, Beverage Or Service Is Also A Prohibited Activity And Providing Civil Penalties And Special Master Enforcement Provisions; By Amending Chapter 82 Of The Miami Beach City Code Entitled "Public Property," By Amending Article I, Entitled "In General," By Amending Section 82-1, Entitled "Conducting Business On Streets, Parks Or Other Public Property," By Providing Civil Penalties And Special Master Enforcement Provisions.

Inquiries may be directed to the City Manager's Office at (305) 673-7010.

10:20 a.m.

Ordinance Amending The Code Of The City Of Miami Beach By Amending Chapter 2, Entitled "Administration," By Amending Article III, Entitled "Agencies, Boards And Committees," By Amending Division 2, Entitled "Disability Access Committee," By Amending Sec. 2-31(D) To Increase The Number Of Members From Seven (7) To Fourteen (14) And Amending The Quorum Requirement.

Inquiries may be directed to the Public Works Department at (305) 673-7080.

11:00 a.m.

Ordinance Amending Chapter 46 Of The Miami Beach City Code, Entitled "Environment," By Amending Article III Thereof, Entitled "Litter," By Amending Section 46-92 To Provide Comprehensive Amendments Thereto By Amending The Definition Of Litter And The Litter Prohibition Provisions In Subsections (A) And (B); Prohibiting Styrofoam Products And Plastic Straws On City Beaches; Re-Lettering And Renaming Existing Provisions In Subsections (A) Through (O) For Ease Of Reference And Creating New Provisions In Subsection (G) To Provide Prohibitions On The Distribution Of Commercial Handbills: A) In The Art Deco Historic District During High Impact Periods In The City; B) Within 20 Feet Of Sidewalk Cafes; And C) On City Beaches East Of The Dunes, Providing Fines And Penalties For The Violation Of Subsection (G) In The Re-Lettered Subsection (H).

Inquiries may be directed to the City Manager's Office at (305) 673-7010.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305) 673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #696-A