



MIAMI BEACH

OFFICE OF THE CITY MANAGER

COMMITTEE MEMORANDUM

TO: **Neighborhoods/Community Affairs Committee**

Commissioner Jerry Libbin, Chairperson
Vice-Mayor Edward L. Tobin, Vice-Chairperson
Commissioner Jonah Wolfson, Member
Commissioner Victor M. Diaz, Jr., Alternate

FROM: Jorge M. Gonzalez, City Manager

DATE: May 18, 2009

SUBJECT: MEETING OF THE NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE ON
MONDAY, MAY 18, 2009.

A meeting of the Neighborhoods/Community Affairs Committee has been scheduled for Monday, May 18, 2009 at 2:30 p.m., in the City Commission Chambers, 3rd Floor, at City Hall.

The agenda for the meeting is as follows:

OLD BUSINESS

1. DISCUSSION REGARDING THE ISSUE OF DOGS OFF LEASH IN CITY PARKS AND OTHER PUBLIC PROPERTIES IN GENERAL.

Kevin Smith, Parks and Recreation Department Director

2. DISCUSSION REGARDING THE POTENTIAL OPERATIONAL ISSUES RELATED TO THE NEWLY RECONSTRUCTED SOUTH POINTE PARK. (ITEM DEFERRED)

Kevin Smith, Parks and Recreation Department Director

3. DISCUSSION REGARDING AMENDMENTS TO THE GRAFFITI ORDINANCE AS IT PERTAINS TO ACID ETCHED GLASS.

Hilda M. Fernandez, Assistant City Manager

4. DISCUSSION ON THE CITY OF MIAMI BEACH DRAFT TRAFFIC CALMING MANUAL.

Robert C. Middaugh, Assistant City Manager

NEW BUSINESS

5. DISCUSSION REGARDING POTENTIAL AMENDMENT TO THE SIDEWALK CAFÉ REGULATIONS, CONCERNING THE STORAGE OF SIDEWALK CAFÉ FURNITURE.

Robert C. Middaugh, Assistant City Manager

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

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- 6. DISCUSSION REGARDING THE CITY OF MIAMI BEACH'S PROPOSED SUBSTANTIAL AMENDMENT TO THE 2008 ACTION PLAN AS REQUIRED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT IN ORDER TO RECEIVE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS INCLUDED IN THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.**

Anna Parekh, Real Estate, Housing, and Community Development Director
Hilda M. Fernandez, Assistant City Manager

- 7. DISCUSSION REGARDING AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LITTER PROVISIONS IN CHAPTER 46 OF THE CITY CODE; BY AMENDING THE SECTIONS RELATING TO DEFINITIONS, ENFORCEMENT, AND FINES AND PENALTIES; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

Hilda M. Fernandez, Assistant City Manager

- C: Mayor and Members of the City Commission
Hilda M. Fernandez, Assistant City Manager
Tim Hemstreet, Assistant City Manager
Robert C. Middaugh, Assistant City Manager
Jose Smith, City Attorney
Robert Parcher, City Clerk
Greg Tindle, Code Compliance Division Director
Dolores Mejia, Special Projects Administrator

Neighborhoods/Community Affairs Committee Meeting
May 18, 2009

**DISCUSSION REGARDING THE ISSUE OF DOGS OFF LEASH IN CITY PARKS AND OTHER
PUBLIC PROPERTIES IN GENERAL.**

Kevin Smith, Parks and Recreation Department Director

ITEM #1

**ATTACHMENTS(S) TO BE SUBMITTED
UNDER SEPARATE COVER**

Neighborhoods/Community Affairs Committee Meeting
May 18, 2009

**DISCUSSION REGARDING THE POTENTIAL OPERATIONAL ISSUES RELATED TO THE NEWLY
RECONSTRUCTED SOUTH POINTE PARK.**

Kevin Smith, Parks and Recreation Department Director

ITEM DEFERRED

ITEM #2

Neighborhoods/Community Affairs Committee Meeting
May 18, 2009

**DISCUSSION REGARDING AMENDMENTS TO THE GRAFFITI ORDINANCE AS IT PERTAINS TO
ACID ETCHED GLASS.**

Hilda M. Fernandez, Assistant City Manager

ITEM #3

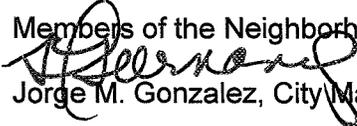


MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Members of the Neighborhoods/Community Affairs Committee

FROM:  Jorge M. Gonzalez, City Manager

DATE: May 18, 2009

SUBJECT: Proposed options for acid etched graffiti on glass

During the March 18, 2009 meeting, the City Commission referred the Graffiti Ordinance to the Neighborhoods/Committee Affairs for further discussion of several provisions of the proposed amendments, including the requirements for property owners that are the victims of graffiti that is acid etched on glass. Of specific concern was the cost associated with the replacement of glass that has been etched, as compared to the remediation of graffiti that requires painting. However, it is important to note that the cost of remediating painting, when it covers a large area, can be more costly than replacing a very small glass area.

As reported at the Committee meeting on April 15, 2009, staff looked at possible options to address this concern, including options that would still achieve the primary goal of the City's graffiti remediation program, which is the removal of graffiti to prevent the perception that an area is un-kept, and prevent additional graffiti from occurring. Staff contacted their counterparts in the cities of Chicago, Atlanta and New York, as they are known to have graffiti remediation programs. The results of our inquiries on how the cities handle etched-glass graffiti are attached (Attachment A) were provided as reference. As explained, while we had hoped for some specific guidance and examples of how this is dealt with in these cities, it appears that the issue is not so wide spread to have created a need to develop an alternative solution.

On April 15, 2009, the Committee requested that the remediation requirements for acid etched graffiti on glass be deferred for further discussion. In reviewing the current remediation requirements in the graffiti ordinance, the ordinance is silent on remediation other than painting and/or cleaning. As such, it is necessary to develop proposed language for amendment of the ordinance.

POTENTIAL OPTIONS:

Several options for the committee's consideration are provided below. However, it is the administration's recommendation that any graffiti that includes obscene words or graphics must be removed or otherwise remediated within the allotted timeframes of the proposed ordinance amendment, regardless of the cost to the property owner. Options to be considered in other cases:

1) Requirement to replace the glass is tied to the size of the glass pane that is tagged. An assessment of the typical storefront pane sizes would have to be conducted to determine what typical pane sizes are in the city, as well as replacement costs for each size, and then options can be incorporated into the ordinance.

2) In addition to or in lieu of #1, require replacement depending on the percentage of the total glass surface that is etched. For example, for a glass pane that is 16 square feet, if more than 25% of the surface is etched the entire glass pane would have to be replaced; if less than 25% of the surface was

damaged, then the entire pane would not have to be replaced unless the etching is obscene.

3) Provide additional time to replace etched glass than provided for remediation that only involves painting. This option could be used in partnership with option 2, providing the property owner that will be required to replace a glass pane with additional time (e.g. six months) to do so.

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ATTACHMENT A

CHICAGO:

- Legally the City can require property owners to remove acid etched glass
- The City is more lenient about demanding removal of glass due to its significant financial impact, mostly by allowing additional time to remediate
- The City uses protective film to protect glass on some of the City's properties

ATLANTA AND NEW YORK:

- Acid etching on glass has not yet been a major issue in these cities
- According to the City attorneys from both Atlanta and New York, acid etching on glass would be subject to the same removal requirements as any other type of graffiti

Neighborhoods/Community Affairs Committee Meeting
May 18, 2009

DISCUSSION ON THE CITY OF MIAMI BEACH DRAFT TRAFFIC CALMING MANUAL.

Robert C. Middaugh, Assistant City Manager

ITEM #4



COMMITTEE MEMORANDUM

TO: Neighborhoods and Community Affairs Committee
FROM: Jorge M. Gonzalez, City Manager
DATE: April 15, 2009
SUBJECT: A Discussion Regarding the Draft Traffic Calming Program

BACKGROUND

The City began the Traffic Calming Program in an effort to create an open process, self directed by the City to be able to address requests more timely. In the past, residents consistently made requests for traffic calming during public involvement meetings. These requests were received primarily during the development of Basis of Design Reports (BODR) for various capital improvement projects. The majority of these concerns were related to cut-through traffic and/or speeding on the local neighborhood streets, as opposed to traffic moving through collector and arterial roadways.

In response to these requests and in order to preserve the safety and livability of our community, the City of Miami Beach pursued the development of a Traffic Calming Program tailored to address traffic concerns related to the traffic volume and speeding in local and residential streets.

The City retained the services of Kittelson and Associates to develop a Traffic Calming Manual. The Traffic Calming Manual is intended to create a methodology to address traffic calming requests in a consistent and systematic way and serve as the City's model instead of the current County model. Miami-Dade County currently has the authority and responsibility for all traffic engineering County-wide. All requests for traffic calming must be approved by the County, and the County, at its discretion, may or may not fund such projects.

It has been the City's intent to enter into an Intergovernmental Agency Agreement (IAA) with the County for traffic calming. The intent of the IAA would be to make the City responsible for the review and approval of all future installations and maintenance of these devices, and allow the City to perform the work rather than the County. It is unclear at this time if the County will allow the City to have full approval authority, and this should be taken into consideration when determining how to proceed with the City's Traffic Calming Program.

It is important to note that since the beginning of the Traffic Calming Program development, the City has received nine (9) resident requests for traffic calming, therefore suggesting an increased awareness by residents of potential speeding through local streets. The pending approval of the IAA has caused a delay in the overall implementation of this program and for the City's ability to address the increasing number of requests received from residents for traffic calming in their neighborhoods.

TRAFFIC CALMING PILOT STUDY

As part of the Traffic Calming Program, the City, in coordination with the County, initiated a traffic calming pilot study to test the functionality of speed cushions in reducing speed. Research of other cities with successful traffic calming programs has shown that pilot projects were generally conducted before starting full implementation of citywide traffic calming measures. The data gathered during the

pilot study is significant as it forms the basis of the types of traffic conditions that will be eligible for traffic calming measures under this program. The pilot program also allows the City to better understand what is required in the administration of this service and activity.

The first phase of the pilot study conducted by Kittelson and Associates included a traffic analysis of the following three (3) streets:

- 34th Street, Chase Avenue to Pine Tree Drive
- Prairie Avenue, W 28th Street to W 41st Street
- North Bay Road, Michigan Avenue to W 29th Street

These locations were chosen since these sites represent potential of traffic conditions where traffic calming may be warranted and also as a result of expressed concern from residents and City staff pertaining to perceived speeds. The pilot locations will serve as data gathering points to confirm the effectiveness of the installed devices and their capacity to calm traffic. The following parameters were used to select these locations:

- Neighborhood streets that have had traffic intrusion problems
- Neighborhood streets that residents have consistently complained about speeding or cut-through traffic
- Neighborhood streets that are included in the Capital Improvement Program
- Neighborhood streets that are longer than three (3) blocks

The second phase of the pilot study consisted of the installation of temporary speed cushions at various locations along the warranted streets. In order to expedite the installation of the speed cushions for the traffic calming pilot projects, the City received County approval to install the traffic calming devices without an IAA. The Miami Beach Police and Fire Departments have tested the speed cushions installed on North Bay Road and Prairie Avenue and determined that their ability to respond to emergencies is not impacted.

As part of the installation phase, a post-installation traffic engineering analysis will then be conducted to evaluate the effectiveness of the speed cushions at reducing traffic speeds. The speed cushions are designed to be removable in the event that the pilot study proves them to be ineffective. City staff will conduct the post-installation traffic analysis after the speed cushions have been installed for three (3) months, which will be in May 2009. The Traffic Calming Manual will be revised according to the results of the post-installation traffic analysis.

FUNDING STATUS

Resolution # 2005-25867 (adopted April 20, 2005) appropriated \$110,000 in Concurrency Mitigation Funds for the purchase of two (2) speed and volume counters; the development of traffic calming plans and manual for Miami Beach, and the purchase of materials to implement solutions recommended for the pilot areas (see Table 1). The City purchased the counters and awarded a contract in the amount of \$25,000 to Kittelson and Associates for the development of the Traffic Calming Manual and to assist the City on the implementation of the pilot program. The City has also purchased speed cushions and signs for the locations of the pilot study, and has hired a contractor for installation of the devices. In addition, \$30,000 in People's Transportation Plan funds were appropriated in FY 2008-09 for the traffic calming program. The total amount remaining after the implementation of the study and devices is approximately \$54,012.

Table 1. Funding for Traffic Calming Program

Traffic Calming Program	Amount Appropriated	Balance
Speed and volume counters	\$5,000	\$0
Development of traffic calming plans/manual	\$25,000	\$1,012
Traffic Calming devices	\$110,000	\$53,000
Total	\$140,000	\$54,012

CURRENT STATUS

At the present time, the City needs to decide how to proceed with Traffic calming. Completion of the Traffic Calming Manual will be linked to the direction and role that the City Commission would like the City to assume for this activity.

The City's initial approach was to be in the role of directing the traffic calming process and performing all necessary review, approval and implementation for City traffic calming projects. This role would necessitate that the City devote staff time and capital resources to the program. The program would be similar in many respects to the one which is currently used by the County, but would provide a more expeditious review and a better chance of implementation of traffic calming. Administering a traffic calming program would also necessitate that the City accept the responsibility to make decisions on traffic calming pursuant to the Manual parameters and the engineering data that is collected. The program would have parameters similar in nature to the review and warrant standards that are applied to other traffic devices, for example, speed and traffic volume data.

The change in economic conditions may be sufficient to make the original approach to traffic calming unfeasible and City Commission direction on this point is needed. Further, it is uncertain if the County will relinquish its authority to enable this approach to be pursued.

The City Commission may want to explore other options for addressing traffic calming in light of the above.

Other options to explore are to either allow the County to continue the management of traffic calming for the City, or to establish a system where the City assumes a more limited advisory role, and then seeks final approval from the County.

If the direction is to allow the County program to continue as it has, the City could effectively abandon the traffic calming program and no further direction would be required. If the City Commission would like to pursue a hybrid of the two previous options, a more limited role for the City can be defined within available resources. In a hybrid model the City would be more of a resource for information to our residents to help organize traffic calming requests that would be presented to the County for final review and approval. This limited role would only be advisory and might take an advocacy role if a request meets the warrants as established in the County traffic calming system. As with continuing to use the current County system, there would be no real need to have a Traffic Manual for the City in this hybrid model.

The options that differ from the original City approach to run a local traffic calming program may result in a delayed traffic calming process and may reduce the number of traffic calming requests approved. The City approach to traffic calming we believe would be less rigid than the County system. These consequences may be inevitable facing the budget issues that must be addressed in this and future years.

CONCLUSION

City Commission direction on the desired role of the City and resources to be provided will enable the Administration to determine how to proceed with the program and what to communicate to our residents inquiring about traffic calming in their neighborhoods.

JMG/RCM/FAV/xf/cb

Attachments:

1. Traffic Calming Manual

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4-15-2009.doc

City of Miami Beach Traffic Calming Manual



MIAMIBEACH

REVISED April 2009

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INTRODUCTION

“Traffic calming involves changes in street alignment, installation of barriers, and other physical measures to reduce traffic speeds and/or cut-through volumes, in the interest of street safety, livability, and other public purposes”.¹

The City of Miami Beach through the Department of Public Works, Transportation Division has developed the Traffic Calming Manual to address traffic concerns in the local and residential streets in order to preserve and maintain the particular characteristics of our neighborhoods.

The growth of Miami Beach and coastal neighbors has increased the traffic using the local network thus impacting the local/residential streets. Speeding and cut through traffic often occur through residential neighborhoods affecting livability and safety. The Traffic Calming Manual has been conceived as a tool to address these issues.

As a guideline to implement Traffic Calming Measures, the Traffic Calming Manual provides the process and procedures to study a problematic local street and/or area within the City of Miami Beach boundaries. State and County roads are not eligible for City consideration of traffic calming measures.

Based on the research of different traffic calming practices within the United States (see Appendix C), the Street Closure/Traffic Flow Modification Study² and the results of traffic counts performed in several streets in Miami Beach, specific thresholds were developed to implement traffic calming measures according to the City’s unique characteristics.

The manual also provide guidelines for the installation of different traffic calming measures that may be used in a traffic calming project, analyzing the effects on speed and volume, as well as preliminary costs.

City staff and residents will identify traffic problems in their neighborhoods and will create a traffic calming project with solutions that are acceptable and appropriate.

The methodology and procedure documented in this manual is implemented and revised as to fit in the City of Miami Beach.

¹ Institute of Transportation Engineers.

² Dade County Public Works Department and Metropolitan Planning Organization

GOALS AND OBJECTIVES

Traffic Calming is the combination of mainly physical measures, which reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for pedestrians or bicyclists. Traffic calming may be a component of a neighborhood traffic plan.

GOAL:

Ensure the development of a safe, efficient and integrated transportation system in the City of Miami Beach that promotes neighborhood livability using adequate technical planning and traffic engineering practices.

OBJECTIVES:

The main objectives of traffic calming include:

- Restoration of communities divided by speeding traffic
- Discouragement of the use of unsuitable routes by heavy vehicles and cut-through traffic
- Improvement of the quality of life a street may afford in a neighborhood
- Improvement of highway safety and reduction of accidents
- Improvement in safety and convenience specifically for vulnerable road users, as bicycles and pedestrians
- Changes to the attitude of many drivers towards speed and a tangible demonstration that streets are for people as well as traffic
- Reduction in noise and disturbance.

METHODOLOGY

TRAFFIC CALMING POLICIES

Specific points to consider in the design of traffic calming measures include:

- Streets that are classified as arterial or higher shall not be considered under this traffic calming guidelines. A map showing the streets classified as arterials in the City is included in Appendix D of this document. These road classifications are intended to be the primary means by which traffic travels in our community.
- Emergency vehicles access must be preserved. Fire and Police Departments are involved from the beginning.
- The cut-through traffic should be routed back to collector and arterial roadways.
- Public Works Department should look at the redistribution of traffic in adjacent streets. The impacts on adjacent streets and arterials must be measured, so that unintended or adverse shifts in traffic do not occur.
- Buses need to be able to negotiate traffic calming features safely, without undue discomfort to passengers and at a reasonable operating speed.
- Bicyclist and pedestrian access must be accommodated. Provision for pedestrians and cyclists should be of a high quality to promote the shift from the private car to more sustainable modes of transport. Adequate widths and carefully considered routes and priorities coupled with arrangements to make access for disabled people as easy as possible are required.
- Public Works Department may recommend employing different traffic calming devices according to neighborhood's characteristics. Final decision will depend on consensus with the community.

TRAFFIC CALMING TECHNIQUES

PHYSICAL: In general, wider roads encourage higher automobile speeds. Many traffic-calming techniques are therefore designed to physically change the width of the street. If motorists can see far into the distance, their speed may increase. The interruptions of sight lines through changes in the road's direction, or breaking the road into smaller visual units using techniques such as chicanes and roundabouts, cause the drivers to slow down.

PSYCHOLOGICAL: Traffic calming may also be achieved by changing the psychological feel of the street. Streets using different surface types, vertical landscaping or narrowed lanes create the appropriate space for a relaxed, pedestrian-friendly atmosphere. These psychological changes give motorist cues that they are no longer on a major roadway, but are in a different environment that is shared with people.

There is an extensive menu of treatments that may be part of a traffic calming strategy. Such treatments include:

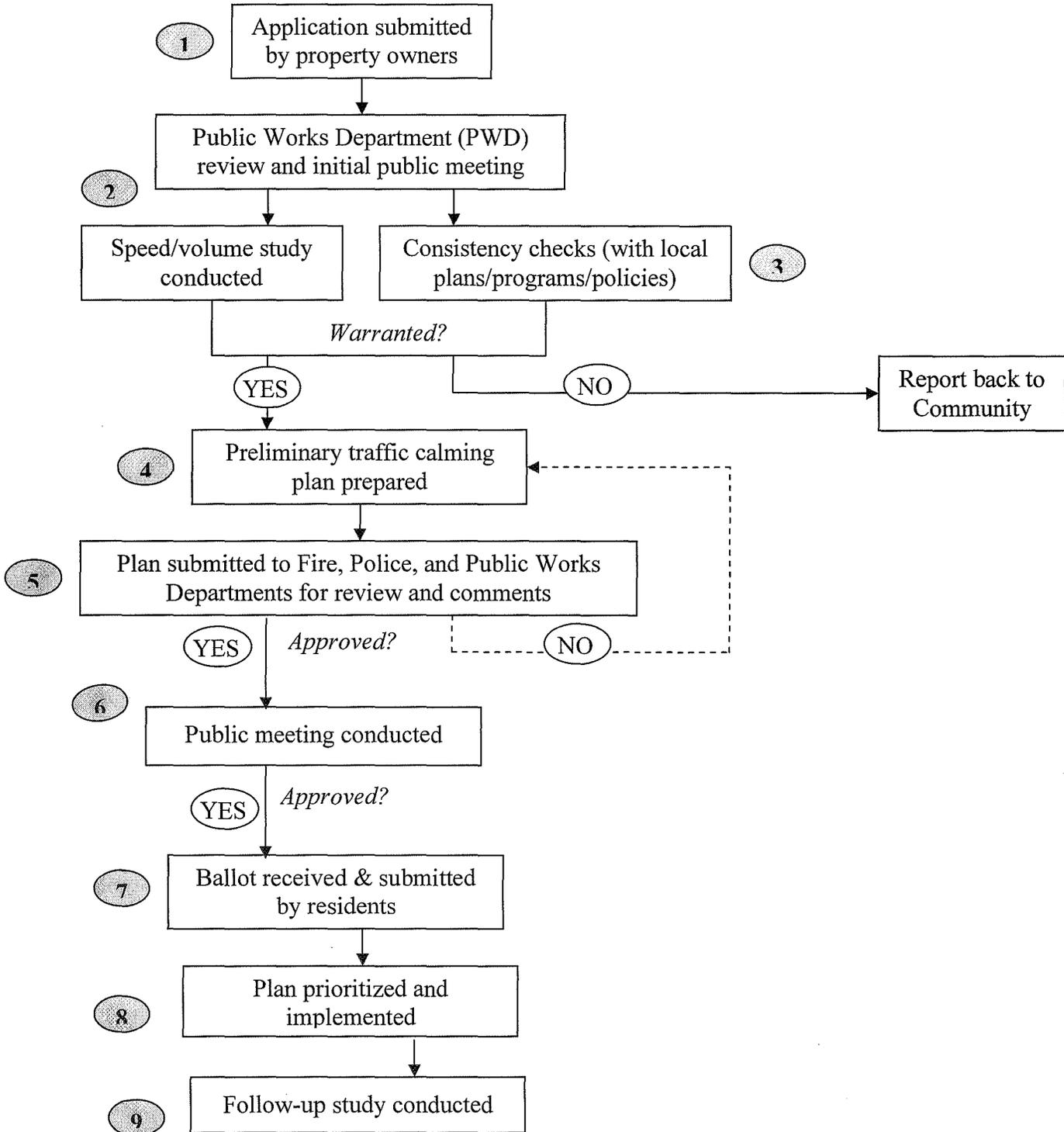
- DEFLECTING PATHS: Deflecting the vehicle path causes the driver to reduce speed and be more attentive to the task of driving. Deflection is done through changing the route of the automobile. Some measures apply at mid-block locations, while others are most appropriate for intersections.
- DIVERTING TRAVEL ROUTES: Diverting the driver's route increases travel time and encourages the driver to use another route. Traffic diverters, street closures, one-way streets, median closures and turning movement restrictions are examples of a diversion. Another example is to install signage to ensure that Heavy Goods Vehicles (HGVs) and other 'through' traffic choose suitable routes that reduce the environmental impact of their journeys.
- CHANGES TO PAVEMENT SURFACE: Changing the pavement surface demands attention from drivers, and reduces the speed for comfortable driving (the .design. speed). Speed humps, brick pavers and special pavement materials are among the most frequent approaches to changing the pavement surface.
- TRAFFIC CONTROL DEVICES: Traffic control devices, where warranted, can be used to regulate traffic patterns.

ENFORCEMENT: Intensified enforcement of traffic regulations can calm traffic, generally, by reminding drivers of posted speed limits and by enforcing the observance of STOP signs. Police officers are the usual source of intensified enforcement, but neighborhood volunteers can also be very effective in assisting in an enforcement effort.

EDUCATION: The City of Miami Beach will make a conscious effort to initiate and maintain an educational program on traffic calming and safety within the city.

TRAFFIC CALMING PROCESS AND PROCEDURE

The following flow-chart documents the traffic calming evaluation and installation process from application to post installation.



1. COMPLETE AND SUBMIT PROJECT APPLICATION: A preliminary traffic calming study can be initiated by a resident complaint, the request of a neighborhood association, or a Commissioner's request. The application and petition in Appendix A of this document should be completed and submitted to the Public Works Department. The petition must have signatures from a minimum of 50% of property owners for the section of the street affected. An initial meeting with the property owners that submitted the request and surrounding area will be conducted to explain the process the City follows to evaluate applications and to collect their input.

2. EVALUATE APPLICATION: City staff will identify the study area, collect preliminary data (the Miami Beach Public Works Department will perform speed and volume studies, collect accident reports), and complete the evaluation of the traffic calming request.

Speed and traffic volumes are the first criteria used to gauge whether a traffic calming study area warrants further research for possible development and implementation of a traffic calming plan. The tables below show the thresholds established for Miami Beach regarding speed and volume:

Points	85 th speed is... above speed limit
0.5	less than 4.6 mph
1.0	4.6 to 7.5 mph
1.5	7.6 to 10.5 mph
2.0	10.6 to 13.5 mph
2.5	13.6 to 16.5 mph
3.0	more than 16.5 mph

Points	volume 24 hr.
0.5	500 - 750 veh.
1.0	751 - 1,100 veh.
1.5	1,101 - 1,700 veh.
2.0	1,701 - 2300 veh.
2.5	More than 2,300 veh.

* The 85th percentile speed is defined as "the speed that is exceeded by 15% of the motorists surveyed"

The second criterion establishes the number of accidents per year during the last year along the street as a warrant for traffic calming study.

Points	No. of accidents
0.5	1-2
1.0	3
1.5	4 or more

i. Any street that ranks 2.5 or higher is eligible for Traffic Calming. The neighborhood street would require 2/3 voter approval from residents and is

subject to final roadway design. Due to the curvature of the roadway, and other unique design characteristics, some streets may not be suitable for any or all of the traffic calming tools available.

- ii. Any street that ranks 2.0 will be studied by the City's Transportation Division to determine if other measures may be helpful in addressing concerns.

The following items may be included in the study:

1. Location of school, pedestrian oriented facility (elderly housing) or community facility (park) located on the subject street or within an established walking area.
2. Driveway Density.
3. Presence/ Absence of sidewalks.

After review of the above study, the City's Transportation Division would be able to recommend some alternate solutions if the street does not fully qualify for the installation of traffic calming devices.

- iii. Any street that scores less than a 2.0 and is determined to not be an appropriate location based on the study completed will not be eligible for testing for 12 months after the speed/volume study is conducted. After two years of testing, if the street does not qualify for traffic calming, the project is ineligible for re-testing for 24 months.

3. CHECK FOR CONSISTENCY WITH CITY AND MPO PLANS AND PROGRAMS:

Every effort will be made to ensure that any proposed physical traffic modifications will be consistent with City and County short and long range transportation plans and programs. However, this may require recommendations to change the priority of previously adopted plans and programs in order to more rapidly improve the efficiency of the arterial network near the affected neighborhood. In addition, every effort will be made to ensure that any physical traffic modifications are consistent with land use/zoning.

4. PREPARE THE DRAFT TRAFFIC CALMING PLAN: The engineering team will develop a preliminary traffic calming plan for the warranted street. The plans will include the locations for the following existing conditions: driveways, bike lanes, inlets, manholes, light poles, stop signs, and any other traffic calming proposed for the subject street. The plan will also specify the area that is affected.

5. SUBMIT PLAN FOR APPROVAL: The draft plan will be submitted to the Fire Department, Police Department for review and comments. The plan may be revised to address any concern expressed by these agencies.

6. CONDUCT NEIGHBORHOOD WORKSHOP: If the area of concern meets the minimum criteria outlined in this document, City staff will schedule a neighborhood

workshop meeting with residents to review the results of preliminary studies and to receive comments on the preliminary design of the traffic calming plan.

Citizen participation is an essential ingredient in the development and implementation of a successful neighborhood traffic plan. Neighborhood residents offer insight into the nature and extent of traffic and safety problems. Residents must also live day to day with any devices constructed. These residents are most directly affected by the problems and potential mitigating measures, and they are frequently the source of innovative solutions. The following are two levels of community involvement:

- A. Participatory programs involving interested citizens.
- B. Outreach programs attempting to communicate with the silent citizens, normally the vast majority of residents.

Implementation of an effective traffic calming program, which incorporates resident participation, will provide many benefits to the community. Benefits include effective transportation management, community safety and an enhanced quality of life.

7. **RESIDENTS APPROVAL:** Once the study is complete and a neighborhood meeting has been held, a ballot will be sent to each affected property owner. Approval of at least two-thirds (2/3) of the affected property owners is needed to proceed with the traffic calming plan.

8. **PRIORITIZE AND IMPLEMENT PROJECT:** Projects are prioritized Citywide based on the point score determined in Step 2, Request Evaluation. Projects will be listed and assigned resources quarterly. Once assigned, the project will remain listed even if subsequent projects become listed with higher scores. The highest-ranking projects are undertaken first. The number of projects initiated each year depends on City resources. The City notifies all project requesters of the status of their request after project approval. The City also notifies the appropriate neighborhood associations or homeowner associations of the status of the neighborhood projects within their neighborhood and asks for their comments.

City staff will finalize the design and implementation process for the proposed traffic calming devices. Specific techniques may be installed as a "test site", while others will be installed permanently. "Test sites" will be monitored and evaluated for effectiveness. After a period of evaluation, measurable objectives and performance measures will be established on a case by case basis. It is noted that the City's and County's Traffic Engineering Standards will be consulted for adherence in relation to any proposed traffic calming measures.

9. **EVALUATE PROJECT**: Immediately following the installation of the project, City staff will begin an evaluation of the project's effectiveness. This evaluation includes, but is not limited to, field observations, traffic counts, speed studies and other data collection (as needed). If the project has not met the objectives during the evaluation period, staff will notify the community's representatives. City staff and community representatives may then decide to make modifications to the current plan. These modifications may include the implementation of additional or different techniques, or the removal of the traffic calming devices. In the event the devices are found to be ineffective after the evaluation process, the City's Public Works Director will send a letter to the affected property owners to let them know of this recommendation and collect the resident's input prior to removal. Removal may also be initiated by a petition request from 50% of the property owners in the affected area.

SUMMARY

The City of Miami Beach Traffic Calming Manual is a guide to assist the residents and City staff in addressing their concerns about undesirable traffic issues in our neighborhoods. Traffic calming is by no means the answer to all situations. However it has proven in numerous cities around the country to improve safety and livability in a neighborhood.

The Traffic Calming Manual provides a methodology for anyone in our community to request a traffic management study. Public Works Department will conduct the study and will make recommendations to mitigate the traffic impact in that particular location. Cooperative work between residents, business, other interested parties and City staff will allow finding acceptable and appropriate solutions to every problem. As traffic calming measures must respond to traffic patterns changes, traffic management studies have to be done periodically to evaluate the effectiveness of the adopted measure.

APPENDIX A

PROJECT APPLICATION

TODAY'S DATE: _____
ASSOCIATION: _____ CONTACT NAME: _____
LOCAL ADDRESS: _____
HOME PHONE: _____ WORK PHONE: _____

WHICH NEIGHBORHOOD STREET(S) ARE OF CONCERN?

WHAT TRAFFIC OR SAFETY CONCERNS HAVE BEEN OBSERVED? (Check all that apply)

- Speeding
- Reckless driving
- Cut-through vehicles
- Noise
- Vehicles not obey traffic control devices (stop sign, signal...)

Other: _____

APPENDIX B

Summary of Traffic Calming Devices' Characteristics³

Traffic calming measures can be separated into two groups based on the main impact intended:

- **Volume control measures** are primarily used to address cut-through traffic problems by blocking certain movements, thereby diverting traffic to streets better able to handle it.
- **Speed control measures** are primarily used to address speeding problems by changing vertical alignment, changing horizontal alignment, or narrowing the roadway. The distinction between the two types of measures is not as clear as their names suggest, since speed control measures frequently divert traffic to alternate routes, and volume control measures usually slow traffic.

	Volume Reductions	Speed Reductions	Noise	Emergency & Service Access	Cost Effectiveness
Speed Humps/Speed Cushions	Possible	Possible	Increase	Some problems	Moderate (\$2-\$5K)
Raised Crosswalks	No effect	No	No effect	No effect	Moderate (\$4K)
Textured Pavements	Unlikely	Yes	Minor change	No effect	Moderate to High (varies)
Traffic Circles	Unclear	Minor	Minor change	Some constraints	Moderate to High (\$10-\$30K w/o ROW cost)
Chokers/Bump-outs	Rare	Minor	Minor change	No effect	Moderate (\$10-\$20 per approach)
Short Medians	No	Yes	No effect	No effect	Moderate (\$5-\$15K)
Bike Lanes	No	Yes	No effect	No effect	Moderate to High (varies)
Chicanes/Lateral Shifts	No	Possible	No effect	No effect	Moderate (\$5-\$10K)
Closures	Yes	Yes	No effect	Some constraints	Moderate to High (\$10-\$30K)
Diverters	Possible	Possible	No effect	Some constraints	Moderate (\$5-\$15K)
Realigned Intersections	Unlikely	Possible	No effect	Some constraints	High (varies) with possible ROW costs

³ "TrafficCalming.org" website

Measure	Advantages	Disadvantages	Effectiveness
Speed Hump	<ul style="list-style-type: none"> • relatively inexpensive • relatively easy for bicycles to cross if designed appropriately • very effective in slowing travel speeds. 	<ul style="list-style-type: none"> • cause a "rough ride" for all drivers, and can cause severe pain for people with certain skeletal disabilities • force large vehicles, such as emergency vehicles and those with rigid suspensions, to travel at slower speeds • may increase noise and air pollution • have questionable aesthetics 	<ul style="list-style-type: none"> • For a 12-foot hump: Average of 22% decrease in the 85th percentile travel speeds, or from an average of 35.0 to 27.4 miles per hour; (from a sample of 179 sites). Average of 11% decrease in accidents, or from an average of 2.7 to 2.4 accidents per year (from a sample of 49 sites). • For a 14-foot hump: Average of 23% decrease in the 85th percentile travel speeds, or from an average of 33.3 to 25.6 miles per hour (from a sample of 15 sites). Average of 41% decrease in accidents, or from an average of 4.4 to 2.6 accidents per year (from a sample of 5 sites)
Raised Crosswalks	<ul style="list-style-type: none"> • improve safety for both pedestrians and vehicles • If designed well, they can have positive aesthetic value • They are effective in reducing speeds, though not to the extent of Speed Humps 	<ul style="list-style-type: none"> • can be expensive • Their impacts on drainage needs to be considered • They may increase noise and air pollution 	<ul style="list-style-type: none"> • For a 22-foot Speed Table (the most similar device for which data is available): • Average of 18% decrease in the 85th percentile travel speeds, or from an average of 36.7 to 30.1 miles per hour; (from a sample of 58 sites). • Average of 45% decrease in accidents, or from an average of 6.7 to 3.7 accidents per year (from a sample of 8 sites).

Textured Pavements	<ul style="list-style-type: none"> • can reduce vehicle speeds over an extended length • If designed well, they can have positive aesthetic value • Placed at an intersection, they can calm two streets at once 	<ul style="list-style-type: none"> • generally expensive, varying by materials used • If used on a crosswalk, they can make crossings more difficult for wheelchair users and the visually impaired 	<ul style="list-style-type: none"> • No data has been compiled on the effects of textured pavements
Traffic Circles	<ul style="list-style-type: none"> • very effective in moderating speeds and improving safety • If designed well, they can have positive aesthetic value • Placed at an intersection, they can calm two streets at once 	<ul style="list-style-type: none"> • difficult for large vehicles (such as fire trucks) to circumnavigate • must be designed so that the circulating lane does not encroach on the crosswalks • may require the elimination of some on-street parking • Landscaping must be maintained, either by the residents or by the municipality 	<ul style="list-style-type: none"> • Average of 11% decrease in the 85th percentile travel speeds, or from an average of 34.1 to 30.2 miles per hour (from a sample of 45 sites) • Including a large sample from Seattle, an average of 73% decrease in accidents, or from an average of 2.2 to 0.6 accidents per year (from a sample of 130 sites) • Excluding the large sample from Seattle, an average of 29% decrease in accidents, or from an average of 5.9 to 4.2 accidents per year (from a sample of 17 sites)

Chokers	<ul style="list-style-type: none"> • easily negotiable by large vehicles (such as fire trucks) • If designed well, they can have positive aesthetic value • reduce both speeds and volumes 	<ul style="list-style-type: none"> • Their effect on vehicle speeds is limited by the absence of any vertical or horizontal deflection • may require bicyclists to briefly merge with vehicular traffic • may require the elimination of some on-street parking 	<ul style="list-style-type: none"> • Average of 7% decrease in the 85th percentile travel speeds, or from an average of 34.9 to 32.3 miles per hour (combined average for various narrowing measures, taken from a sample of 7 sites)
Short Median (Center Island Narrowings)	<ul style="list-style-type: none"> • increase pedestrian safety • If designed well, they can have positive aesthetic value • reduce traffic volumes 	<ul style="list-style-type: none"> • Their speed-reduction effect is somewhat limited by the absence of any vertical or horizontal deflection • may require elimination of some on-street parking 	<ul style="list-style-type: none"> • Average of 7% decrease in the 85th percentile travel speeds, or from an average of 34.9 to 32.3 miles per hour (combined average for various narrowing measures, taken from a sample of 7 sites)
Bike Lanes	•	•	•
Chicanes	<ul style="list-style-type: none"> • Discourage high speeds by forcing horizontal deflection • Easily negotiable by large vehicles such as fire trucks, except under heavy traffic conditions 	<ul style="list-style-type: none"> • Must be designed carefully to discourage drivers from deviating out of the appropriate lane • Curb realignment and landscaping can be costly • May require the elimination of some on-street parking 	<ul style="list-style-type: none"> • No data has been compiled on the effects of chicanes

<p>Closures</p>	<ul style="list-style-type: none"> • Full closures are able to maintain pedestrian and bicycle access • Very effective in reducing traffic volume 	<ul style="list-style-type: none"> • Require legal procedures for street closures • Cause circuitous routes for local residents and emergency services • May be expensive • May limit access to businesses 	<ul style="list-style-type: none"> • Average of 44% decrease in traffic volume, or a decrease of 671 vehicles per day (from a sample of 19 sites)
<p>Diverters</p>	<ul style="list-style-type: none"> • Do not require a closure, only a redirection of existing streets • Able to maintain full pedestrian and bicycle access • Reduce traffic volumes 	<ul style="list-style-type: none"> • Cause circuitous routes for local residents and emergency services • May be expensive • May require reconstruction of corner curbs 	<ul style="list-style-type: none"> • Average of 35% decrease in traffic volume, or a decrease of 501 vehicles per day (from a sample of 27 sites)
<p>Realigned Intersections</p>	<ul style="list-style-type: none"> • May reduce speeds and improve safety at a T-intersection that is commonly ignored by motorists 	<ul style="list-style-type: none"> • The curb realignment can be costly • They may require some additional ROW to cut the corner 	<ul style="list-style-type: none"> • No data has been compiled on the effects of realigned intersections

APPENDIX C

References

Broward County Neighborhood Traffic Management Manual. Broward County (p 13-14).

Highway Capacity Manual. The Transportation Research Board, 2000.

Guide to Neighborhood Master Plans – Traffic Planning Manual. City of Fort Lauderdale (p 15)

City of Fort Lauderdale Speed Hump Installation Policy, December 30, 2002.

Traffic Calming Manual. City of Sarasota, September 2003.

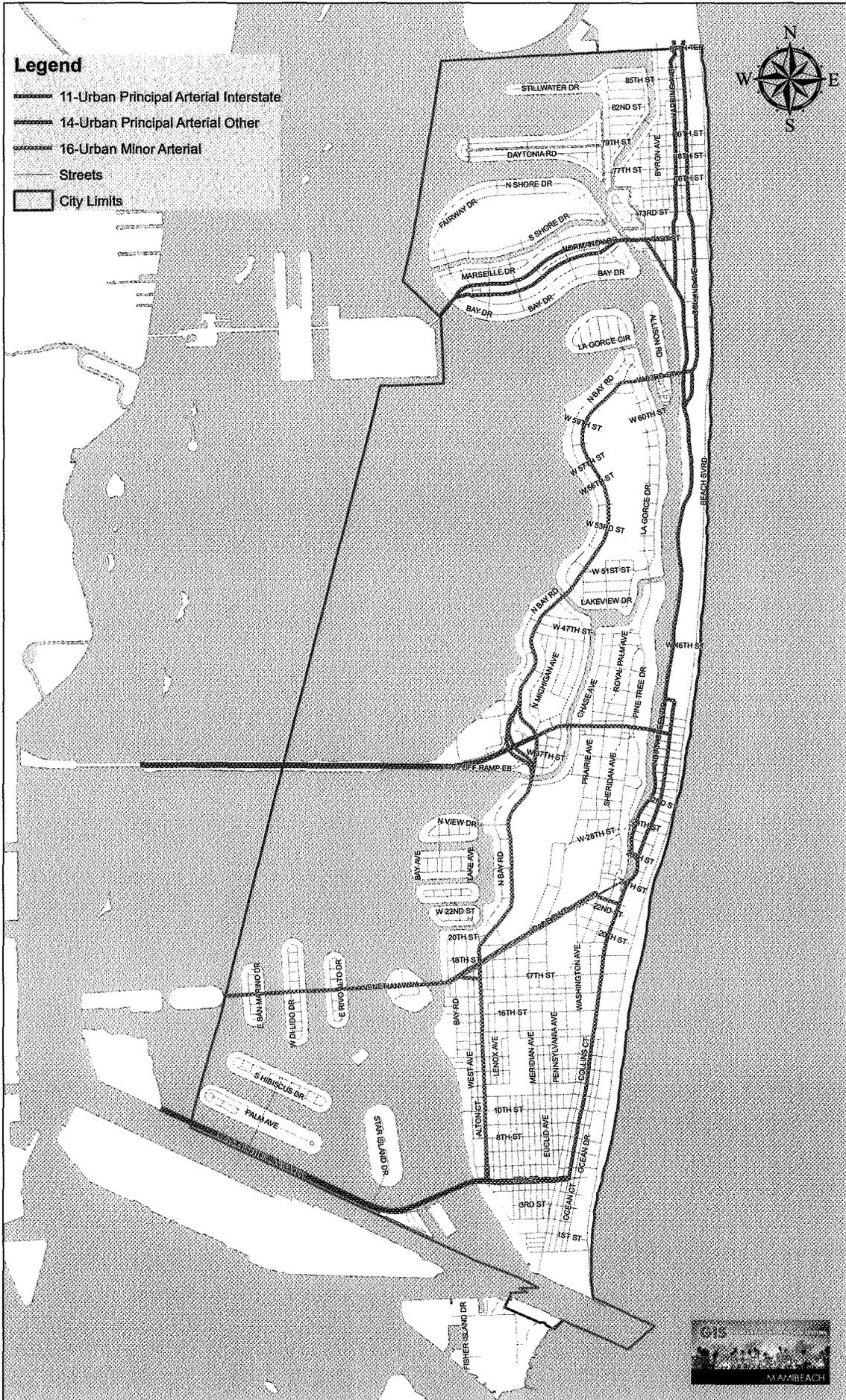
Traffic Calming Guide for Local Residential Streets. Richmond, Virginia, October 2002.

City of Coral Springs Traffic Calming Manual. Coral Springs, Florida, June 2002.

Ewing, Reid, Ph.D., Brown, Steven J., P.E. and Hoyt, Aaron. Traffic Calming Practice Revisited. ITE Journal. Institute of Transportation Engineers, November 2005.

Street Closure / Traffic Flow Modification Study. Dade County Public Works Department and Metropolitan Planning Organization, July 1996.

Arterial Roadways in Miami Beach



Neighborhoods/Community Affairs Committee Meeting
May 18, 2009

**DISCUSSION REGARDING POTENTIAL AMENDMENT TO THE SIDEWALK CAFÉ REGULATIONS,
CONCERNING THE STORAGE OF SIDEWALK CAFÉ FURNITURE.**

Robert C. Middaugh, Assistant City Manager

ITEM #5



MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jorge Gonzalez, City Manager

FROM: Mayor Matti H. Bower *MHB*

DATE: April 16, 2009

SUBJECT: Referral to the Neighborhoods/Community Affairs Committee

Please refer to the Neighborhood/Community Affairs Committee a discussion item concerning a potential amendment to the sidewalk café regulations, concerning the storage of sidewalk café furniture.

Neighborhoods/Community Affairs Committee Meeting
May 18, 2009

DISCUSSION REGARDING THE CITY OF MIAMI BEACH'S PROPOSED SUBSTANTIAL AMENDMENT TO THE 2008 ACTION PLAN AS REQUIRED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT IN ORDER TO RECEIVE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS INCLUDED IN THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

Anna Parekh, Real Estate, Housing, and Community Development Director
Hilda M. Fernandez, Assistant City Manager

ITEM #6

**ATTACHMENTS(S) TO BE SUBMITTED
UNDER SEPARATE COVER**



MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

FROM: Victor M. Diaz, Jr., Commissioner *VMD/sm*

DATE: April 15, 2009

SUBJECT: CDBG Stimulus Allocation

I would like to place a discussion item on the April or May commission agenda (at your discretion) regarding the appropriation of the CDBG stimulus dollars allocated to the City of Miami Beach for a small business job preservation micro loan program. I believe there may be matching funds available from South Florida Workforce for a dollar to dollar match for the City's contribution.

VMD/sm

*Put on
for May*

2009 APR 15 11:16 AM
COMMUNICATIONS SECTION

Agenda Item R9D
Date 5-13-09

Neighborhoods/Community Affairs Committee Meeting
May 18, 2009

DISCUSSION REGARDING AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LITTER PROVISIONS IN CHAPTER 46 OF THE CITY CODE; BY AMENDING THE SECTIONS RELATING TO DEFINITIONS, ENFORCEMENT, AND FINES AND PENALTIES; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

Hilda M. Fernandez, Assistant City Manager

ITEM #7



MIAMI BEACH

OFFICE OF THE CITY ATTORNEY
JOSE SMITH, CITY ATTORNEY

COMMISSION MEMORANDUM

**TO: MAYOR MATTI HERRERA BOWER
MEMBERS OF THE CITY COMMISSION
CITY MANAGER JORGE M. GONZALEZ**

FROM: CITY ATTORNEY JOSE SMITH

DATE: May 13, 2009

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LITTER PROVISIONS IN CHAPTER 46 OF THE CITY CODE; BY AMENDING THE SECTIONS RELATING TO DEFINITIONS, ENFORCEMENT, AND FINES AND PENALTIES; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

Pursuant to the request of Commissioner Jerry Libbin, an Ordinance amending the provisions in Chapter 46 regarding litter definitions, enforcement, and the fines and penalties therefor, is submitted for consideration by the Mayor and City Commission for referral to the Neighborhoods/Community Affairs Committee.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE MIAMI BEACH CITY CODE, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE III, ENTITLED "LITTER," BY AMENDING SECTION 46-92, ENTITLED "THROWING LITTER IN PUBLIC PLACES; POSSESSION OF GLASS OR METAL CONTAINERS ON BEACHES UNLAWFUL; SWEEPING OR THROWING LITTER IN GUTTERS; GARBAGE CONTAINERS REQUIRED FOR TAKE-OUT RESTAURANTS; REBUTTABLE PRESUMPTIONS; CIVIL FINES FOR VIOLATIONS; SEIZURE; REMOVAL; DEFINITION OF LITTER," BY AMENDING THE DEFINITION OF LITTER, AMENDING THE FINES AND PENALTIES FOR A VIOLATION OF SECTION 46-92, AND AMENDING THE PROVISIONS REGARDING ENFORCEMENT BY CODE COMPLIANCE OFFICERS; BY REPEALING DIVISION 2 ENTITLED "HANDBILLS," BUT INCORPORATING PROVISIONS RELATIVE TO SPECIAL MASTER APPEALS AND ADDITIONAL MEANS OF ENFORCEMENT INTO SECTION 46-92; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach is an internationally famous tourist destination known for its miles of beautiful beaches, cultural and entertainment venues, and historical neighborhoods; and

WHEREAS, the visual and sanitary blight cause by litter dropped on the City's beaches and public areas harm the City's goals of promoting tourism and maintaining its reputation as a renowned resort destination; and

WHEREAS, it would serve substantial government interests and, be in the interests of the public health, safety, and welfare, for the Mayor and City Commission to amend the litter provisions in the City Code to strengthen and expand the definition of litter, to strengthen the enforcement of littering, and to provide additional penalties for littering.

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 46-92, entitled "Throwing litter in public places; possession of glass or metal containers on beaches unlawful; sweeping or throwing litter in gutters; garbage containers required for take-out restaurants; rebuttable presumptions; civil fines for violations; seizure; removal; definition of litter," of Division 1, entitled "Generally," of Article III, entitled "Litter," of the Miami Beach City Code is hereby amended as follows:

CHAPTER 46

ENVIRONMENT

* * *

ARTICLE III. Litter

DIVISION 1. Generally

* * *

Sec. 46-92. Throwing litter in public places; possession of glass or metal containers on beaches unlawful; sweeping or throwing litter in gutters; garbage containers required for take-out restaurants; rebuttable presumptions; civil fines for violations; seizure; removal; definitions; enforcement; appeals; liens. of litter.

(a) It shall be unlawful for any person or benefactor to throw, discard, place or deposit, or cause to be thrown, discarded, placed, or deposited, litter in any manner or amount whatsoever in or on any public highway, sidewalk, road, street, alley, thoroughfare, beach, or any other public place, except in containers or areas lawfully provided therefor. It shall be unlawful for any person to throw, discard, place or deposit any garbage, cans, bottles or containers in or on any freshwater lakes, rivers, streams, canals, or tidal or coastal waters within the city. In addition, it shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amount whatsoever on any private real or personal property, unless prior consent of the owner has been given and unless such litter will not cause a public nuisance or be in violation of any other state or local laws, rules or regulations.

(b) It shall be unlawful for any person to carry onto any beach within the city a glass or metal bottle or other glass or metal container.

(c) It shall be unlawful for any person to sweep, cast or throw, or cause to be cast or thrown, into any of the gutters, drains or sewers within the city any garbage, litter, paper, handbill, trash, tree or grass cuttings or other objects or substances.

(d) All restaurants with take-out service shall have up to four garbage containers, as need requires, based on the determination of the city manager or his designee. The containers shall be located in front of and within 50 feet in each direction of the premises at locations approved by the city manager or his designee. These containers shall be kept in clean and sanitary condition at all times and shall be emptied daily or more frequently if necessary to prevent overflowing. The garbage containers required by this section are in addition to those required by chapter 90 of this Code.

(e) The following civil fines shall be imposed for violations of this section except as provided in subsections (f) below.

(1) First offense, \$50.00 fine.

(2) Second offense, \$100.00 fine.

(3) Third offense, \$500.00 fine.

In lieu of a fine, the Special Master may accept voluntary community service removing litter in the City equivalent to one hour of community service for each \$5.00 of an imposed fine. If the community service is not completed within six (6) months of an adjudication of guilt, the fine shall be reinstated.

(f) If a violation of this section resulted from the throwing, discarding, placing, or depositing, or causing to be thrown, discarded, placed, or deposited, of commercial handbills as litter, then the following civil fines shall be imposed. The special master shall not have discretion to alter these prescribed penalties except as to the per handbill fine of \$50.00 provided in (f)(1).

(1) If the offense is the first offense, \$100.00 fine plus \$50.00 per handbill;

(2) If the offense is the second offense within the preceding 12 months, \$500.00 fine plus \$50.00 per handbill;

(3) If the offense is the third or subsequent offense within the preceding 12 months, \$1,500.00 fine plus \$50.00 per handbill.

(4) Notwithstanding subsections (f)(1)--(3), no person or benefactor shall receive more than one offense within any one-day period, however, the \$50.00 per handbill fine shall apply to all littered handbills found during that one-day period.

(g) At any prosecution for violation of this section when the litter involved is a commercial handbill, if ten or more commercial handbills advertising the same business are found in plain view as litter under circumstances that make it more likely than not that the commercial handbills were placed there, or caused to be placed there, by an agent, employee, contractor, promoter, or other representative of the business advertised on the face of the commercial handbills, the special master shall apply a rebuttable presumption that the business advertised on the face of the handbills threw, discarded, placed or deposited the commercial handbills as litter.

(h) If a person is found littering with commercial handbills, the code compliance officer is authorized to seize, for use as evidence in the prosecution of the violator before the special master, all commercial handbills in the possession of the violator.

(i) The city may cause the removal, at the violator's expense, of all litter distributed or placed in violation of this section.

(j) Definitions:

(1) *Benefactor* means the owner of the business advertised in the commercial handbill whose agent, employee, contractor, promoter, or other representative did or caused the throwing, discarding, placing or depositing.

(2) *Business* means any commercial or industrial activity, entity, or event in or for which any goods or services are made, sold or offered for sale or other consideration, pecuniary or otherwise.

(3) *Handbill* means any handbill, flyer, paper, document, dodger, circular, folder, booklet, letter, card, pamphlet, sheet, poster, sticker, banner, notice or other written, printed or painted matter or object that conveys any information, except that "handbill" shall not include a newspaper or its contents.

(4) *Commercial handbill* means any handbill that conveys any information about any good or service provided by a business.

(5) *Litter* means any paper, handbill, commercial handbill, garbage, tobacco products or other waste that has been placed or deposited ~~and left~~ on a public sidewalk, street, road, avenue, beach, swale, median, building, fence, wall, boardwalk, park, or any other public area, or on any object located on public property, or on the kneewall, window ledge or sill of any public or private building, or on a motor vehicle, or on any other type of private real or personal property as prohibited by sections 46-117 and 46-118. Handbills and commercial handbills attached to a trash receptacle, but not within the trash receptacle in the usual manner, shall also be considered litter.

(6) *One day* means a 24-hour period from noon to noon.

(7) *Person, benefactor, or owner* include, within their respective meanings, either an individual or an entity.

(k) Enforcement by code compliance officers; notice of violation. If a code compliance officer ~~as defined in chapter 30~~, finds a violation of this article, such code 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 ~~is~~ 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 violations and waiver of the right to a hearing.

(l) Rights of violators; payment of fine; right to appeal; failure to pay civil fine or to appeal.

(1) 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; or

b. Request an administrative hearing before a special master appointed by the city commission upon recommendation of the city manager to appeal the decision of the code compliance officer which resulted in the issuance of the notice of violation.

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

~~(2)~~(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 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.

~~(3)~~(4) Any party aggrieved by the decision of the special master may appeal the decision in accordance with law.

(m) Recovery of unpaid fines; unpaid fines to constitute a lien; foreclosure.

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

(2) 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.

(n) Nothing in this article shall limit or restrict any condition or limitation imposed by the planning board.

(o) Injunctive relief. As an additional means of enforcement, the city may seek injunctive relief and/or follow procedures to revoke a business tax receipt and/or certificate of use as set forth in chapters 14, 18 and 102 of the City Code when there are more than three offenses by the same violator within a calendar year.

SECTION 2. That Division 2, entitled "Handbills," of Article III, entitled "Litter," of Chapter 46, entitled, "Environment," be repealed as follows:

DIVISION 2. HANDBILLS

Sec. 46-116. Definitions.

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Handbill* means any handbill, dodger, circular, folder, booklet, letter, card, pamphlet, sheet, poster, sticker, banner, notice or other written, printed or painted matter circulated to attract the attention of the public, whether commercial or noncommercial.~~

~~*Motor vehicle* means every self-propelled device n, upon or by which any person or property is or may be transported or drawn upon a public right-of-way, excepting devices moved by human power or exclusively upon rails or tracks.~~

~~Offense means either an uncontested notice of violation issued by a code compliance officer or a finding of violation by a special master.~~

~~Person means any individual, trust, labor union, partnership, limited partnership, corporation or other business entity.~~

~~Public parking lot means a parking area open for motor vehicle parking for use by members of the public for a fee or charge. It may be metered or attendant or valet operated.~~

Sec. 46-117. Distributing on premises of another; when prohibited.

~~It shall be unlawful for any person to distribute or place any handbills upon the premises of another if requested orally or in writing not to do so by the owner or manager of such premises or if forbidden to do so by an appropriate sign posted in a conspicuous place on such premises.~~

Sec. 46-118. Placing on motor vehicles prohibited.

~~(a) It shall be unlawful for any person to distribute or place any handbill on any motor vehicle by any means whatsoever, when such motor vehicle is parked, standing, stopped or located in a public street, highway, parking lot or place.~~

~~(b) It shall be unlawful for any person to knowingly authorize or employ any person to distribute or place any handbill on any motor vehicle by any means whatsoever when such motor vehicle is parked, standing, stopped or located in a public street, highway, parking lot or place.~~

Sec. 46-119. Enforcement; penalties.

~~(a) Enforcement by code compliance officer; notice of violation. If a code compliance officer finds a violation of this article, he 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 violations and waiver of the right to a hearing.~~

~~(b) Civil fines for violators. The following civil fines shall be imposed for each violation of this article:~~

~~(1) First offense . . . \$ 50.00~~

~~(2) Second offense (within one year of the first offense) . . . 250.00~~

~~(3) Third offense/additional offenses (within one year of the first offense) . . . 500.00~~

~~(c) Rights of violators; payment of fine; right to appeal; failure to pay civil fine or to appeal.~~

~~(1) 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; or~~

~~b. Request an administrative hearing before a special master appointed by the city commission upon recommendation of the city manager to appeal the decision of the code compliance officer that resulted in the issuance of the notice of violation.~~

~~(2) The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 102-384 and 102-385.~~

~~(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 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 a special master may appeal that decision to a court of competent jurisdiction.~~

~~(d) Recovery of unpaid fines; unpaid fines to constitute a lien; foreclosure.~~

~~(1) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.~~

~~(2) 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 remaining unpaid, the city may foreclose or otherwise execute upon the lien.~~

~~(e) Injunctive relief. As an additional means of enforcement, the city may seek injunctive relief and/or follow procedures to revoke an occupational license/certificate of use as set forth in chapters 14 and 18 of this Code when there are more than three offenses by the same violator within a calendar year.~~

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, 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 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 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 _____, 2009.

PASSED and ADOPTED this _____ day of _____, 2009.

ATTEST:

Robert Parcher, City Clerk

Matti Herrera Bower
Mayor

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

Underline denotes additions and ~~strike-through~~ denotes deletions
F:\atto\TURN\ORDINANC\Litter.doc



City Attorney
5/12/09
Date