

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 12 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "ARTS, CULTURE AND ENTERTAINMENT," BY AMENDING ARTICLE 1, ENTITLED "FILM AND PRINT PRODUCTIONS," BY AMENDING SECTION 12-1 THEREOF, ENTITLED "FILM AND PRODUCTION PERMITS," TO PROVIDE THE CITY MANAGER WITH THE DISCRETION TO AUTHORIZE A FILM OR PRODUCTION PERMIT FOR AN INDIVIDUAL OR ENTITY PREVIOUSLY ISSUED A NOTICE OF VIOLATION IN THE PRECEDING TWELVE MONTH PERIOD (FOR A FIRST OFFENSE ONLY), IF THE CITY MANAGER DETERMINES THAT THE GRANTING OF THE PERMIT IS IN THE BEST INTERESTS OF THE CITY, AND THE PERMITTEE AGREES TO ANY SUCH ADDITIONAL CONDITIONS AS MAY BE DEEMED NECESSARY BY THE CITY MANAGER; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission desire to incentivize film and print productions in the City, in an effort to brand the City as an international resort destination, while still maintaining quality of life for the City's residents; and

WHEREAS, the existing provisions of the City Code are draconian in that they do not provide the City Manager with any discretion, even in the context of a first offense, to grant a permit to any entity previously issued a notice of violation in the preceding twelve month period, even if the City Manager determines that the granting of the permit is otherwise in the best interest of the City, and the permittee agrees to any such additional conditions as may be required by the City Manager; and

WHEREAS, the Mayor and City Commission desire to amend the ordinance to incentivize film and print productions, provided that permittees agree to comply with any such additional conditions the City Manager may determine are necessary to protect the public and address quality of life concerns for residents and businesses alike.

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

SECTION 1.

That Chapter 12 of the Code of the City of Miami Beach is hereby amended as follows:

Chapter 12

ARTS, CULTURE, AND ENTERTAINMENT

* * *

ARTICLE I.

FILM AND PRINT PRODUCTIONS

Sec. 12-1. Film and Print Production Permits.

The city manager or the manager's designee, shall have the authority to issue, modify or revoke permits for film and print productions, in accordance with criteria set forth in this section and the film and print regulations approved by separate resolution of the city commission.

- (1) *[Unlawful without permit.]* Except for filming by individuals for personal or educational use, and "professional journalists" collecting, photographing, recording, or reporting "news," as such terms are defined in F.S. § 90.5015, it shall be unlawful to engage in film and print production activities on public property, residentially zoned (private) property, or in film and print activities that require any city services, without a film and print permit.
- (2) *[Additional regulations and conditions may be imposed.]* The city manager or the manager's designee may impose additional reasonable regulations and conditions to a specific permit to ensure the public health, safety and welfare, and peaceful enjoyment of surrounding residents and businesses, at anytime.
- (3) *[Application needed.]* Individuals or businesses wishing to conduct film, television, video and/or photography projects on public property, private residential property, or any location that impacts or requires city services, must apply in advance to the city, providing a completed application, including proof of insurance and indemnification, as required by the film and print regulations, and receive a permit, before any film or print production activity may commence;
- (4) *City services.* Upon receipt of a completed permit application, the permit will be reviewed to determine what, if any, city services will be required. Requirements may vary for each production. The city manager or the manager's designee, in their discretion, may require additional city services and/or monetary deposits not specifically listed or codified.
- (5) *Film and print regulations.* The mayor and city commission may adopt by resolution film and print regulations and the city manager or the manager's designee will administer the regulations as they pertain to film and print productions working within the city. The manager may authorize amendments to the regulations proposed by the administration and shall present such amendments to the city commission for approval, by resolution.
- (6) *Code of conduct.* The city code of conduct for film and print productions shall be distributed with all notification and/or signature forms. Copies are available in the

office of arts, culture and entertainment.

- (7) *Parking.* All productions requiring prearranged parking must receive prior approval from both the parking department and the city manager or the manager's designee before a permit may be issued. Unless prior approval is received for specific requests, all production vehicles must park legally at all times.
- (8) *Moratoria.* The city manager or the manager's designee, at his sole discretion, is authorized to place a temporary moratorium on the issuance of film and print production permits for locations and/or neighborhoods which have experienced overuse as a result of high volume and/or heavy impact filming. The moratorium shall remain in effect for a maximum period of six months but may be renewed for additional six-month periods if in the discretion of the manager, the impact of the prior filming activities in the area warrants extension.
- (9) *Conflict with noise provisions.* The city manager or the manager's designee, may issue a permit that authorizes filming in conflict with Chapter 46, Article IV, of this City Code, or other applicable noise ordinance, only where the applicant has met all of the city's requirements for obtaining a permit as prescribed in this division and the film and print regulations, and the filming cannot be performed in compliance with the applicable noise ordinance. Such a permit must specify the precise manner by which the noise ordinance may be exceeded, by what duration, and at what locations. Such permit authorization may be modified or revoked if in the discretion of the manager, or designee, the authorization excessively negatively impacts the surrounding neighborhood. Having a permit shall not relieve the permit holder from compliance with all other applicable local, county, state or federal laws.
- (10) *Enforcement and penalties.*
 - (a) *Civil fine for violators.* The following civil fines must be imposed for a violation of section 12-1(1), for those violations incurred for not obtaining a film and print permit:
 1. First offense committed for violation of section 12-1(1), within a 12-month period must be a fine of \$1,000.00;
 2. Second offense within a 12-month period must be a fine of \$3,000.00;
 3. Third offense and subsequent offenses within a 12-month period must be a fine of \$6,000.00.
 - (b) *Civil fine for violators.* The following civil fines must be imposed for a violation of this section, except for those penalties set forth in subsection (10)(a):
 1. First offense within a 12-month period must be a fine of \$500.00;
 2. Second offense within a 12-month period must be a fine of \$1,500.00;
 3. Third offense and subsequent offenses within a 12-month period must be a fine of \$3,000.00.
 - (c) *Enforcement.* The Code Compliance Division or the Miami Beach Police Department shall enforce the provisions of this section. This shall not preclude other law enforcement agencies or regulatory bodies from any

action to assure compliance with this section, and all applicable laws. If an enforcing officer finds a violation of this section, the officer may issue a Notice of Violation to the violator. The Notice of Violation must inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, notice that the Violation may be appealed by requesting an administrative hearing within ten days after service of the Notice of Violation, and that failure to appeal the violation within the ten days, shall constitute an admission of the violation and a waiver of the right to a hearing.

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

1. A violator who has been served with a Notice of Violation must elect to either:
 - a. Pay the civil fine in the manner indicated on the Notice of Violation; or
 - b. Request an administrative hearing before a special master to appeal the Notice of Violation, which must be requested within ten days of 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 30-72 and 30-73.
3. If the named violator, after issuance of the Notice of Violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special master, the special master may be informed of such failure by report from the officer. Failure of the named violator to appeal the decision of the officer within the prescribed time period must constitute a waiver of the violator's right to an administrative hearing before the special master, and must be treated as an admission of the violation, which fines and penalties to be assessed accordingly.
4. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the recording of any such lien that remains unpaid, the City may foreclose or otherwise execute upon the lien.
5. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.
6. The Special Master shall be prohibited from hearing the merits of the Notice of Violation or the consideration of the timeliness of a request for an administrative hearing, if the violator has failed to request the administrative hearing within ten days of the issuance of the Notice of

Violation.

7. The Special Master shall not have discretion to alter the penalties prescribed in subsections (10)(a) and (b).
- (e) *Enhanced penalties.* The following enhanced penalties must be imposed, in addition to any mandatory fines set forth in subsections (10)(a) and (b) above, for violations of this Section:
1. Enhanced Penalties for Subsection (10)(a):
 - a. The film and print production activity must be immediately terminated, upon confirming a violation has occurred, by the Miami Beach Police Department and the Code Compliance Division.
 - b. Violations for subsection (10)(a), within a residential zoning district, must be issued to the property owner and the production company, who shall be joint and severally liable for the violation.
 - c. The City Manager must decline to issue a Film and Print Production Permit to such person individual, entity, business, company or any affiliates that have violated this subsection within a 12-month period. The prohibition from receiving the Film and Print Production Permit must be for a one-year period of time. The City Manager is authorized to waive the requirement of this subsection (e)1.c. if the City Manager determines that the granting of a specific permit is in the best interest of the City, provided that the permittee agrees to any such additional conditions that may be required by the City Manager including, but not limited to, restrictions as to hours of filming, noise, parking and/or the hiring of private security or off-duty police officers, or any other enhanced measures as may be required by the City Manager to ensure the public health, safety and welfare, and peaceful enjoyment of surrounding residents and businesses at all times. The City Manager's discretion to waive the requirements of this subsection (e)1.c. shall be limited to first offense violations only.
 2. Enhanced Penalties for Subsection (10)(b):
 - a. If the offense is a fourth offense within the preceding 12-month period of time, in addition to the fine set forth in subsection (10)(b), the property owner, production company, permittee or any affiliates must be prohibited from receiving a Film and Print Production Permit for a three-month period of time.
 - b. If the offense is a fifth offense within six months following the fourth offense, in addition to any fine set forth in subsection (10)(b), the property owner, production company, permittee or any affiliates must be prohibited from receiving a Film and Print Production Permit for a six-month period of time. The property owner, production company or permittee must be deemed a habitual

offender.

- c. The City Manager may decline to issue future Film and Print Production Permits to such person, individual, entity, business, company or any affiliates that have been deemed habitual offenders pursuant to this section for a period of one year, or such other period of time acceptable to the City Manager.

SECTION 2. REPEALER.

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

SECTION 3. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the ____ day of _____, 2021.

PASSED AND ADOPTED this ____ day of _____, 2021.

ATTEST:


Dan Gelber, Mayor

Rafael E. Granado, City Clerk

Underline denotes additions
~~Strikethrough~~ denotes deletions

(Sponsored by Vice-Mayor Michael Góngora)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *MAF*

6-11-21

Date