

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, ENTITLED "ARTS, CULTURE AND ENTERTAINMENT," BY CREATING ARTICLE III, ENTITLED "CITY SPONSORSHIP OF EVENTS," BY CREATING SECTION 12-6, ENTITLED "DEFINITIONS;" BY CREATING SECTION 12-7, ENTITLED "REQUIREMENTS FOR CITY SPONSORSHIP OF EVENTS," TO ESTABLISH CRITERIA AND REQUIREMENTS FOR APPROVAL OF CITY SPONSORSHIP FOR CERTAIN EVENTS; BY CREATING SECTION 12-8, ENTITLED "SPONSORSHIP REQUESTS BY ADVISORY BOARDS OR ADVISORY COMMITTEES," TO ESTABLISH REQUIREMENTS FOR APPROVAL OF SPONSORSHIP REQUESTS FROM ADVISORY BOARDS OR ADVISORY COMMITTEES; BY CREATING SECTION 12-9, ENTITLED "SPONSORSHIP TERMS AND CONDITIONS," TO PROVIDE CERTAIN MINIMUM TERMS AND CONDITIONS FOR SPONSORSHIP CONTRACTS; AND BY CREATING SECTION 12-10, ENTITLED "APPLICABILITY," TO PROVIDE EXEMPTIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City currently provides a wide variety of grant opportunities for events and cultural programming through the City's Visitor and Convention Authority ("VCA") and Cultural Arts Council ("CAC"), in an effort to promote tourism and provide enhanced recreation and cultural offerings in the City of Miami Beach; and

WHEREAS, in view of the existing grant funding opportunities available to event organizers through the VCA and the CAC, the Mayor and City Commission desire to establish requirements and criteria for approval of City sponsorship of events and cultural programming; requirements for approval of sponsorship requests by City advisory boards or advisory committees; and minimum terms and conditions for sponsorship contracts.

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 III.

CITY SPONSORSHIP OF EVENTS

Sec. 12-6. Definitions. For purposes of this article, the following definitions shall apply:

- (a) "City Costs" means the actual costs incurred by the City to provide police, fire, ocean rescue, sanitation, emergency management, parking, and transportation services to support an Event.
- (b) "Event" means any event, program or activity produced by a third-party organizer (whether such organizer is a for-profit or not-for-profit entity) including, without limitation, (i) events requiring a City of Miami Beach special events permit pursuant to Section 12-5 of the City Code; (ii) events taking place in the City of Miami Beach that do not require a City special event permit, including, without limitation, theatrical or live performances or cultural programming at any venue located in the City of Miami Beach; and (iii) sporting or recreational events taking place within the City of Miami Beach. For purposes of requests for funding pursuant to Section 12-8 of this article, an Event shall also be deemed to include any program, event or activity of any kind, for which a City advisory board or advisory committee has requested funding or a waiver of permit fees or user fees.
- (c) "Sponsorship" or "Sponsorship Contract" means any contract, grant, or commitment made by the City of Miami Beach, to underwrite or fund any portion of, or otherwise provide financial support to, an Event, either through a City cash contribution, in-kind contribution, waiver of City of Miami Beach special event permit fees, square footage fees, administrative fees, or user fees of any kind, or reimbursement for City Costs, including arrangements by which the City may receive promotional, marketing, or other benefits in connection with the Event, in consideration for the City's cash contribution, in-kind contribution, or other financial support for the Event.

Sec. 12-7. Requirements for City Sponsorship of Events.

- (a) Requests for City Sponsorship of an Event shall only be considered through the City Commission's annual budget process, pursuant to Section 5.02 of the City Charter, or through applications for grants funded by the Miami Beach Visitor and Convention Authority or the City's Cultural Arts Council.
- (b) Except for Sponsorships approved pursuant to Section 12-7(a) of this article, any other request for City Sponsorship of an Event shall require (i) an advisory recommendation of the Finance and Citywide Projects Committee; and (ii) approval, by a five-sevenths (5/7th) vote, of the City Commission.

- (c) In considering approval of a Sponsorship for an Event, the City Commission may consider (i) whether the Event organizer has exercised good-faith diligent efforts to apply for grant funding that may be available from the City's Visitor and Convention Authority or Cultural Arts Council; (ii) the Event organizer's history and performance in delivering quality Events; (iii) any benefits being directly provided to the general public with respect to the Event, such as free or discounted tickets to persons residing in the City of Miami Beach, seniors, veterans, or members of disadvantaged groups; (iv) whether the Event is accessible to the general public (either as a ticketed Event or otherwise); (v) the demonstrable economic impacts associated with the Event; (vi) the demonstrable media commitments secured by the Event organizer for the Event; or (vii) the efforts undertaken by the Event organizer to mitigate any quality of life impacts associated with the Event, including noise, littering, traffic, or parking impacts associated with an Event.

Sec. 12-8. Sponsorship Requests by Advisory Boards or Advisory Committees.
Requests by a City advisory board or advisory committee for Sponsorship of an Event shall only be considered through the annual budget process pursuant to Section 5.02 of the City Charter. Except for requests for funding approved as part of the City's annual budget process, any other advisory board or advisory committee request for Sponsorship of an Event shall require (i) an advisory recommendation of the Finance and Citywide Projects Committee, and (ii) approval by a five-sevenths (5/7th) vote of the City Commission.

Sec. 12-9. Sponsorship Terms and Conditions.

- (1) In no event shall any Sponsorship Contract provide for a waiver of City Costs.
- (2) All Sponsorship Contracts shall, at a minimum, include the following provisions:
- a. That the Event organizer shall provide a final report to the City, which report shall include third-party verification of Event outcomes including, without limitation, Event attendance figures, media impressions generated by the Event, and number of City of Miami Beach room nights generated by the Event.
 - b. That no more than fifteen percent (15%) of any City cash sponsorship contribution may be made in advance of the Event, with all remaining cash contributions to be made on a reimbursement basis, following the conclusion of the Event and submission of the final report referenced in subsection (d)(2)(a) herein;
 - c. That the Event organizer shall comply with all governmental requirements and laws applicable to the conduct of its business and the production of the Event;
 - d. That the City shall have the right to audit the Event organizer's compliance with the Sponsorship Contract and performance thereunder, in accordance with generally accepted accounting principles; and

- e. That the City shall receive sponsorship recognition, on all media or promotional platforms related to the Event, at the same sponsorship level as other sponsors providing financial or other support comparable to the City's Sponsorship.

Sec. 12-10. Applicability. The requirements of this Article shall not apply to any of the following:

(a) any Sponsorship Contract with a governmental entity;

(b) film incentives;

(c) any City-produced or City-organized programs, events, or activities; or

(d) any executed Sponsorship Contracts which existed prior to October 1, 2018, provided, however, that unless such Events are exempt pursuant to Section 12-10(a) through (c) above, the requirements of this Article shall apply to such Events upon the expiration of the Sponsorship Contract which existed prior to October 1, 2018 (including any renewal periods thereof).

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.

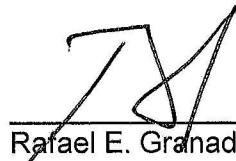
SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the 1 day of October, 2018.

PASSED AND ADOPTED this 14 day of February, 2018.

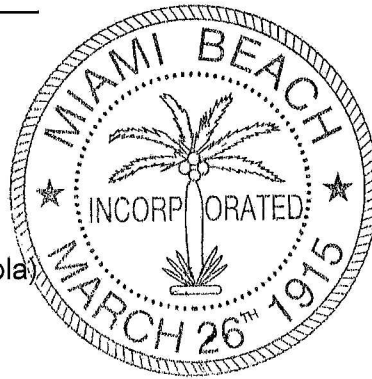
ATTEST:


Dan Gelber, Mayor

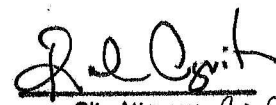
 2/28/18
Rafael E. Granado, City Clerk

Underline denotes additions
~~Strikethrough~~ denotes deletions

(Sponsored by Commissioner Arriola)



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 2-5-18
City Attorney RAP Date

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: February 14, 2018

10:15 a.m. Second Reading Public Hearing

SUBJECT: 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, ENTITLED "ARTS, CULTURE AND ENTERTAINMENT," BY CREATING ARTICLE III, ENTITLED "CITY SPONSORSHIP OF EVENTS," BY CREATING SECTION 12-6, ENTITLED "DEFINITIONS," BY CREATING SECTION 12-7, ENTITLED "REQUIREMENTS FOR CITY SPONSORSHIP OF EVENTS," TO ESTABLISH CRITERIA AND REQUIREMENTS FOR APPROVAL OF CITY SPONSORSHIP FOR CERTAIN EVENTS; BY CREATING SECTION 12-8, ENTITLED "SPONSORSHIP REQUESTS BY ADVISORY BOARDS OR ADVISORY COMMITTEES," TO ESTABLISH REQUIREMENTS FOR APPROVAL OF SPONSORSHIP REQUESTS FROM ADVISORY BOARDS OR ADVISORY COMMITTEES; BY CREATING SECTION 12-9, ENTITLED "SPONSORSHIP TERMS AND CONDITIONS," TO PROVIDE CERTAIN MINIMUM TERMS AND CONDITIONS FOR SPONSORSHIP CONTRACTS; AND BY CREATING SECTION 12-10, ENTITLED "APPLICABILITY," TO PROVIDE EXEMPTIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

Administration recommends the adoption of the Ordinance.

ANALYSIS

This Ordinance was heard at the January 17, 2018 Commission meeting, where the following amendments were suggested and have been incorporated to the attached and revised Ordinance:

- a. clarify that the ordinance does not apply to sponsorships that are approved as part of the City's regular budget process;
- b. revise the approval threshold for sponsorships approved pursuant to this ordinance, so as to only require a 5/7 vote;
- c. eliminate the 5/7 vote requirement for amendment or repealer of the ordinance; and
- d. provide that sponsorships existing prior to October 1, 2018 are exempt from the ordinance (changed from April 1, 2018).

Over the past several months, the Mayor and Commission have been asked to consider funding to support special events -- in some instances funding has been requested to fill a fundraising gap, to help offset City service costs, to support local non-profit organizations, and often to help launch

first time events on Miami Beach. As these requests have been considered, Administration was asked to review and propose criteria for this type of special event sponsorship. At the June 7, 2017 Commission Meeting, Commissioner Steinberg specifically asked staff to look at the issue holistically and to come up with funding protocols. At the October 17, 2017 meeting of the Finance and Citywide Projects Committee, the Committee voted unanimously to return to the full Commission with an ordinance whereby all funding requests would flow through the two peer-appointed and fully audited bodies, as detailed herein.

BACKGROUND:

The City of Miami Beach currently has two formal and fully audited funding entities -- the Miami Beach Visitor and Convention Authority (VCA) which funds activity supporting tourism in the City, and which is an audited grant administered by a Board of Directors; and the Cultural Arts Council (CAC) grant which is focused on supporting not-for-profit arts and culture groups and which is also an audited grant administered by the Cultural Arts Council members.

These two entities are designed to support promote tourism and media exposure, and to enhance the arts and cultural landscape in the City of Miami Beach.

Following the October meeting of the Finance and Citywide Projects Committee, the VCA has worked collaboratively with the Administration to conceptualize and implement a new funding stream which is designed to support first-time and emerging events which may fall below the criteria needed for the regular VCA grant structure. This new grant program, Development Opportunities, has been approved by the VCA Board of Directors, and is now actively available for applicants to pursue, offering another avenue for smaller, local, and first-time event producers to secure seed and launch funding.

HISTORY:

VCA

The VCA was created under Chapter 67-930, Section 8 of the Florida Statutes, including 102-254 of the Code of the City of Miami Beach. The VCA is appointed by the City Commission to administer a portion of the collections of the municipal resort tax determined by a legislated funding formula in order to promote tourism and convention center business. A budget revenue projection is provided to the MBVCA by the City of Miami Beach Budget Office annually based on 5% of the 2% Resort Tax, less 4% for administrative allowance.

The adopted VCA budget for FY 2017/18 is \$2.908 million, of which \$1,700,500 is allocated to the Tourism Advancement Program (TAP) that promotes Miami Beach as a sophisticated tourist destination by increasing the number of visitors; through enhancement of visitors' experiences; through the allocation of funds granted to events or programs that bring visitors to the City of Miami Beach and strengthen the City's brand.

In fiscal year 2016/2017, the VCA funded the TAP in eight categories:

1. Major One Time Special Event
2. North Beach Incentives
3. Special Events Recurring
4. Special Projects
5. Special Projects Recurring
6. Tourism Partnerships

The VCA criteria for grant funding includes:

1. Contracted room nights in Miami Beach hotels
2. Media impressions secured/contracted
3. A contracted broadcast TV or film feature documenting the event in Miami Beach

The VCA Board will evaluate applicants based on these criteria, and then determine funding. VCA grants are awarded on a reimbursement basis, following a final report documenting all criteria have been met and satisfied; the event has been fully executed as described in the application; and all criteria have been met.

Applicants must meet two out of the three substantial criteria in order to qualify. Most grants range from \$10,000-90,000.

CAC

The CAC is established by City Code which states that the CAC has

"the purpose of developing, coordinating and promoting the performing and visual *arts* in the city for the enjoyment, education, cultural enrichment and benefit of the residents of and visitors to the city. In furtherance of this purpose, the council shall attempt to accomplish the following objectives:

- (1) Develop and prepare a master plan for the *arts*. The master plan shall be based upon a survey of available resources and shall assess and prioritize the needs of the various *arts* organizations within the city.
- (2) Develop and establish criteria and guidelines for review and funding of qualified not-for-profit *arts* organizations, as such shall be approved by the mayor and city commission.
- (3) Stimulate greater governmental and public awareness and appreciation of the importance of the *arts* to the residents of and visitors to the city.
- (4) Encourage and implement greater and more efficient use of governmental and private resources for the development and support of the *arts*.
- (5) Encourage and implement opportunities for city residents to participate in artistic activities.
- (6) Promote the development of city artists and institutions and community organizations sponsoring *arts* activities and audiences.
- (7) Survey and assess the needs of the *arts*, and of the people of this city relating thereto, and make such information promptly and regularly available to all interested agencies and persons upon request.
- (8) Support and implement the preservation and growth of the city's artistic resources.
- (9) Foster the development of a receptive climate for the *arts* to *culturally* enrich and benefit the citizens of the city in their daily lives, to make city visits and vacations all the more appealing to the world and to attract to the city residency additional outstanding creators in the field of the *arts* through appropriate programs of publicity, education, coordination and sponsor activities such as the presentation of lectures and exhibitions and central compilation and dissemination of information on the progress of the *arts* in the city.
- (10) Encourage and coordinate the artistic activities of other governmental agencies, including those concerned with the public educational system.
- (11) Provide city *cultural* organizations with information and assistance.
- (12) Coordinate with and assess the roles of other organizations, institutions and agencies, public and private, which provide similar functions and serve a similar purpose."

Eligibility for a CAC grant includes the following:

1. Non-profit status; 990 submission; Organizational Operating Budget; Board of Directors

2. Organizations must be in compliance with all previous grants from the City

Once an organization meets these basic requirements, the CAC then evaluates each applicant and makes a determination based on artistic merit. CAC grants are awarded in two installments: upon execution of a contract, and upon submission and approval of a final report.

CAC grants are also designed to be a 1:1 match, so that organizations must fundraise independently to match City funds. Most grants range from \$10,000-35,000.

The CAC adopted budget for FY 2017/18 is \$1,359,000, of which includes Cultural Arts grantawards totaling \$850,000.

Further, the City also has a Community Benefit Fund which represents a portion of ticket sales from The Fillmore, and which is currently used to fund rent waivers for culturalevents at both The Fillmore and The Colony Theatre. Arts and cultural organizations must meet non-profit status requirements in order to apply. These grants are also approved and awarded by the CAC.

PROPOSED ORDINANCE

Due to the potential for an overwhelming amount of City funding requests for special events and the many associated concerns regarding the thorough and careful auditing of production budgets, fundraising, contracts, experience and track record, accountability and transparency, the Administration is recommending that all City funding flow through Commission appointed bodies with full auditing procedures, criteria, and reporting involved.

Based on meetings with the VCA and CAC regarding best practices for transparent and audited grant funding, the Finance and Citywide Projects Committee recommended the following new guidelines and criteria be adopted for all funding of special events as detailed in the attached Ordinance and summarized below.

1. All special event funding requests must flow through either the VCA (tourism and media related events) or the CAC (arts and culture events) via the grant making process. In the event that a special event is both culture and tourism related, the applicant would choose which funding entity to pursue.

2. Per Section 12-7 of the Ordinance, the City would only consider direct funding outside of the VCA and CAC processes:

- if an event met the Priority 1 booking status (1,500 room nights on peak and more than 4,000 room nights in total) representing a citywide impact event, and received a 5/7 approval vote by the Commission; or
- if a funding request was directly referred with a favorable advisory recommendation by the Finance and Citywide Projects Committee and then received a 6/7 approval vote by the Commission based on consideration of the following factors:
 - Event organizer has exercised good faith efforts to apply for a VCA or CAC grant
 - Event organizer has a proven track record of producing events of similar scope and magnitude
 - Public benefit will be provided to the community (free tickets, etc.)
 - Accessibility of the event
 - Media commitments secured
 - Mitigation efforts to ensure local quality of life is not disrupted

As per the attached Ordinance, Section 12-9, in the event the Commission approved a City Sponsorship event by either the required 5/7 or 6/7 commission approval vote, as applicable,

Section 12-9 provides that City Sponsorship Terms moving forward would include:

1. In no event would City sponsorships provide for a waiver of City Costs (i.e. direct costs incurred for Police, Fire, Sanitation, Parking, Transportation etc.) as these costs would have to be budgeted and a funding source determined.

2. Sponsorship agreements would provide, at a minimum:

- Event producer must provide a final report to the City, including third-party verification of outcomes, attendance, media coverage, etc.
- No more than 15% of the cash sponsorship should be made in advance of the event, with all remaining funds distributed after the conclusion of the event and upon submission of the final report.
- Event producer will comply with all governmental requirements.
- City shall have the right to audit.
- City shall receive sponsorship recognition on all associated event collateral and marketing materials.

Excluded from the requirements of this Ordinance, per Section 12-10, are a sponsorship agreement with a government entity; film incentives; any City-produced events; and any executed sponsorship agreements prior to April 1, 2018.

Pursuant to Section 12-11 of the Ordinance, any amendment to this Ordinance shall require the affirmative vote of 5/7ths of the City Commission.

CONCLUSION

Based on meetings with the VCA and CAC regarding best practices for transparent and audited grant funding, the Finance and Citywide Projects Committee recommended the following new guidelines and criteria be adopted in an ordinance for all funding of special events . The proposed ordinance is attached.

Legislative Tracking

Tourism, Culture and Economic Development

Sponsor

Vice-Mayor John Elizabeth Aleman and Commissioner Ricky Arriola

ATTACHMENTS:

Description

- Ordinance