

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 82, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE IV, ENTITLED "USES IN PUBLIC RIGHTS-OF-WAY," BY AMENDING DIVISION 2, ENTITLED "TEMPORARY OBSTRUCTIONS," BY AMENDING SECTION 82-151, ENTITLED "PERMIT REQUIRED," BY AMENDING SUBSECTION 82- 151 (E)(1), ENTITLED "PENALTIES FOR VIOLATIONS," BY AMENDING THE FINE SCHEDULE TO FOUR OFFENSES WITH THE FIRST OFFENSE COMMENCING AT \$500; SECOND OFFENSE \$1,000; THIRD OFFENSE \$5,000; AND FOURTH OFFENSE \$10,000; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission approved a referral to Neighborhoods and Community Affairs Committee (NCAC) an agenda item pertaining to on-street truck loading (item C4H); and

WHEREAS, the NCAC made a recommendation to revise the Fine Schedule for violations issued pursuant to Section 82-151; and

WHEREAS, the NCAC recommended to amend the fine schedule for these offenses, acknowledging that the first offense would result in a \$500 fine; second offense a \$1,000 fine; third offense a \$5,000 fine; and the fourth offense a \$10,000 fine; and

WHEREAS, the reduction in these fines were discussed at the March 20, 2019 NCAC, which issued a recommendation in favor of adopting the reduced fine schedule.

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

SECTION 1. Chapter 82, "Public Property," Article IV, "Uses in Public Rights-Of-Way," Division 2, "Temporary Obstructions," Section 82-151, "Permit Required," of the Code of the City of Miami Beach, Florida, is hereby amended as follows and additional sections that are not amended are provided for reference purposes:

**CHAPTER 82
PUBLIC PROPERTY**

* * *

ARTICLE IV. Uses in Public Rights-of-Way

* * *

DIVISION 2. Temporary Obstructions

* * *

Sec. 82-151. – Permit Required.

* * *

(e) *Penalties and enforcement.*

(1) *Penalties for violations.* The following penalties shall be imposed for a violation of subsections (b), (c)(1) through (c)(5), or (d):

- a. The penalty for the first violation by a person or entity within a 12-month period shall be a civil fine of ~~\$1,000.00~~ \$500.00;
- b. The penalty for the second violation by a person or entity within a 12-month period shall be a civil fine of ~~\$5,000.00~~ \$1,000.00;
- c. The penalty for the third violation by a person or entity within a 12-month period shall be a civil fine of ~~\$10,000.00~~ \$5,000.00;
- d. The penalty for the fourth violation by a person or entity within a 12-month period shall be a civil fine of \$10,000
- d.e. The fourth fifth or subsequent violation by a person or entity within a 12-month period shall constitute an offense enforceable pursuant to section 1-14 of this Code.

* * *

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the 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 3. REPEALER.

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

SECTION 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten (10) days following adoption.

PASSED and ADOPTED this ____ day of _____, 2019.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Vice-Mayor Joy Malakoff)

Underline denotes new language

~~Strike through~~ denotes deletions

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

4/2/19
Date