

# MIAMI BEACH

## COMMITTEE MEMORANDUM

TO: Neighborhood and Quality of Life Committee Members

FROM: Jimmy L. Morales, City Manager

DATE: February 3, 2020

SUBJECT: **DISCUSSION REGARDING THE ANIMAL WELFARE COMMITTEE MOTIONS CONCERNING FUMIGATION.**

---

### **HISTORY:**

At its September 11, 2019 meeting, the City Commission approved a referral to the Neighborhoods/Community Affairs Committee to discuss a motion made by the Animal Welfare Committee (AWC) at its June 18, 2019 meeting, regarding fumigation, animal welfare and concerns.

At this meeting, the AWC requested the City Commission to review the following two motions passed unanimously at their meeting:

#### **MOTION 1**

Asking that the City Commission consider legislation shifting responsibility in cases of animal deaths/ harm when fumigating from property owner to the fumigator.

- This proposal asks that the Commission consider citing violators of this ordinance under cruel confinement
- Amended under Chapter 10 of the City Code; and
- Implement fine structure per dead animal (eg. \$ 250 per animal)

#### **MOTION 2**

Asking the City Commission to implement a registration and notification process for properties considering fumigation.

- Notification for tenants
- Registration/permitting for proper installation of a one-way door; and
- Consider a fine structure

These motions followed a discussion by the AWC which recounted fumigation instances where cats had died due to the improper care from contractors by not removing them from the premises.

### **ANALYSIS**

The City of Miami Beach City Code has a clause under Section 10-19. - Cruelty to Animals that protects animals from cruel or inhumane treatment and/or death, and fines per incident.

The Public Works Department is in discussions with the City Attorney's office regarding these motions made by the AWC. Prior to proposing amendments to the Ordinance, further review of the City Code and regulations that fall within and outside of the City's Jurisdiction will be necessary.

Sec. 10-19. - Cruelty to animals.

(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, commits animal cruelty, punishable by a fine of not more than \$10,000.00.

(2) A person who intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits aggravated animal cruelty, punishable by a fine of not more than \$20,000.00.

(a) A person convicted of a violation of this subsection, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal, shall be ordered to pay a minimum mandatory fine of \$20,000.00 and undergo psychological counseling or complete an anger management treatment program.

(b) A person convicted of a second or subsequent violation of this subsection shall be required to pay a minimum mandatory fine of \$40,000.00. Any admission of guilt shall be considered a conviction for purposes of this subsection.

(3) A person who commits multiple acts of animal cruelty or aggravated animal cruelty against an animal may be charged with a separate offense for each such act. A person who commits animal cruelty or aggravated animal cruelty against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.

(4) A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.

(Ord. No. 2017-4139, § 2, 10-18-17)

Results from the 2019 Resident Survey related to the overall rating for the City of Miami Beach show that 63% of residents rated the quality of public engagement efforts as excellent/good. In order to continue maintaining excellent standards in this area, the City intends to improve the quality of life for animals by amending its City Code.

**CONCLUSION:**

This discussion is presented to the members of the Neighborhoods and Quality of Life Committee for consideration and further direction.

**Applicable Area**

Citywide

**Is this a Resident Right to Know item?**

Yes

**Does this item utilize G.O. Bond Funds?**

No

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> <a href="#">July 11, 2019 LTC 394-2019 Animal Welfare Committee Motion</a>	Other
<input type="checkbox"/> <a href="#">Section 10-19 City Code</a>	Other
<input type="checkbox"/> <a href="#">September 11, 2019 Commission Referral</a>	Other