

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE II, ENTITLED "PUBLIC PLACES," BY AMENDING DIVISION 2, ENTITLED "BICYCLING, SKATEBOARDING, ROLLER SKATING, IN-LINE SKATING, MOTORIZED MEANS OF TRANSPORTATION, ELECTRIC BICYCLES, MOPEDS, MOTORCYCLES, MOTORIZED BICYCLES, AND MOTORIZED SCOOTERS," BY AMENDING SECTION 70-70.1 THEREOF, ENTITLED "RESPONSIBILITIES OF PERSONS AND BUSINESS ENTITIES PROVIDING RENTALS OR LEASES OF MOPEDS, MOTORCYCLES, AND MOTORIZED BICYCLES," TO EXPAND THE CITY MANAGER'S AUTHORITY TO ORDER THE IMMEDIATE SUSPENSION AND CLOSURE OF THOSE BUSINESS ENTITIES RENTING OR LEASING CERTAIN VEHICLES UPON THE CITY MANAGER'S DECLARATION OF A HIGH IMPACT PERIOD; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") is an internationally renowned tourist destination famous for its beaches, shopping, and entertainment; and

WHEREAS, due to the City's domestic and international popularity as a resort destination, many events, both authorized by City permits and otherwise, occur on a regular and frequent basis; and

WHEREAS, authorized and unauthorized uses of City property and the beaches during such events or periods of time have been known to cause damage, personal injury, property degradation, and dramatically affect the quality of life of the City's residents; and

WHEREAS, the large influx of visitors, pursuant to such high impact events or periods of time, places additional stress on the City's infrastructure, including the City's beaches, parks, roadways and sidewalks, and places increased demands on the City's police, fire, code compliance and sanitation resources; and

WHEREAS, these additional stressors include the large number of visitors who rent or lease a wide variety of vehicles and motorized "toys," largely in order to "joyride" all around the City; and

WHEREAS, City records demonstrate that the "joyriding" of such vehicles and motorized "toys" result in a large number of violations of State and local laws, and generate a great deal of complaints of dangerous and reckless conduct; and

WHEREAS, the use and operation of such vehicle and motorized "toys" also creates excessive noise, and disturbs the surrounding neighborhoods and negatively affects nearby businesses and residents; and

WHEREAS, on May 16, 2018, in an attempt to mitigate the these negative effects, the Mayor and City Commission amended Chapter 70 of the City Code, entitled "Miscellaneous

Offenses," to establish regulations for the rental or lease of electric bicycles, mopeds, motorcycles, motorized bicycles, and motorized scooters; and to prohibit the rental or lease of mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycles, during specified dates each year; and

WHEREAS, on January 16, 2019, the Mayor and City Commission then adopted Ordinance No. 2019-4232 amending Section 70-70.1 of the City Code, entitled "Responsibilities of persons and business entities providing rentals or leases of mopeds, motorcycles, and motorized bicycles," to remove the prohibition regarding the rental or lease of mopeds, motorcycles or motorized bicycles during specified dates each year, and instead set forth certain requirements with which those persons and business entities that provide rentals or leases of mopeds, motorcycles powered by motors with a displacement of 50 cubic centimeters or less, and motorized bicycles must comply; and

WHEREAS, at the April 10, 2019 City Commission meeting, Mayor Dan Gelber sponsored an amendment to Section 82-443 of the City Code (the "High Impact Period Ordinance"), which was meant to provide the City Administration with a more effective set of tools to mitigate the negative effects, strain on the City's resources, and adverse impact upon the City's residents and businesses, resulting from intense, heavily attended events during high impact periods (including, without limitation, Spring Break, New Year's Eve, and Memorial Day weekend); and

WHEREAS, on September 16, 2020, the Mayor and City Commission passed and adopted Ordinance No. 2020-4356, which again amended Section 70-70.1 of the City Code, by limiting the total number of mopeds, motorcycles, and motorized bicycles which business entities may rent or lease; authorizing the City Manager to prohibit the rental or lease of such vehicles upon a declaration of a high impact period; prohibiting the overnight rental or lease of such vehicles; mandating certain signage requirements regarding the prohibited hours of operating such vehicles (7 p.m. through 7 a.m.); and setting forth additional penalties for such violations; and

WHEREAS, on November 18, 2020, the Mayor and City Commission passed and adopted Ordinance 2020-4369, which further amended Sections 70-70.1 and 70-71 of the City Code, by:

- (i) mandating the installation of an emergency power off ("EPO") device onto each moped, motorcycle powered by motor with a displacement of 50 cubic centimeters or less, and motorized bicycle available for rental or lease by those business establishments renting or leasing such vehicles in the City; and
- (ii) requiring all persons that rent or lease such mopeds, motorcycles, and motorized bicycles in the City to return such vehicle prior to 7:00 p.m. daily; and
- (iii) establishing penalties for violations of section 70-70.1; and

WHEREAS, the Mayor and City Commission, and the City Administration, continue to receive numerous complaints regarding the careless and illegal operation of these rented and leased motorized vehicles (which complaints include golf carts, low-speed vehicles, autocycles and motorized scooters), particularly during high impact periods and events; and

WHEREAS, in light of the violations, dangers and complaints generated by the increased use of such rented and leased vehicles and motorized "toys" within the City, the

Mayor and City Commission desire to adopt the amendments set forth herein, as necessary to promote the public health, safety and welfare of the City' s residents and visitors.

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

SECTION 1. Division 2 of Article II of Chapter 70 of the Code of the City of Miami Beach is hereby amended as follows:

CHAPTER 70

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MISCELLANEOUS OFFENSES

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ARTICLE II. Public Places

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DIVISION 2. Bicycling, Skateboarding, Roller Skating, In -Line Skating, Motorized Means of Transportation, Electric Bicycling, Mopeds, Motorcycles, Motorized Bicycles, and Motorized Scooters

* * *

Sec. 70-70.1. Responsibilities of persons and business entities providing rentals or leases of mopeds, motorcycles, and motorized bicycles.

- (a) Any person or business entity that engages in the rental or lease of mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycles, must:
 - (1) Provide a copy of the provisions of this section to each consumer prior to the consumer renting or leasing a moped, motorcycle that is powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycle;
 - (2) Obtain an assigned alphabetical character from the city, which must be utilized exclusively by the person or business entity as the first character in each unique device ID number required pursuant to this section;
 - (3) Create a unique device ID number for each moped, motorcycle that is powered by a motor with a displacement of 50 cubic centimeters or less, and motorized bicycle that is leased or rented, and such unique device ID number must be comprised of a total of three alphanumeric characters, beginning with the alphabetical character assigned by the city, and followed by two numerical characters;
 - (4) Securely affix the unique device ID number, in a location not likely to be obscured by the body of the rider or passenger, to the front, left rear side and right rear side of each moped, motorcycle that is powered by a motor with a displacement of 50 cubic centimeters or less, and motorized bicycle that is leased or rented, in lettering and

numbering at least four inches in height and in a contrasting color to the background upon which it is affixed;

- (5) Securely affix the name and telephone number of the person or business entity that rents or leases such mopeds, motorcycles, or motorized bicycles, in a location not likely to be obscured by the body of the rider or passenger, to the left and right sides of each moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, and motorized bicycle that is leased or rented in lettering at least two inches in height and in a contrasting color to the background upon which it is affixed;
 - (6) Install and maintain a fully operable global positioning system (GPS) tracking device and emergency power off (EPO) device onto each moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, and motorized bicycle that is leased or rented;
 - (7) On an annual basis, provide the city manager with a written notice certifying that a fully operable GPS tracking device and EPO device have been installed onto each moped, motorcycle powered by a displacement of 50 cubic centimeters or less, and motorized bicycle; and
 - (8) On the first day of each month, unless the first day of the month falls on a Saturday, Sunday or a legal holiday, in which case the next business day, submit a certificate to the chief of police, or the chief's designee, identifying each moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, and motorized bicycle that is leased or rented. The certification must include:
 - a. The unique device ID number, along with the corresponding license plate number, for each moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, and motorized bicycle that is leased or rented; and
 - b. The date, time and location of each moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or motorized bicycle, that was disabled pursuant to a notification of improper operation for the preceding month.
 - (9) Provide the city's police department and code compliance department with a phone number at which the person or business entity may be contacted 24 hours a day, seven days a week, regarding potential violations of this section.
 - (10) On each occasion when the city attempts to contact the business entity at the phone number provided in subsection (a)(9) herein, a representative of the business entity must answer such telephone call; and shall disable any rented or leased vehicle, which is reported by the city to have been operated in violation of any state, county or city law, by activating the emergency power off (EPO) device, immediately upon such vehicle(s) coming to a stop and the engine having been turned off.
- (b) Any person or business entity that engages in the rental or lease of mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycles, shall only maintain a maximum of twenty-five (25) total such vehicles within its fleet.

(c) The city manager may, upon declaration of a high impact period, as provided in section 82-443 of the City Code, order the immediate suspension and closure of any business entities providing rentals or leases of mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycles, golf carts, low-speed vehicles, autocycles, or motorized scooters (as such terms are defined in this division or section 142-3 of the City Code).

(d) Prohibition – No overnight rentals or leases

(1) No person or business entity shall rent or lease, or make available for rent or lease, or permit another to rent or lease, any moped, motorcycle that is powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycle between 7 p.m. and 7 a.m. each day.

(2) Persons or business entities providing rentals or leases of mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycles shall be responsible for ensuring that all such rented or leased vehicles are returned to the business premises prior to 7 p.m. each day.

a. The city shall be authorized to impound and confiscate any rented or leased moped(s), motorcycle(s) that are powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycle(s) found to be on public property between the prohibited hours of 7 p.m. through 7 a.m.

(3) Persons or business entities providing rentals or leases of mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycles shall:

a. Securely affix, in a location not likely to be obscured by the body of the rider or passenger, to the front, left rear side and right rear side of each vehicle, in clear and conspicuous lettering, that all such rented or leased vehicles shall be returned to the business premises prior to 7 p.m. each day; and

b. Require all persons who rent or lease any moped(s), motorcycle(s) that are powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycle(s) to sign a written acknowledgement that:

i. Any such rented or leased vehicles must be returned to the business premises prior to 7 p.m. each day; and

ii. Any such rented or leased vehicles not returned to the business premises by 7 p.m. will be deactivated using the emergency power off (EPO) device; and

iii. Any such rented or leased vehicles are prohibited from being operated in the City between the prohibited hours of 7 p.m. through 7 a.m.

c. Activate the emergency power off (EPO) device of all moped(s), motorcycle(s) that are powered by a motor with a displacement of 50 cubic centimeters or less, and motorized bicycle(s) that have not been returned to the business premises prior to 7 p.m. each day, immediately upon such vehicle(s) coming to a stop and the engine having been turned off.

(e) Responsibilities of persons that rent or lease mopeds, motorcycles, and motorized bicycles

(1) All persons that rent or lease any moped(s), motorcycle(s) that are powered by a motor with a displacement of 50 cubic centimeters or less, or motorized bicycle(s) shall:

- a. Return such rented or leased vehicles to the business premises prior to 7 p.m. each day; and
- b. Be prohibited from operating any such vehicles in the City between the prohibited hours of 7 p.m. through 7 a.m.

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 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

(Sponsored by Commissioner David Richardson and co-sponsored by Mayor Dan Gelber and Commissioner Mark Samuelian)

Underline denotes additions
~~Strikethrough~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

MAF

3-9-21

Date