

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: May 25, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB21-0440: Prohibition on Rental of All Motor Vehicles in All Zoning Districts.**

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

HISTORY

On March 17, 2021, at the request of Commissioner David Richardson, the City Commission referred the item to the Planning Board and the Neighborhood and Quality of Life Committee (Item C4 J). On April 28, 2021, the Neighborhood and Quality of Life Committee (NQLC) discussed the item and deferred it to the May 19, 2021 meeting. Staff will update the Planning Board as to the NQLC's actions.

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Consistent – The proposed amendment does not create an isolated district unrelated to adjacent or nearby districts.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Consistent - The proposed ordinance amendment does not modify the scale of development.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure as the maximum FAR is not modified.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Not applicable – The proposed amendment does not modify district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – Changes associated with many instances of nuisances and reckless conduct by persons operating all types of rented or leased motor vehicles makes passage of the proposed change necessary to prohibit the increase in the number of establishments renting or leasing motor vehicles.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed change will not create or increase traffic congestion from what is currently permitted, as the FAR is not being modified by this ordinance and the intensity of uses is not proposed to be increased.

9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**

Consistent – The proposed change would not reduce light and air to adjacent areas.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

Consistent – The proposed change should not adversely affect property values in the adjacent areas.

11. **Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

Consistent – The proposed change may be a deterrent to the improvement of properties containing vehicle rental facilities in the City since they would become legal nonconforming uses.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

Not applicable.

13. **Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

Not applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

- (1) **Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.**

Partially Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

- (2) **Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

Consistent – The proposal would improve the resiliency of the City with respect to sea level rise by encouraging the use of collective transportation which can reduce greenhouse gas emissions.

- (3) **Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.**

Consistent – The proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

Due to the City's domestic and international popularity as a resort destination, the City hosts millions of visitors annually. This large influx of visitors places additional stress on the City's infrastructure, including the City's beaches, parks, roadways and sidewalks. Additionally, increased demands are placed on the City's police, fire, code compliance and sanitation resources.

Compounding these stressors are the large number of visitors who rent golf carts, low-speed vehicles, mopeds, autocycles, motorized bicycles, motorized scooters and motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less. These vehicles are used less for commuting and more for joyriding around the City. In order to address this problem, on

December 9, 2020, the Mayor and City Commission passed and adopted Ordinance No. 2020-4388, which created Section 142-3 of the City Code in order to prohibit the rental or lease of the aforementioned types of vehicles within the City of Miami Beach.

However, there are still approximately fourteen (14) nonconforming businesses that rent or lease these types of motor vehicles within the City. Many of these motor vehicle rental establishments offer exotic car rentals, which unnecessarily contribute to the City's traffic problems and present problems due to careless or reckless operation, in conjunction with the "cruising" and "see and be seen" driving patterns of those renting such motor vehicles.

Anecdotal evidence shows significant instances of reckless conduct and nuisances created by many of the persons operating all types of rented or leased motor vehicles within the City of Miami Beach. To this end, the proposed Ordinance would expand the prohibition of rental vehicles within City limits to include autocycles and all motor vehicles.

If adopted, existing motor vehicle rental facilities would become legal non-conforming uses, and would not be permitted to expand or relocate. Additionally they would be subject to the requirements for nonconformances in section 118, Article IX of the Land Development Regulations.

It is not expected that the prohibition of vehicle rentals would create mobility problems for visitors as the overwhelming majority of visitors arrive in the City via taxicab or rideshare service, such as Uber or Lyft. Additionally, motor vehicles rented or leased at the Miami or Fort Lauderdale airport, as well as a personal motor vehicle driven from the visitors' place of residence to the City would not be affected. In addition to taxicabs and rideshare services, the City also offers a free trolley service to provide transportation around the City. From a land use perspective the proposed Ordinance encourages greater walkability and will have a better impact on the local economy as the storage of motor vehicles can be replaced with more functional uses over time.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE I, ENTITLED "GENERAL TO ALL ZONING DISTRICTS," BY AMENDING SECTION 142-3 THEREOF, ENTITLED "RENTALS OR LEASES OF MOPEDS, MOTORCYCLES THAT ARE POWERED BY A MOTOR WITH A DISPLACEMENT OF 50 CUBIC CENTIMETERS OR LESS, AND MOTORIZED BICYCLES PROHIBITED IN THE CITY OF MIAMI BEACH," BY AMENDING THE TITLE TO SUCH SECTION; AND BY ESTABLISHING THE DEFINITION FOR MOTOR VEHICLES AND PROHIBITING PERSONS AND BUSINESS ENTITIES FROM ENGAGING IN THE RENTAL OR LEASE OF MOTOR VEHICLES IN ALL ZONING CATEGORIES WITHIN THE CITY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") is an internationally renowned coastal resort city and tourist destination; and

WHEREAS, the City encompasses only 7.69 square miles of land with an approximate population of 90,000 residents, however, due to the City's domestic and international popularity as a resort destination, the City hosts millions of visitors annually; and

WHEREAS, this large influx of visitors 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 golf carts, low-speed vehicles, mopeds, autocycles, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, motorized bicycles, and motorized scooters, primarily in order to joyride these motorized "toys" around the City; and

WHEREAS, there are about fourteen (14) businesses that rent or lease such motorized "toys" within the City; and

WHEREAS, due to their small size and maneuverability, such motorized "toys" may be used to weave in and out of traffic, and on and off sidewalks and bicycle paths, thereby endangering pedestrians, cyclists, and operators of other motor vehicles; and

WHEREAS, there are also approximately twenty-two (22) businesses that rent or lease other types of motor vehicles located within the City; and

WHEREAS, many of those motor vehicle rental establishments offer exotic car rentals, which rental vehicles unnecessarily contribute to the City's traffic problems and concerns due to their careless or reckless operation, in conjunction with the "cruising" and "see and be seen" driving patterns of those renting such motor vehicles; and

WHEREAS, the overwhelming majority of visitors arrive in the City via:

- (i) taxicab or rideshare service, such as Uber or Lyft; or

- (ii) motor vehicle rented or leased at the Miami or Fort Lauderdale airport; or
- (iii) personal motor vehicle driven from the visitors' place of residence to the City; and

WHEREAS, in addition to its ease of walkability for most visitors and the prominence of taxicabs and rideshare services, the City also offers a free trolley service to provide transportation around the City; and

WHEREAS, on May 16, 2018, the Mayor and City Commission adopted Ordinance No. 2018-4196, amending 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 prohibit the rental or lease of a moped, a motorcycle that is powered by a motor with a displacement of 50 cubic centimeters or less, or a motorized bicycle, during specified dates each year; and

WHEREAS, on January 16, 2019, the Mayor and City Commission 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 a moped, motorcycle or motorized bicycle 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, on September 16, 2020, the Mayor and City Commission passed and adopted an ordinance which once more 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 No. 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, on December 9, 2020, the Mayor and City Commission passed and adopted Ordinance No. 2020-4388, which created Section 142-3 of the City Code in order to prohibit the rental or lease of certain identifiable vehicles (including mopeds, motorcycles that are powered

by a motor with a displacement of 50 cubic centimeters or less, motorized bicycles, golf carts, motorized scooters and low-speed vehicles) within the City of Miami Beach; and

WHEREAS, the Mayor and City Commission, and City Administration continue to receive numerous complaints regarding the careless and illegal operation of all types of rented and leased motor vehicles within the City; and

WHEREAS, City Police Department records demonstrate that the increased presence of businesses within the City that rent and lease motor vehicles continues to result in many violations of State and local laws, and generate a great deal of complaints of dangerous and reckless conduct; and

WHEREAS, in light of the dangerous situations and traffic problems created and posed by increased numbers of rented and leased motor vehicles within the City, the Mayor and City Commission desire to adopt the amendments set forth herein, as necessary to promote the public 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. Article 1 of Chapter 142 of the Code of the City of Miami Beach is hereby amended as follows:

CHAPTER 142

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ZONING DISTRICTS AND REGULATIONS

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ARTICLE I. GENERAL TO ALL ZONING DISTRICTS

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Sec. 142.-3 Rentals or leases of golf carts, low-speed vehicles, mopeds, motorcycles, and motorized bicycles, motorized scooters, autocycles and motor vehicles are prohibited uses in the City of Miami Beach.

The following definitions are applicable to this section:

Golf cart means a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes.

Low-speed vehicle means any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles.

Moped means any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of two brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground and with a power-drive system that functions

directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters. The term does not include an electric bicycle.

Motor vehicle means a self-propelled vehicle not operated upon rails or guideway, including any automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power.

Motorcycle means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground (including those vehicles commonly known as motor scooters). The term includes an autocycle, but does not include a tractor, a moped, an electric bicycle, or any vehicle in which the operator is enclosed by a cabin unless it meets the requirements set forth by the National Highway Traffic Safety Administration for a motorcycle.

Motorized bicycle means a bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground, having two tandem wheels, and including any device generally recognized as a motorized bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device.

Motorized scooter means any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground. The term does not include an electric bicycle.

- a) The rental or lease of golf carts, low-speed vehicles, mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, motorized bicycles, and motorized scooters, autocycles and motor vehicles is prohibited in the City of Miami Beach. These uses are prohibited in any zoning category within the city, whether as a main, conditional, or accessory use.
- b) Notwithstanding the foregoing, golf courses shall be exempt from the prohibition herein concerning the rental or lease of golf carts.
- c) Any amendment to this section 142-3 (including the repealer thereof), which would create a less stringent regulation on the rentals or lease of any golf carts, low-speed vehicles, mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, motorized bicycles, and motorized scooters, autocycles or motor vehicles, or any of the uses listed herein, shall require an affirmative vote of 5/7ths of the eCity eCommission.

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 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: Commissioner David Richardson)