



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, FL 33139 www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber Second Reading/Public Hearing
Members of the City Commission
Alina T. Hudak, City Manager

FROM: Rafael A. Paz, Acting City Attorney 

DATE: July 28, 2021

SUBJECT: 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 70-66 THEREOF, ENTITLED "DEFINITIONS," BY ESTABLISHING AND MODIFYING CERTAIN DEFINITIONS SET FORTH THEREIN; AND BY CREATING SECTION 70-72, ENTITLED "PROHIBITION ON DELIVERING SPECIFIED MOTORIZED VEHICLES FOR RENTAL OR LEASE," WHICH SHALL SERVE TO PROHIBIT PERSONS AND BUSINESS ENTITIES FROM DELIVERING CERTAIN MOTORIZED VEHICLES, FOR RENTAL OR LEASE, IN THE CITY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

The proposed Ordinance (the "Ordinance"), which is sponsored by Commissioner David Richardson, is submitted for second reading/public hearing at the July 28, 2021 meeting of the City Commission.

In order to address the dangerous conduct, nuisance behavior and increased presence of certain rented or leased vehicles within the City, the Mayor and City Commission have enacted numerous ordinances over the last several years which regulate the rental, lease and/or operation of various motorized vehicles including, but not limited to, mopeds, motorcycles powered by motors with a displacement of 50 cubic centimeters or less, motorized bicycles, autocycles and motorized scooters.

However, despite the extensive efforts of the Mayor and City Commission, the increased presence of these motorized "toys" continues to result in many violations of State and local laws, traffic problems, and generates a great deal of complaints of dangerous, reckless and nuisance conduct and behavior (which includes, but is not limited to, speeding, blaring music, flashing

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lights, peeling out, weaving in and out of traffic, etc.). Furthermore, the City Administration has determined that some of these motorized “toys” are being delivered directly to customers at various locations in the City, such as hotels, public parking lots, streets or other locations, either from establishments located outside of the City, or from establishments located within the City.

If adopted, this Ordinance would prohibit any person or business bringing or delivering any autocycle, golf cart, low-speed vehicle, moped, motorcycle or motorized scooter to any location within the City for the purpose of renting one of these vehicles to the general public.

Moreover, by prohibiting the delivery of these “toys,” and thereby eliminating the convenience factor of those customers desiring to have the vehicles brought to them at their residence, hotel, on the street or any other location within the City, such prohibition on deliveries would advance the City’s objective in reducing the proliferation of “toys” and the associated nuisance conduct which the use of these “toys” for joyriding creates in the City.

The proposed Ordinance was approved on first reading at the June 23, 2021 City Commission meeting. The only change from first reading is a clarification: to ensure that the prohibition on delivering these vehicles to any location in the City, for the purpose of renting (or offering to rent) such motorized vehicle(s), applies equally to *all* deliveries of the “toys,” without regard for whether the delivery is made from an establishment outside the City or within the City.

At first reading, Commissioner Góngora and Vice Mayor Arriola raised questions about whether the proposed Ordinance would withstand a legal challenge with the questions primarily centered around the Commerce Clause (Art. I, § 8 of the United States Constitution) and the City’s legal authority to enact such an Ordinance regulating business activity.

The City Attorney’s memorandum addressing these issues will be released as part of the supplemental agenda.

RAP/AB/MAF/bhs