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 70-66 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.

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, 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 autocycles, golf carts, low-speed vehicles, mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less and motorized scooters, primarily in order to joyride these motorized "toys" around 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, City records demonstrate that the "joyriding" of such vehicles and motorized "toys" result in many 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 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, on September 16, 2020, the Mayor and City Commission 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 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, on December 9, 2020, the Mayor and City Commission then adopted Ordinance No. 2020-4388, which created Section 142-3 of the City Code 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, on March 17, 2021, the Mayor and City Commission adopted Ordinance No. 2021-4411, which amended Section 70-70.1 of the City Code to expand the City Manager's authority to include the suspension or closure of those business establishments that rent or lease autocycles, golf carts, low-speed vehicles and/or motorized scooters upon the declaration of a high impact period; and

WHEREAS, the Mayor, City Commissioners, and City Administration continue to receive numerous complaints regarding the careless and illegal operation of these rented and leased vehicles and motorized "toys" within the City; and

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

WHEREAS, some of these motorized "toys" are being delivered into the City, or within the City, for the express purpose of being rented or leased; and

WHEREAS, City Police Department records demonstrate that the increased presence of these rented and leased vehicles and motorized "toys" in the City 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, traffic problems and nuisance created and posed by the increased numbers of these rented and leased motorized 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. Division 2 of Article II of Chapter 70 of the Code of the City of Miami Beach is hereby amended as follows:

CHAPTER 70

* * *

MISCELLANEOUS OFFENSES

* * *

ARTICLE II. PUBLIC PLACES

* * *

DIVISION 2. - BICYCLING, SKATEBOARDING, ROLLER SKATING, IN-LINE SKATING, MOTORIZED MEANS OF TRANSPORTATION, ELECTRIC BICYCLES, ~~MOPES~~ MOPEDS, MOTORIZED BICYCLES, AND MOTORIZED SCOOTERS

* * *

Sec. 70-66. – Definitions.

The following definitions are applicable to this division:

Autocycle means a three-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured in accordance with the applicable federal motorcycle safety standards in 49 C.F.R. part 571 by a manufacturer registered with the National Highway Traffic Safety Administration.

Bicycle means every vehicle propelled solely by human power, having two tandem wheels, and including any device generally recognized as a 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. The term does not include non-motorized vehicles for hire as defined in section 106-463 of the city Code.

Bicycle path means any road, path or way that is open to bicycle travel which road, path, or way is physically separated from motorized vehicular traffic by an open space or by a barrier and is located either within the highway right-of-way or within an independent right-of-way, and as defined and authorized by state law and the city Code, and includes the city's coastal pathways, beachwalk, baywalk, and cutwalk that are within the Atlantic Greenway Network as set forth in appendix A.

Code compliance officer means a code inspector as defined in section 30-3 of the city Code and, for purposes of this division shall include without limitation police officers.

Electric bicycle means a bicycle propelled by an electric motor, having two tandem wheels, and including any device generally recognized as an electric bicycle though equipped with two front or two rear wheels.

Electric personal assistive mobility device means any self-balancing, two non-tandem wheeled device, designed to transport only one person, with an electric propulsion system, and includes the definition set forth in F.S. § 316.003(83), as may be amended.

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

Grinding means the process by which a skater or skateboarder attaches to a curb or rail and slides along the edge of the curb or rail.

High impact periods means those periods of time as annually designated by the city manager during which one or more of the following occur:

(1) There is a designated major event period;

(2) A maintenance of traffic plan is required (e.g., including, but not limited to, street closures, lane closures, shuttle service);

(3) Hotel occupancy levels are anticipated to be greater than 75 percent;

(4) Mutual aid or other assistance from outside agencies is required to provide for the safety and well-being of residents and visitors to the destinations;

or

(5) An event on public property is anticipated to result in more than 25,000 visitors to the destination.

Launching means using any angled or elevated surface which the skater, skateboarder, or cyclist can jump from in order to get airborne.

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.

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), but excluding a tractor or a moped~~. 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 means of transportation means any devices or means of transportation which are propelled other than solely by human power and includes, but is not limited to, electric personal assistive mobility devices, motorized skateboards, motorized skates, and any other motorized device not defined as a vehicle in F.S. § 316.003, as may be amended; but shall not include motorized devices and wheelchairs when used by disabled persons.

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~~ ~~not having~~ 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 ~~30~~ ~~20~~ miles per hour on level ground. The term does not include an electric bicycle.

Rail sliding means an activity similar to curb or edge grinding. Handrails are often used for rail sliding, in which the skater jumps to the top of the rail and slides down the decline.

Stalling means the process by which a skater or skateboarder attaches to a curb or edge In the space between the second and third wheel of the in-line skate or any part of the skateboard.

* * *

Sec. 70-72. - Prohibition on delivering specified motorized vehicles for rental or lease.

(a) It shall be unlawful and prohibited for any person or business entity (including any employee, manager, agent and/or owner of a business entity) to bring or deliver ~~into~~

~~the City~~ any autocycle, golf cart, low-speed vehicle, moped, motorcycle or motorized scooter to any place or location within the City for the purpose of renting or leasing, or offering to rent or lease, such vehicle to the general public.

Notwithstanding the foregoing, it shall not be a violation of this Section 70-72 for any person or business entity in possession of a valid business tax receipt issued by the City, which business tax receipt provides for the rental or lease of such vehicles to the general public, to bring or deliver ~~into the City~~ such vehicles to its business premises in order to replenish its fleet, or after such vehicles have been repaired or recovered.

(b) A violation of this Section 70-72 shall be enforced by a code compliance officer (which, as defined in section 70-66, includes a police officer) in accordance with the following procedures and penalties:

(1) If a code compliance officer finds a violation, the compliance officer shall issue a notice of violation to the violator as provided in chapter 30. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator may be liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within ten (10) days after service of the notice of violation, and that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing.

(2) A violator who has been served with a notice of violation shall elect either to:

a. Pay the civil fine as follows:

(i) First offense $1,000.00;
(ii) Second offense $2,500.00;
(iii) Third and subsequent offenses .....$5,000.00; or

b. Request an administrative hearing within ten (10) days before a special master appointed as provided in article II of chapter 30 to appeal the decision of the code compliance officer which resulted in the issuance of the notice of violation.

(3) If the named violator, after notice, fails to pay the civil fine or fails to timely request an administrative hearing before a special master, the special master shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decisions of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special master. A waiver of the right or an administrative hearing shall be treated as an admission of the violation and penalties may be assessed accordingly. The special master shall be prohibited from hearing the merits of the notice of violation or consideration of the timeliness of the request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the issuance of the notice of violation.

(4) Any party aggrieved by the decision of the special master may appeal the decision in accordance with law.

(5) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.

(6) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.

(7) The procedures for appeal of the notice of violation by administrative hearing shall be as set forth in sections 30-72 and 30-73.

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
Double underline denotes additions after First Reading
~~Double strikethrough~~ denotes deletions after First Reading

(Sponsored by: Commissioner David Richardson)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney MAF — Date 7-13-21