

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 70-70.2 THEREOF, ENTITLED "RESPONSIBILITIES OF PERSONS AND BUSINESS ENTITIES PROVIDING RENTALS OR LEASES OF ELECTRIC BICYCLES AND MOTORIZED SCOOTERS," BY CLARIFYING THE CITY'S ABILITY TO ENTER INTO CONTRACTUAL AGREEMENTS TO PERMIT THE USE OF CITY PROPERTY OR RIGHTS OF WAY FOR THE RENTAL OR LEASE OF ELECTRIC BICYCLES, CONSISTENT WITH CHAPTER 82 OF THE CITY CODE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, visitors to the City of Miami Beach frequently rent or lease a wide variety of vehicles and "motorized toys" primarily in order to joyride throughout the City; and

WHEREAS, City records demonstrate that the joyriding of such vehicles and "motorized toys" results in a large number of violations of State and local laws, and generates a great deal of complaints of dangerous and reckless conduct; 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, 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 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, notwithstanding the City's efforts to curtail the unregulated and careless usage of many motorized vehicles being operated around the City, the City Commission may determine that it is necessary, from time to time, to develop or authorize additional commuter transportation options for its residents, in furtherance of the City's mobility and sustainability goals; and

WHEREAS, Section 82-1 of the City Code authorizes commercial business operators to rent or lease motorized vehicles to the public, on public property, provided that such business operators enter into a written agreement with the City; and

WHEREAS, the existing prohibition on the rental or lease of electric bicycles should not apply to concession agreements or similar agreements for the use of public property, as such agreements would permit the City to retain direct control over the terms and conditions surrounding the use of electric bicycles, so as to limit the duration of such uses and otherwise ensure the bicycles are used for commuter purposes; and

WHEREAS, the City's ability to enter into such agreements for the use of public property (similar to the City's bicycle rental concession agreement), would also advance the City's mobility and sustainability goal of reducing reliance on motor vehicle transportation options, and would further serve to reduce traffic congestion and directly mitigate the impact upon the City's streets and roadways; and

WHEREAS, if the City were to enter into a concession agreement or other agreement to authorize the limited use of electric bicycles, the City would nevertheless retain the ability to prohibit such uses if it is in the public interest to do so, as the City would incorporate termination provisions within such agreements and would have the ability to terminate the agreements (and the uses) at any time.

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. 70-70.2. Responsibilities of persons and business entities providing rentals or leases of electric bicycles and motorized scooters.

- (a) It shall be unlawful for any person or business entity to rent, lease, offer for rent or lease, or permit to be rented or leased, with or without compensation, an electric bicycle or motorized scooter, unless:
- (1) such electric bicycle or motorized scooter is intended to be used exclusively on private property; or
- (2) such electric bicycle is rented or leased pursuant to an agreement with the City, as specifically authorized by Section 82-1 of the City Code.
- (b) Any person or business entity that engages in the rental or lease of electric bicycles or motorized scooters must prominently display at the place of business a notice that such electric bicycles and motorized scooters are not legal to operate on public roads and may not be operated on sidewalks. This required notice must also appear in all forms of advertising offering electric bicycles or motorized scooters for rent or lease. The notice must also be provided to each consumer prior to the consumer renting or leasing an electric bicycle or motorized scooter.
- (c) Any person or business entity that engages in the rental or lease of electric bicycles or motorized scooters must securely affix the name of the person or business entity that rents or leases such electric bicycles or motorized scooters, as well as a unique device ID number, all of which shall be in lettering and numbers at least four inches in height, on the front and back of each electric bicycle and motorized scooter that is leased or rented.

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)

Underline denotes additions
~~Strikethrough~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

7-20-21

Date

MAF