

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber
Members of the City Commission
Alina T. Hudak, City Manager

First Reading

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 70-70.2 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.

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

Presently, Section 70-70.2 of the City Code prohibits the rental or lease of electric bicycles unless such electric bicycle(s) are to be utilized exclusively on private property. The proposed Ordinance would amend Section 70-70.2, to clarify the City's ability to enter into contractual agreements, such as concession agreements, to permit the use of City property or rights of way for the rental or lease of electric bicycles, consistent with Section 82-1 of the City Code, which authorizes commercial use of public property pursuant to written agreements with the City.

The existing prohibition on the rental or lease of electric bicycles (as currently set forth in Section 70-70.2) 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.

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.

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.

Accordingly, if the Ordinance is approved at first reading on July 28, 2021, it is anticipated that the Ordinance will then be considered upon second reading/public hearing at the September 17, 2021 City Commission meeting.