

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 I ENTITLED "GENERALLY," BY CREATING SECTION 70-46 THEREOF, ENTITLED "OBSTRUCTING OF PEDESTRIAN AND VEHICULAR TRAFFIC PROHIBITED"; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

**WHEREAS**, sidewalks, streets, alleys, beach walks, and beach entrances play a vital role in city life as conduits for pedestrian movement and access, enhancing connectivity and promoting walking throughout the city; and

**WHEREAS**, safe, accessible, and well-maintained sidewalks, streets, alleys, beach walks, and beach entrances are a fundamental and necessary foundation for cities, and have been found to enhance general public health and maximize social capital; and

**WHEREAS**, when an individual's path is blocked on the sidewalks, streets, alleys, beach walks, and beach entrances it can force them onto the street or other dangerous terrain where there is a risk of death or injury; and

**WHEREAS**, pedestrians killed while walking along the roadway account for almost 8 percent of traffic fatalities resulting from collisions between motor vehicles and pedestrians; and

**WHEREAS**, the City of Miami Beach wishes to provide citizens and visitors the right to move freely and safely through the city.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1.** That Chapter 70 of the Code of the City of Miami Beach, Florida, entitled "Miscellaneous Offenses," be amended, by amending Article II, entitled "Public Places," by amending Division I, entitled "Generally," by creating Section 70-46 thereof, entitled "Obstructing of Sidewalks and Streets Prohibited" as follows and as hereinafter set forth below:

CHAPTER 70  
MISCELLANEOUS OFFENSES

\* \* \*

ARTICLE II. PUBLIC PLACES

\* \* \*

DIVISION I. GENERALLY

**Sec. 70-46. OBSTRUCTING OF PEDESTRIAN AND VEHICULAR TRAFFIC PROHIBITED**

- (a) Any person who, walks, stands, sits, lies, or places an object in such manner as to intentionally block passage by another person or to require another person to take evasive action to avoid physical contact, and who, after being ordered to move by law enforcement officers, remains in or on any public sidewalk, street, alley, beach walk, or beach entrance in such a manner as to block or impair movement of vehicles or pedestrians shall be guilty, pursuant to this Section, of the offense of Obstructing of Pedestrian and Vehicular Traffic.
- (b) Protected activities. Acts authorized as an exercise of one's First Amendment right to demonstrate, picket or to legally protest shall not constitute Obstructing of Pedestrian and Vehicular Traffic unless a nearby adequate and available alternative forum is offered and provided, to which the subject or subjects refuse to move. As an illustration only, a person or persons blocking or impairing movement of vehicles or pedestrians on any public sidewalk, street, alley, beach walk, or beach entrance while exercising their First Amendment right to protest demonstrate, picket or to legally protest should be offered access to an adjacent or nearby public park, if one exists and is available, where they can exercise their First Amendment rights without blocking or impairing movement of vehicles or pedestrians on any public sidewalk, street, alley, beach walk, or beach entrance. Only if those person or persons refuse to move to such a park or other offered appropriate alternative forum where their activities will not block or impair movement of vehicles or pedestrians on any public sidewalk, street, alley, beach walk, or beach entrance may an arrest be made.
- (c) Permitted Activities. Acts authorized by a permit duly issued by a lawful authority shall not constitute a violation of this Section.
- (d) Enforcement. Violation of this Section shall be enforced pursuant to Section 1-14 of the Miami-Beach City Code. If a law enforcement officer or other authorized official encounters a person violating this Section who volunteers that he or she has no home or other permanent shelter, he or she must be given an opportunity to voluntarily enter a homeless shelter or similar facility within Miami-Dade County, if available to that person, or to accept other available government assistance for which the person is eligible that would result in housing, including, but not limited to, mutually consensual reunification with family or friends in any location, or consensual placement in any other appropriate facility that provides housing within Miami-Dade County. If no homeless shelter or other facility, or government assistance, that would result in immediate housing, is available for which the person is eligible, an arrest may not be made.

**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, subsection, clause or provision of this Ordinance is held invalid, the remainders shall not be affected by such invalidity.

**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 part of the Miami Beach City Code. The sections of this ordinance may be renumbered or relettered 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 \_\_\_\_\_, 2024.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

**ATTEST:**


\_\_\_\_\_  
Steven Meiner, Mayor


\_\_\_\_\_  
Rafael E. Granado, City Clerk

(Sponsored by Commissioner Alex J. Fernandez)

Underline denotes additions  
~~Strikethrough~~ denotes deletions

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

 1-22-24  
Date