

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 66 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "MARINE STRUCTURES, FACILITIES AND VESSELS," BY AMENDING ARTICLE IV., ENTITLED "VESSELS," BY AMENDING SECTION 66-151 THEREOF, ENTITLED "LAUNCHING, HAULING AND DOCKING AT PUBLIC SEAWALL, ETC., PROHIBITED – UNAUTHORIZED VESSELS: ENFORCEMENT," BY PROHIBITING THE DOCKING OR MOORING OF VESSELS AT OR ALONG CERTAIN PUBLIC PROPERTY, AND MODIFYING THE NOTICE REQUIREMENTS FOR THE TOWING OF UNAUTHORIZED VESSELS DOCKED OR OTHERWISE SECURED ALONG THE CITY'S PUBLIC PROPERTY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 66 of the City Code provides for the regulation of vessels and docking, including limitations on docking at public and private property within the City; and

WHEREAS, the City Commission has received complaints about persons docking at public seawalls and outfalls, which has caused issues and concerns in such areas; and

WHEREAS, the City Code presently provides that the launching, docking or hauling of vessels from the City's public seawalls within its residential areas is a violation of the City Code; and

WHEREAS, the City, pursuant to its proprietary capacity and authority (as the owner of many public seawalls within the various residential neighborhoods and other areas of the City), desires to clarify the prohibitions and notice requirements pertaining to the access and use of the City's seawalls, infrastructure, and other public property; and

WHEREAS, the City has approximately 29,479 feet of public seawall, which is the equivalent of 5.58 miles, within its territorial jurisdiction; and

WHEREAS, the seawalls serve the purpose of protecting the island and any public improvements from seawater encroachment; and

WHEREAS, the City's outfalls provide certain points where stormwater can safely discharge into a body of water; and

WHEREAS, the seawalls and outfalls are not designed to act as docks or tie-off points for the launching, docking, mooring, or hauling of vessels; and

WHEREAS, the improper and unauthorized docking or mooring of vessels may result in damage to the City's seawalls, outfalls, infrastructure, or other public property; and

WHEREAS, persons may be injured due to attempts to improperly dock at, or tie to, public property that is not specifically designated for the docking of vessels, as the waterfront may be

covered in coral, rocks, oyster beds and/or various seaweeds that can cause slipping hazards; and

WHEREAS, improper docking is also a liability risk to the City and the seawalls, infrastructure, and other public property are not routinely monitored, and improper use of public property for the docking, launching or hauling of vessels would not be protective of the health, safety and welfare of the citizens and visitors of Miami Beach; and

WHEREAS, the Mayor and City Commission hereby desire to adopt the following amendments in order to make the community aware and provide them adequate notice concerning the prohibition on docking at certain public property, and that the improper unauthorized use of the seawalls, infrastructure, or other public property shall result in towing of the vessel.

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

SECTION 1. That the section of the City Code setting forth the prohibition and notice requirements for the towing of any unauthorized vessels docked along the City's seawall, infrastructure, or other public property, as such Ordinance is codified in section 66-151 of the City Code, be amended as follows and as hereinafter set forth below:

CHAPTER 66

MARINE STRUCTURES, FACILITIES AND VESSELS

* * *

ARTICLE IV. VESSELS

* * *

Sec. 66-151. Launching, hauling and docking at public seawall, infrastructure, or other public property etc., prohibited— Unauthorized vessels: enforcement.

- (a) No person shall launch, dock, or remove any vessel from the waters of the city over any public seawall, sidewalk, street end, infrastructure, or any other public property except at locations where a regular business of launching, docking and hauling vessels is conducted, which has the necessary equipment to do such work, or in areas designated and posted for such purpose by the city. Any vessel that is docked along a city seawall, city infrastructure, or other public property not specifically designated for such purpose shall be considered an unauthorized vessel.
- (b) Docking of unauthorized vessels at public seawalls, infrastructure, or any other public property not specifically designated for such purpose is ~~in residential neighborhoods~~ prohibited.
 - (1) No person shall dock or otherwise secure any vessel, or embark or disembark any passengers or charter parties, at any municipal or public seawall, wharf, dock, or bulkhead, infrastructure, or other public property not specifically designated for such

purpose in a residential neighborhood, except in case of emergency involving safety to life or property.

(2) Enforcement and penalties.

a. Civil fine for violators. The following civil fines shall be imposed for a violation of this section:

1. First offense within a 12-month period a fine of \$100.00;
2. Second offense within a 12-month period a fine of \$250.00;
3. Third or fourth offenses within a 12-month period a fine of \$500.00; and
4. Fifth offense within a 12-month period a fine of \$1,000.00; and
5. Sixth offense and subsequent offenses within a 12-month period a fine of \$2,500.00.

b. In addition, the city may also elect to have the unauthorized vessel towed pursuant to subsection c.2. below.

c. Enforcement.

1. The code compliance department or the Miami Beach Police Department shall enforce the provisions of this section. This shall not preclude other law enforcement agencies or regulatory bodies from any action to assure compliance with this section and all applicable laws. If an enforcing officer finds a violation of this section, the officer shall issue a notice of violation to the violator. The notice of violation shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within ten days after service of the notice of violation, and that failure to appeal the violation within the ten days shall constitute an admission of the violation and a waiver of the right to a hearing.

2. The city shall post the following notice on all public seawalls:

"TOW-AWAY ZONE. 24 HOURS; 7 DAYS. UNAUTHORIZED VESSELS WILL BE TOWED AWAY AT OWNER'S RISK AND EXPENSE. [TELEPHONE NUMBER AND NAME OF TOWING COMPANY TO BE INSERTED]"

In order to establish a tow-away zone to remove unauthorized vessels from being docked at or along the city's seawall, infrastructure, or other public property, the city must provide the above notice. The notice must be prominently placed along the seawall, with not less than one sign for each 100 25 feet of frontage. The notice must clearly indicate, in not less than two-inch high, light-reflective letters on a contrasting background, that unauthorized vessels will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not less than four-inch high letters. The notice must also provide the name and current telephone number of the person or firm towing or removing the vessels. ~~The sign structure containing the~~

~~required notice must be permanently installed with the words "tow-away zone" not less than three feet and not more than six feet above ground level and~~ If, in the sole discretion of the city, the posting of notice along the seawall is impracticable in a certain area, such notice may instead be posted on any unauthorized vessel docked along the city's seawall, infrastructure, or other public property. Notices must be continuously maintained for not less than 24 hours prior to the towing or removal of any unauthorized vessels; however, nothing herein shall require the city to post more than one (1) notice on any vessel in a 12-month period.

- d. Rights of violators as to fines; payment of fine; right to appear; failure to pay civil fine or to appeal.
1. A violator who has been served with a notice of violation as identified in subsection (a) shall elect either to:
 - A. Pay the civil fine in the manner indicated on the notice of violation; or
 - B. Request an administrative hearing before a special master to appeal the notice of violation within ten days of the issuance of the notice of violation.
 2. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73.
 3. If the named violator, after issuance of the notice of violation, 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 officer. Failure of the named violator to appeal the decision of the officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special master, and be treated as an admission of the violation, and fines and penalties may be assessed accordingly.
 4. A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien upon any 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 violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the recording of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.
 5. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.
 6. 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.

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 remainder 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 David Suarez
and co-sponsored by Commissioner Joseph Magazine)

Underline denotes additions.

~~Strikethrough~~ denotes deletions.

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney *MAF*

2-14-24

Date