

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ANIMALS," BY AMENDING SECTION 10-13, ENTITLED "REMOVAL OF ANIMAL DEFECATION," TO ALSO REQUIRE THE REMOVAL OF WASTE ASSOCIATED WITH ANIMAL FEEDING AND PROHIBITING THE USE OF POLYSTYRENE SERVING ITEMS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 828.27 of the Florida Statutes, municipalities are authorized to enact ordinances relating to animal control or cruelty; and

**WHEREAS**, the Mayor and City Commission deem it in the best interest of the health, safety, and welfare of the City of Miami Beach to require the removal of the waste associated with animal feeding, to prohibit the use of polystyrene serving items, and to impose the same fines for such violations as are imposed for the failure to remove animal defecation.

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

**SECTION 1.** That Section 10-13 of Chapter 10, entitled "Animals," of the Code of the City Miami Beach is hereby amended as set forth below. The fine provisions in Section 10-2 are provided for reference purposes:

**CHAPTER 10**

**ANIMALS**

\* \* \*

**Sec. 10-2. Fines for violations of animal control ordinances; unpaid fines to constitute lien and basis for revocation of city parking permits/decals.**

(a) All violations of this chapter are civil infractions, except as otherwise provided in section 10-5. Each violation of this chapter shall constitute a separate offense. Violations of this chapter, except as otherwise provided in sections 10-17 and 10-18, or Section 10-19, within a 12-month period will be punished as follows:

- (1) For a first offense, a \$50.00 fine.
- (2) For a second offense within the preceding 12 months, a \$100.00 fine.
- (3) For each additional offense within the preceding 12 months, a \$200.00 fine.

For purposes of this section, an offense shall be deemed to have occurred on the date that the violation occurred. An offense occurring 12 months after the last offense shall be treated as a first offense for purposes of incurring new fines. However, any fines imposed in any prior 12-month period shall not be waived.

- (b) The failure of any person to pay the appropriate fine within the time allowed or to appeal the violation shall constitute a waiver of the right to an administrative hearing before the special master and fines may be accessed accordingly.
- (c) 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 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 that which remains unpaid, the city may foreclose or otherwise execute upon the lien. In addition, any order of the special master imposing a fine for a violation of section 10-11 that remains unpaid two months after the date of the order shall be grounds for the revocation of any and all residential parking permits or decals issued to the violator by the city.

\* \* \*

**Sec. 10-13. Removal of animal defecation; removal of waste associated with animal feeding, polystyrene serving items prohibited.**

(a)

(1) Removal of animal defecation. Any person owning, possessing, harboring or having the care, charge, control or custody of any animal shall immediately remove and thereafter dispose of any fecal matter deposited by the animal on public or private property (other than the property of the owner or responsible party of the animal) unless the owner or person in lawful possession of the property has consented to such deposit. For the purpose of this subsection, animal fecal matter shall be immediately removed by placing the matter in a closed or sealed container and thereafter disposing of it by depositing the matter in a trash receptacle, sanitary disposal unit, or other closed or sealed container.

(2) Removal of waste associated with animal feeding; polystyrene serving items prohibited. Any person who feeds or provides food or liquids intended for human or animal consumption to an animal on public or private property (other than the property of the owner or responsible party for the animal) shall remove and dispose of any waste associated with the feeding of the animal, including but not limited to, any remaining food or liquid and the serving items (including, but not limited to, dishes, plates, cans, or containers), immediately following the feeding of the animal. The use of polystyrene serving items is prohibited. Animals may be fed by placing food on the ground, provided the food is removed in accordance with this subsection. For the purpose of this subsection, the waste associated with animal feeding shall be immediately removed by depositing the waste in an appropriate trash or garbage receptacle.

- (b) This section shall not apply to disabled persons accompanied by a service dog used for their assistance.

\* \* \*

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances in conflict herewith 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 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 ten (10) days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**ATTEST:**

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

\_\_\_\_\_  
Philip Levine, Mayor

Underline denotes new language

(Sponsored by Commissioner John Elizabeth Aleman)

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION  
R. E. Cost 9/5/17  
City Attorney DT Date