

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, ENTITLED "MISCELLANEOUS OFFENSES," ARTICLE II, "PUBLIC PLACES," DIVISION II, "BICYCLING, SKATEBOARDING, ROLLER SKATING, IN-LINE SKATING, AND MOTORIZED MEANS OF TRANSPORTATION," TO CREATE DEFINITIONS FOR "ELECTRIC BICYCLE," "MOPED," "MOTORCYCLE," "MOTORIZED BICYCLE," AND "MOTORIZED SCOOTER"; ESTABLISH REGULATIONS FOR THE RENTAL OR LEASE OF ELECTRIC BICYCLES, MOPEDS, MOTORCYCLES, MOTORIZED BICYCLES, AND MOTORIZED SCOOTERS; AND PROHIBIT THE RENTAL OR LEASE OF A MOPED, MOTORCYCLE THAT IS POWERED BY A MOTOR WITH A DISPLACEMENT OF 50 CUBIC CENTIMETERS OR LESS, OR MOTORIZED BICYCLE, DURING SPECIFIED DATES EACH YEAR; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") is an internationally renowned tourist destination; and

WHEREAS, due to the City's domestic and international popularity as a resort destination, many events, both authorized by City permits and otherwise, occur on a regular and frequent basis; and

WHEREAS, in recent years, the City has seen an increasingly large number of visitors during the period when high schools, colleges, and universities across the country recess for Spring Break, which occurs primarily during the month of March, as well as during Memorial Day weekend; and

WHEREAS, the large influx of visitors during these periods places stresses on the City's infrastructure, including the City's beaches, parks, roadways, and sidewalks, and places increased demands on City police, fire, code compliance, and sanitation resources; and

WHEREAS, these additional stresses include, without limitation, the large number of visitors who rent electric bicycles, mopeds, motorcycles powered by motors with a displacement of 50 cubic centimeters or less, motorized bicycles, and motorized scooters, in order to move around the City; and

WHEREAS, due to their small size, electric bicycles, mopeds, motorcycles powered by motors with a displacement of 50 cubic centimeters or less, motorized bicycles, and motorized scooters may be used to weave in and out of traffic, and on and off of sidewalks and bicycle paths, endangering pedestrians, cyclists, and operators of other motor vehicles; and

WHEREAS, City Police Department records demonstrate that the increased presence of these vehicles during the Spring Break period results in a large number of traffic citations; and

WHEREAS, in March 2018, at least 140 traffic citations were issued to operators of mopeds and/or motorcycles in the area south of Dade Boulevard; and

WHEREAS, in light of the dangers posed by increased numbers of electric bicycles, mopeds, motorcycles (many of which are powered by motors with a displacement of 50 cubic centimeters or less), motorized bicycles, and motorized scooters in the City during the Spring Break period and Memorial Day weekend, the Mayor and City Commission desire to adopt the amendments set forth herein, to promote the public safety of the City's residents, visitors, and businesses.

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

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
MISCELLANEOUS OFFENSES**

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ARTICLE II. PUBLIC PLACES

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**DIVISION 2. - BICYCLING, SKATEBOARDING, ROLLER SKATING,
IN-LINE SKATING, AND MOTORIZED MEANS OF TRANSPORTATION,
ELECTRIC BICYCLES, MOPEDS, MOTORCYCLES, MOTORIZED BICYCLES, AND
MOTORIZED SCOOTERS**

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Sec. 70-66. - Definitions.

The following definitions are applicable to this division:

Bicycle means every vehicle propelled solely by human power, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. The term does not include non-motorized vehicles for hire as defined in section 106-463 of the city Code.

Bicycle path means any road, path or way that is open to bicycle travel which road, path, or way is physically separated from motorized vehicular traffic by an open space or by a barrier and is located either within the highway right-of-way or within an independent right-of-way, and as defined and authorized by state law and the city Code, and includes the city's coastal pathways, beachwalk, baywalk, and cutwalk that are within the Atlantic Greenway Network as set forth in appendix A.

Code compliance officer means a code inspector as defined in section 30-3 of the City Code and, for purposes of this division shall include without limitation police officers.

Electric bicycle means a bicycle propelled by an electric motor, having two tandem wheels, and including any device generally recognized as an electric bicycle though equipped with two front or two rear wheels.

Electric personal assistive mobility device means any self-balancing, two non-tandem wheeled device, designed to transport only one person, with an electric propulsion system, and includes the definition set forth in F.S. § 316.003(83), as may be amended.

Grinding means the process by which a skater or skateboarder attaches to a curb or rail and slides along the edge of the curb or rail.

High impact periods means those periods of time as annually designated by the city manager during which one or more of the following occur:

- (1) There is a designated major event period;
- (2) A maintenance of traffic plan is required (e.g., including, but not limited to, street closures, lane closures, shuttle service);
- (3) Hotel occupancy levels are anticipated to be greater than 75 percent;
- (4) Mutual aid or other assistance from outside agencies is required to provide for the safety and well-being of residents and visitors to the destinations; or
- (5) An event on public property is anticipated to result in more than 25,000 visitors to the destination.

Launching means using any angled or elevated surface which the skater, skateboarder, or cyclist can jump from in order to get airborne.

Moped means any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of 2 brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters.

Motorcycle means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground (including those vehicles commonly known as motor scooters), but excluding a tractor or a moped.

Motorized means of transportation means any devices or means of transportation which are propelled other than solely by human power and includes, but is not limited to, electric personal assistive mobility devices, motorized skateboards, motorized skates, and any other motorized device not defined as a vehicle in F.S. § 316.003, as may be amended; but shall not include motorized devices and wheelchairs when used by disabled persons.

Motorized bicycle means a bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground, having two tandem wheels, and including any device generally recognized as a motorized bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device.

Motorized scooter means any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

Rail sliding means an activity similar to curb or edge grinding. Handrails are often used for rail sliding, in which the skater jumps to the top of the rail and slides down the decline.

Stalling means the process by which a skater or skateboarder attaches to a curb or edge in the space between the second and third wheel of the in-line skate or any part of the skateboard.

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Sec. 70-68. – Exemptions.

Police department and code compliance department bicycle, in-line skate, and electric personal assistive mobility device, electric bicycle, moped, motorcycle, motorized bicycle, and motorized scooter patrol units, vehicles, and motorized means of transportation; city service and transit vehicles; city-contracted security and maintenance service vehicles, service vehicles authorized by the city for use by city lessees, concessionaires, or other city contractors operating pursuant to any agreement with the city; and a person dismounted from and walking a bicycle shall be exempt from the restrictions of this division.

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Sec. 70-70.1 - Responsibilities of persons and business entities providing rentals or leases of mopeds, motorcycles, and motorized bicycles.

- (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, a moped, motorcycle that is powered by a motor with a displacement of 50 cubic centimeters or less, or a motorized bicycle, from March 1st at 12:00 a.m. through March 31st at 11:59 p.m. of each year, and from Thursday at 12:00 a.m. through Monday at 11:59 p.m. of the weekend ending on the last Monday in May of each year.
- (b) Any person or business entity that engages in 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, must securely affix the name of the person or business entity that rents or leases such mopeds, motorcycles, or motorized bicycles, 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 moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, and motorized bicycle that is leased or rented.

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 such electric bicycle or motorized scooter is intended to be used exclusively on private property.
- (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.

Sec. 70-71. - Enforcement, penalties.

- (a) A violation of the provisions in subsections 70-67 and 70-69(a) and (c) by persons operating electric personal assistive mobility devices or engaged in bicycling, skateboarding, in-line skating, roller skating, or operating any motorized means of transportation, shall be enforced by a police officer and shall be deemed a noncriminal infraction as defined in F.S. § 318.13(3) and shall be subject to the penalties set forth in F.S. § 316.655, as may be amended.
- (b) A violation of the provisions in ~~subsections 70-69(b), and (d), or (e); and 70-70; 70-70.1; or 70-70.2~~ shall be enforced by a code compliance officer (which, as defined in section 70-66, includes a police officer) in accordance with the following procedures and penalties:
- (1) If a code compliance officer finds a violation, the compliance officer shall issue a notice of violation to the violator as provided in chapter 30. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator may be 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 do so shall constitute an admission of the violation and waiver of the right to a hearing.
- (2) A violator who has been served with a notice of violation shall elect either to:
- a. Pay the civil-fine as follows for violations of sections 70-69(b), ~~and (d), and (e)~~:
- (i) First offense \$100.00;
 - (ii) Second offense \$250.00;
 - (iii) Third offense \$500.00;
 - (iv) Fourth and subsequent offenses \$1,000.00;
- b. Pay the civil fine as follows for violations of ~~subsections 70-70(a) and (c)—(n); 70-70.1; and 70-70.2:~~
- (i) First offense \$250.00;
 - (ii) Second offense \$500.00;
 - (iii) Third offense \$1,000.00;
 - (iv) Fourth and subsequent offenses \$2,000.00;

- c. Pay the civil fine as follow for violations of subsection 70-70(b):
 - (i) First offense \$1,000.00;
 - (ii) Second offense \$2,500.00;
 - (iii) Third and subsequent offenses \$5,000.00;
 or
 - d. Request an administrative hearing within ten days before a special master appointed as provided in article II of chapter 30 to appeal the decision of the code compliance officer which resulted in the issuance of the notice of violation. If the offense is a violation of subsection 70-70(b), the operation of the business must cease until the required insurance is obtained.
- (3) If the offense is a fourth or subsequent offense of subsection 70-69(b), and (d), or (e); or subsections 70-70(a) or (c)—(n); section 70-70.1; or section 70-70.2, it shall also be considered an habitual offender offense and, in addition to the penalty set forth in subsections 70-71(b)(2)a(iv) and 70-71(b)(2)b(iv), the city manager may issue an administrative complaint for the suspension or revocation of a business tax receipt and certificate of use as provided in sections 102-383 through 102-385.
 - (4) If the named violator, after notice, 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 code compliance officer. Failure of the named violator to appeal the decisions of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special master. A waiver of the right to an administrative hearing shall be treated as an admission of the violation and penalties may be assessed accordingly. 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.
 - (5) Any party aggrieved by the decision of the special master may appeal the decision in accordance with law.
 - (6) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.
 - (7) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other 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 personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.
 - (8) The procedures for appeal of the notice of violation by administrative hearing shall be as set forth in sections 30-72 and 30-73.

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 _____, 2018.

PASSED and ADOPTED this ____ day of _____, 2018.

ATTEST:

Dan Gelber
Mayor

Rafael E. Granado
City Clerk

Underline denotes additions
~~Strikethrough~~ denotes deletions

(Sponsored by Commissioner John Elizabeth Alemán)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

2018
City Attorney

4-26-18
Date

NK