


COMMISSION MEMORANDUM

TO: Mayor Dan Gelber
Members of the City Commission

FROM: Rafael A. Paz, City Attorney 

DATE: July 26, 2023

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 82 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE V, ENTITLED "BEACHES," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," BY CREATING SECTION 82-444 THEREOF, ENTITLED "LOITERING PROHIBITED IN BEACH ACCESS AREAS," BY ESTABLISHING TIME LIMITS FOR PERSONS LOITERING WITHIN A SPECIFIED DISTANCE FROM BEACH ACCESS POINTS, IN ORDER TO ENSURE THAT SUCH AREAS REMAIN CLEAR AND UNOBSTRUCTED TO PROVIDE RESIDENTS AND VISITORS UNIMPEDED INGRESS AND EGRESS ACCESS TO THE BEACH, ALONG WITH REMEDIATING THE UNNECESSARY CONGESTION AT HEAVILY UTILIZED PORTIONS OF THE BEACHWALK; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

The proposed Ordinance (the "Ordinance"), sponsored by Commissioner Alex J. Fernandez, is submitted for first reading at the July 26, 2023 City Commission meeting.

On any given day, thousands of visitors enjoy the use of the City's beaches and the recently completed Beachwalk, an immensely popular shared use path utilized by joggers, walkers, bicyclists and others. However, the high utilization of the Beachwalk, in conjunction with the intersecting east-west pathways which provide access to the beach, contributes to frequent conflicts among beachgoers, bicyclists, joggers, and pedestrians. Individuals loitering and obstructing the beach access areas significantly compound these problems, and interfere with the primary purpose of allowing the public to experience safe and unimpeded ingress and egress to the beach and the Beachwalk. Moreover, the City continually receives complaints concerning various issues and public disturbances taking place in the beach access areas.

Accordingly, the proposed Ordinance, which was discussed and unanimously approved at the July 12, 2023 Public Safety and Neighborhood Quality of Life Committee meeting, would advance the City's objective of ensuring Beachwalk safety and unimpeded ingress and egress to the beach, and would prohibit people from loitering within designated beach access points. The designated beach access points (which will be marked with signage) and the prohibition on loitering within 100 feet of such designated access points for more than 10 consecutive minutes, would be a criminal ordinance violation subject to prosecution by the City's Municipal Prosecution Team and punishable by up to sixty (60) days in jail and/or a \$500 fine.

The Police Department will retain discretion to issue warnings in their enforcement of the Ordinance, while still actively ensuring that the beach access areas remain unobstructed in order to provide the public with unimpeded ingress and egress to the beach, in conjunction with remediating the heavy congestion at beach access points along the Beachwalk.

RAP/MAF/bhs