

MIAMI BEACH

Rafael A. Paz, City Attorney

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Steven Meiner
Members of the City Commission

FROM: Rafael A. Paz, City Attorney



DATE: January 31, 2024

SUBJECT: 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 I, ENTITLED "IN GENERAL," BY AMENDING SECTION 70-1 THEREOF, ENTITLED "STATE MISDEMEANORS," BY REPEALING SUBSECTION (b) THEREOF, WHICH PROVIDES CIVIL PENALTIES FOR THE POSSESSION OF CANNABIS (MARIJUANA) IN AN AMOUNT OF 20 GRAMS OR LESS AND POSSESSION OF DRUG PARAPHERNALIA; 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 January 31, 2024 City Commission meeting.

In 2015, the Mayor and City Commission adopted Ordinance No. 2015-3950, which established an alternative civil enforcement option for the State misdemeanor offenses of possession of cannabis in the amount of 20 grams or less, and the possession of drug paraphernalia. Pursuant to Ordinance No.2015-3950, which is now codified in Section 70-1(b) of the City Code, the Miami Beach Police Department has the discretion to issue a \$100 civil citation, in lieu of arresting a person, for the commission of those two (2) State law misdemeanor offenses. Despite this available alternative enforcement mechanism, in the approximately nine (9) years since its adoption, MBPD has only issued about ten (10) such civil citations.

Moreover, in 2018, the City Commission established the City's own Municipal Prosecution Program, which is the only one of its kind in Miami-Dade County, and subsequent City Commissions have expanded the staffing and scope of the City's Municipal Prosecution Program by adding additional municipal prosecutors, and expanding the criminal offenses that may be charged and prosecuted by the City's Municipal Prosecution Team.

Accordingly, Commissioner Fernandez proposes that the City Commission repeal Ordinance No. 2015-3950 and remove the civil citation option, considering MBPD's highly limited usage of the civil citation option, and the overall policy shift of the City Commission towards more robustly enforcing and prosecuting quality of life offenses occurring within the City, including the offense of smoking marijuana or hemp on public property, a violation of the City's criminal laws, which are prosecuted by the City's Municipal Prosecution Team.

Commissioner Fernandez also proposes that the Administration actively promote this legislative initiative as part of the City's communications strategy relating to Spring Break, to send the message to the general public that "the party is over" and the smoking of marijuana in public will not be tolerated.

RAP/MAF/bhs