

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: September 11, 2024 10:25 a.m. Second Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE CITY CODE, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE II, ENTITLED "PUBLIC PLACES," BY AMENDING SECTION 70-45, ENTITLED "CAMPING PROHIBITED," BY AMENDING THE CITY'S EXISTING PROHIBITION ON CAMPING BASED UPON THE RECENT RULING OF THE SUPREME COURT OF THE UNITED STATES IN *CITY OF GRANTS PASS, OREGON V. GLORIA JOHNSON ET AL.*, 144 S.C.T. 2202 (2024), AND THE ENACTMENT OF FLORIDA STATUTE § 125.0231, ENTITLED "PUBLIC CAMPING AND PUBLIC SLEEPING," WHICH TAKES EFFECT ON OCTOBER 1, 2024; AND WITH PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

### **RECOMMENDATION**

### **BACKGROUND/HISTORY**

### **ANALYSIS**

The proposed Ordinance, sponsored by Vice-Mayor Alex Fernandez and Mayor Steven Meiner, is submitted for consideration by the Mayor and City Commission.

The City's current camping ordinance, which is codified in section 70-45 of the City Code, sets forth the policy of the City of Miami Beach that public property (including, but not limited to, public sidewalks, streets, alleyways, buildings, parks, beaches, beach access areas, walkways, pathways, garages, promenades, and pedestrian malls) should be readily accessible and available for use by residents, visitors and the public at large for their safe enjoyment. However, the use of public areas by individuals for camping interferes with the rights of residents, visitors, and the public to freely use public spaces for the purpose in which they were intended.

Moreover, courts have held that the prohibition on camping in public places furthers the legitimate governmental interests of protecting the public health and the safety of all persons, maintaining sanitation in public areas, and protecting the aesthetic nature of public areas, among other legitimate governmental interests.

To that end, on June 28, 2024, the Supreme Court of the United States in *City of Grants Pass, Oregon v. Gloria Johnson et al.*, 144 S. Ct. 2202 (2024) ruled that an Oregon city's anti-camping ordinance did not violate the "cruel and unusual punishment" clause of the U.S. Constitution's Eighth Amendment despite the fact that Grants Pass did not have adequate shelter beds for its homeless population. Furthermore, Florida Statute § 125.0231, which becomes effective Oct. 1, 2024, prohibits a county or municipality from authorizing or otherwise allowing any person to

regularly engage in public camping or sleeping on any public property including, but not limited to, any public building or its grounds and any public right-of-way.

The proposed Ordinance amends the City's existing camping prohibition by incorporating terms from Fla. Stat. § 125.0231, in a manner consistent with the *Grants Pass* decision, and effectively prohibits camping or sleeping out-of-doors on public property. However, the proposed Ordinance retains the requirement that if an individual without a permanent shelter is found to be in violation of the Ordinance, then such person must be given an opportunity to voluntarily enter a homeless shelter or similar facility within Miami-Dade County, or to accept other available government assistance that would result in housing. The proposed Ordinance provides that only if the offer of shelter is refused, or the person is ineligible for shelter placement due to his or her own past or present conduct, may an arrest be effectuated.

The proposed Ordinance, which has been slightly modified for second reading to expand the scope and timing of conduct that would constitute public camping (in a manner not inconsistent with the *Grants Pass* decision), still retains the requirement that only if a homeless person refuses an offer of shelter (or is ineligible for shelter placement) may such person be arrested for violating the Ordinance.

#### **FISCAL IMPACT STATEMENT**

N/A.

**Does this Ordinance require a Business Impact Estimate?** Yes  
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on 8/23/2024.  
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

#### **FINANCIAL INFORMATION**

#### **CONCLUSION**

##### **Applicable Area**

Citywide

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?**

No

**Is this item related to a G.O. Bond Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

**Department**

City Attorney

**Sponsor(s)**

Commissioner Alex Fernandez  
Mayor Steven Meiner

**Co-sponsor(s)**

Commissioner Joseph Magazine  
Commissioner David Suarez

**Condensed Title**

10:25 a.m. 2nd Rdg, Ch. 70, Camping Prohibited. (Fernandez/Meiner/Magazine/Suarez) CA