

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 82 OF THE MIAMI BEACH CITY CODE, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE III, ENTITLED "USE OF PUBLIC PROPERTY," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," BY AMENDING SECTION 82-73 THEREOF, ENTITLED "BALLOONS PROHIBITED AT PUBLIC MARINAS, MARINE FACILITIES, PARKS, AND BEACHES" TO INCREASE THE CIVIL PENALTIES AND SPECIFY RESPONSIBLE PARTIES FOR VIOLATIONS IN ORDER TO DETER HARMFUL LITTERING AND PROTECT MARINE AND COASTAL WILDLIFE; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach is committed to the preservation and protection of its marine environment; and

WHEREAS, balloons that are released into the environment pose a threat to marine life, birds, and other wildlife; and

WHEREAS, the City acknowledges the potential risk of balloons causing environmental pollution, obstructing waterways, and compromising the aesthetic appeal of the marinas, marine facilities, and the waterways (including Biscayne Bay); and

WHEREAS, studies have shown that balloons, particularly those made of non-biodegradable materials such as mylar, can persist in the environment for extended periods of time, contributing to pollution and ecological disruption; and

WHEREAS, the City recognizes the importance of fostering public awareness regarding the detrimental effects of balloon use in marine areas and endeavors to encourage responsible practice; and

WHEREAS, pursuant to Fla. Stat. 379.233, the State of Florida has already prohibited the release of 10 or more balloons inflated with a gas that is lighter than air within any 24-hour period; and

WHEREAS, pursuant to Fla. Stat. 403.161 of Chapter 403, entitled "Environmental Control," the State of Florida has also prohibited any person from causing any pollution so as to harm or injure human health or welfare, animal, plant or aquatic life or property; and

WHEREAS, on January 31, 2024, the Mayor and City Commission adopted Ordinance No. 2024-4590 prohibiting the use or possession of balloons at public marinas, beaches, marine facilities, or parks to prevent environmental pollution, avert the unnecessary obstruction of waterways, and avoid denigrating the aesthetics of the waterways and its marinas, marine facilities, parks, and beaches; and

WHEREAS, the Mayor and City Commission wish to amend Ordinance No. 2024-4590 to increase the civil penalties and to expand the scope of liability for violations in order to further deter harmful littering and protect marine and coastal wildlife.

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

SECTION 1. That Section 82-73 of the City Code shall be amended as follows:

CHAPTER 82

PUBLIC PROPERTY

* * *

ARTICLE III. USE OF PUBLIC PROPERTY

* * *

DIVISION 1. GENERALLY

* * *

Sec. 82-73. Balloons prohibited at public marinas, marine facilities, parks, and beaches.

- (a) *Purpose.* This section is enacted to protect the marine environment, wildlife, aesthetics, and public safety by prohibiting the possession or use of balloons at all public marinas, public marine facilities, and public parks and beaches in the city.
- (b) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Balloon means an inflatable object made of any material, including, but not limited to rubber, latex polychloroprene, BoPET, metalized plastic or nylon fabric, that can be filled with gas or air, and is typically sealed at the neck and tethered, but shall not include inflatable items commonly used in the water, or at the park or beach, such as rafts, toys, or balls.

Marina means any installation which provides any accommodations or facilities for watercraft, including mooring, docking, storing, leasing, sale, rental, or servicing of watercraft, located in the waters of the city.

Marine facility means any device, structure, building or component of a marina.

- (c) *Prohibition.* ~~(1)~~ No person or entity shall possess or use a balloon at the following locations:

(1) at any public marina or public marine facility; or

(2) at any public park, or public beach.

~~(2) This prohibition applies to all types of balloons including, but not limited to, those made of latex, mylar or any other material. Vessel operators shall be liable for a~~

violation of the foregoing prohibition if any balloons are present on the vessel in the possession, custody, or control, of any crew member, passenger, or other person.

(d) *Enforcement and penalties.*

- (1) Notice of violation. If a code compliance officer (which term specifically includes all law enforcement officers) observes a violation of this section, the officer shall issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special magistrate within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.
- (2) Written warnings. Unless a written warning has been previously issued to the violator in the preceding 12 months, a code inspector may, in lieu of issuing a notice of violation, first issue a written warning to the violator to cease the violation by either:
 - a. Immediately popping and disposing of all balloons being possessed or used on the prohibited public property in an appropriate trash receptacle; or
 - b. Immediately removing all balloons being possessed or used on the prohibited public property from any public marina, public marine facility, public park or public beach.

The written warning shall be substantially in the same form as the notice of violation as set forth in subsection 82-73(d)(1) above. The failure to correct the violation within ten minutes following the issuance of a written warning shall result in the issuance of a notice of violation pursuant to this section.

- (3) A violator who has been served with a notice of violation must elect to either:
 - a. Request an administrative hearing before a special magistrate to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal; or
 - b. Pay the applicable civil fine:
 - i. For a violation of subsection 82-73(c)(1):
 1. First violation by a person or entity within a 12-month period shall be a civil fine of \$250 for each balloon up to a maximum total fine of \$1,000.00;
 2. Second or subsequent violation by a person or entity within a 12-month period shall be a civil fine of \$1,250.00 for each balloon up to a maximum total fine of \$5,000.00;

ii. For a violation of subsection 82-73(c)(2):

1. First violation by a person or entity within a 12-month period shall be a civil fine of \$100.00 for each balloon up to a maximum total fine of \$1,000.00;
2. Second violation by a person or entity within a 12-month period shall be a civil fine of \$250.00 for each balloon up to a maximum total fine of \$2,500.00;
3. Third violation by a person or entity within a 12-month period shall be a civil fine of \$500.00 for each balloon up to a maximum total fine of \$5,000.00;
4. Fourth or subsequent violation by a person or entity within a 12-month period shall be a civil fine of \$1,000.00 for each balloon up to a maximum total fine of \$5,000.00.

~~b. Request an administrative hearing before a special magistrate to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.~~

- (4) Failure to pay the civil fine, or to timely request an administrative hearing before a special magistrate, shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
 - (5) 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, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After three months following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien for the amount of the lien plus accrued interest.
 - (6) The special magistrate shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation. The special magistrate shall not have discretion to alter the penalties prescribed in this article. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.
- (e) *Public awareness.* The city shall undertake a public awareness campaign to inform residents, businesses, and visitors about the prohibition on balloon possession or use at public marinas, public marine facilities, public parks, and public beaches.

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 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 on the ____ day of _____, 2025.

PASSED AND ADOPTED this ____ day of _____, 2025.


ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Vice-Mayor David Suarez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

6/15/2025
Date