

3. DISCUSS INCREASE IN GRAFFITI AND STICKERING ACROSS THE CITY OF MIAMI BEACH  
Applicable Area:

# MIAMI BEACH

## COMMITTEE MEMORANDUM

TO: Public Safety and Neighborhood Quality of Life Committee Members

FROM: Eric Carpenter, City Manager

DATE: April 9, 2025

TITLE: DISCUSS INCREASE IN GRAFFITI AND STICKERING ACROSS THE CITY OF MIAMI BEACH

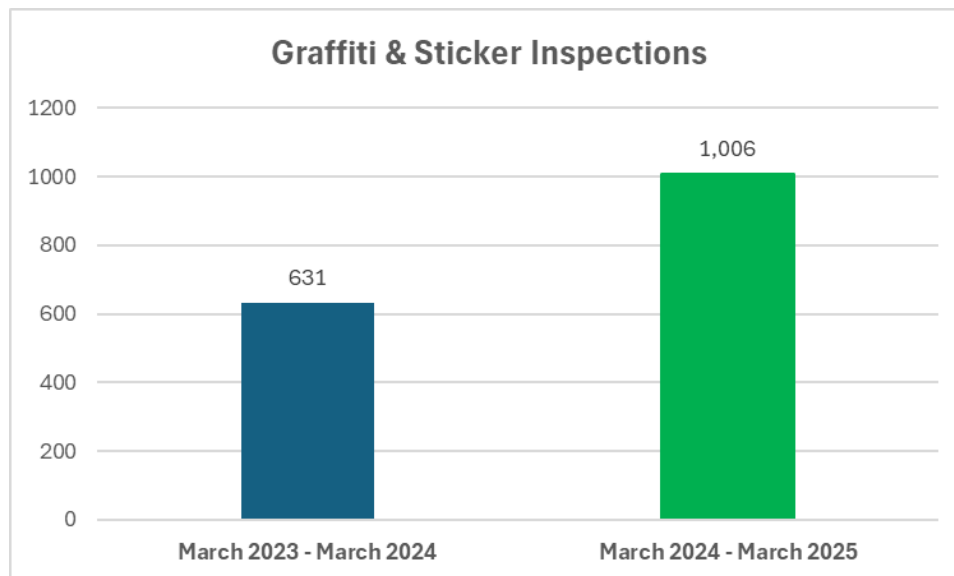
### **RECOMMENDATION**

The Administration will address the increasing issue of graffiti and sticker tagging on public property by having our neighborhood Code Compliance Officers (CCO) assigned in North, Middle, and South Beach prioritize these violations while patrolling. The CCOs will work closely with our Facilities and Fleet Department to ensure the prompt removal of graffiti and stickers.

### **BACKGROUND/HISTORY**

At the February 26, 2025 City Commission meeting at the request of Commissioner Kristen Rosen Gonzalez, the Mayor and City Commission approved a referral to the Public Safety and Neighborhood Quality of Life Committee (PSNQLC) to discuss the increase in graffiti and stickering across the City of Miami Beach.

### **ANALYSIS**



From March 2023 to March 2025, Code Compliance referred 207 incidents to Facilities and Fleet for graffiti and sticker removal on public properties.

Graffiti and sticker tagging have become a persistent issue on public property across Miami Beach. By prioritizing graffiti and sticker patrols throughout the City and coordinating with our Facilities and Fleet Department for immediate clean up, we can maintain a cleaner and more

visually appealing environment. Issuing citations when violators can be identified will serve as a deterrent, discouraging future infractions.

Graffiti is a crime and Police has recently made significant arrests of persons tagging throughout the City.

### **FISCAL IMPACT STATEMENT**

N/A

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

The Business Impact Estimate (BIE) was published on .

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

### **FINANCIAL INFORMATION**

### **CONCLUSION**

This initiative will enhance the cleanliness and aesthetic appeal of Miami Beach while reinforcing our commitment to maintaining public spaces. Through dedicated enforcement and collaboration with our Facilities and Fleet Department, we aim to reduce graffiti and sticker tagging incidents. Staff will be present to discuss the existing fine schedule as well as the recent amendments to the ordinance shortening the time to cure unsightly graffiti.

### **Applicable Area**

Citywide

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

Yes

### **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**

Code Compliance

### **Sponsor(s)**

Commissioner Kristen Rosen Gonzalez

### **Co-sponsor(s)**

## **Condensed Title**

Disc. Increase in Graffiti and Stickers Across CMB (KRG)

## ***DIVISION 1. GENERALLY***

### **Sec. 70-121. Graffiti declared a nuisance.**

The creating or maintaining of the unauthorized application of paint, ink, chalk, dye, felt tip or indelible marker, or any nonwater-soluble substance, or the applying or affixing of other inscribed or engraved materials, including posters, placards, and flyers of any size and type, on public or private structures located on publicly or privately owned real property in the city is hereby declared to be nuisance.

(Ord. No. 2009-3640, § 1, 5-13-09)

### **Sec. 70-122. Definitions.**

Unless it is apparent from the context that another meaning is intended, the following, when used in this article, shall have the meanings attributed to them by this section:

*Abatement* means the repair, rehabilitation, demolition or removal of a public nuisance.

*Broad-tipped indelible marker* means any indelible marker that is capable of leaving a mark that is not water soluble and which has a flat or angled writing surface one-half-inch or greater.

*City's agent* means an independent contractor performing graffiti abatement for the city.

*Code compliance officer* means any designated employee or person hired by the city acting as an agent of the city whose duty it is, or who is authorized, to enforce codes and ordinances enacted or adopted by the city.

*Commercial property* means property that is used for business, commercial, or for-profit purposes. It shall be prima facie evidence that a property is commercial if it is located in a business, commercial, office, apartment, hotel or industrial zoning district. "Commercial property" shall include nonpermanent structures such as trailers, dumpsters, traffic signs, barricades, utility poles, traffic signal boxes, and construction equipment. "Commercial property" shall not include:

- (1) Single-family homes or residential property of three or less units;
- (2) Property owned by governments;
- (3) Property used for nonprofit purposes by educational institutions, charities, or religious institutions.

*Corrective action* means an act required to remove or effectively obscure graffiti that is visible from the right-of-way.

*Director* means the director of the department designated by the city manager to enforce and administer this article or the director's designated representative.

*Etching* means the application of graffiti by using a hard or sharp object or etching acid on glass or on any other type of natural or human-made material or surface.

*Etching acid* means any liquid, substance, or chemical capable of etching, corroding, destroying, or leaving a permanent mark on any natural or human-made surface or material.

*Graffiti* means the unauthorized application or inscription of any word, figure, graphic design, marking, or defacement that is applied by etching or paint, ink, chalk, dye, broad-tipped indelible marker, crayon or any

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nonwater soluble substance, or by any graffiti implement, or by applying or affixing inscribed or engraved materials, including posters, placards and flyers of any size and type on public or private property, structures, or fixtures located on publicly or privately owned real property within the city.

*Grffiti implement* means any broad-tipped indelible marker, aerosol paint container, gummed label, paint stick, graffiti stick, etching equipment, brush or any other type of device, instrument, liquid, substance, or etching acid capable of leaving a visible mark on any natural or human-made surface or material.

*Minor* means any person who has not attained the age of 18 years.

*Noncommercial property* means all property that is not included in the definition of commercial property in this section.

*Nonpermanent structures* means trailers, dumpsters, traffic signs, barricades, utility poles, traffic signal boxes, and construction equipment.

*Nuisance* means anything injurious to health so as to interfere with the comfortable enjoyment of life or property, which nuisance affects at the same time an entire community or neighborhood, or any considerable numbers of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

*Owner* means any and all persons with legal and/or equitable title to real property in the city as their names and addresses are shown upon the records of the Miami-Dade County Property Appraiser.

*Public right-of-way* means any road, parkway, alley, swale, sidewalk, baywalk, beachwalk, cutwalk, boardwalk, easement or other public way.

*Supervising adult* means an individual 21 years of age or older who has been given responsibility by a minor's parents, legal guardian, or other lawful authority to supervise the minor.

(Ord. No. 2009-3640, § 1, 5-13-09)

## **Sec. 70-123. Prohibitions; enforcement; and penalties.**

- (a) *Prohibitions.* It shall be unlawful for any person to deface, destroy, or otherwise damage private or public property without the owner's consent, by or through the application of graffiti. In addition, a violation of Florida law prohibiting criminal mischief by the placement of graffiti shall be a violation of this section.
- (b) *Enforcement by code compliance officer; notice of violation.* If a code compliance officer finds a violation of this article, the 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 and other penalties for which the violator may be liable, instructions and due date for paying the fine and completing the voluntary community service, notice that the violation may be appealed by requesting an administrative hearing within 20 days after service of the notice of violation, and that failure to do so shall constitute an admission of the violations and waiver of the right to request a hearing.
- (c) (1)*Civil fines and penalties for violators.* ..... The following civil fines and penalties shall be imposed for each violation of this section:
  - a. First offense\$250.00.
  - b. Second offense (within one year of the first offense)500.00.
  - c. Third or more offenses (within one year of the first offense)1,000.00.

In lieu of a fine, the special magistrate may accept voluntary community service removing graffiti in the city equivalent to one hour of community service for each \$5.00 of an imposed fine and voluntary restitution. If the community service is not completed and the restitution is not paid within six months of an adjudication of guilt, the fine shall be reinstated.

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- (2) *Criminal fines and penalties.* In addition to the above civil fines and penalties, a court may impose both civil fines and penalties, restitution, not less than 40 hours and, if possible, at least 100 hours of community service that involves the removal of graffiti in the city, and imprisonment for up to six months in accordance with the requirements of state law.
- (d) *Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal.*
- (1) A violator who has been served with a notice of violation shall elect either to:
- Pay the civil fine in the manner indicated on the notice; or
  - Request an administrative hearing before a special magistrate to appeal the notice of violation within 20 days of the issuance of the notice of violation.
- (2) The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73.
- (3) If the named violator after notice fails to pay the civil fine, or fails to timely request an administrative hearing before a special magistrate, the special magistrate shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision 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 magistrate. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, and fines and penalties may be assessed accordingly.
- (4) As an alternative to the procedures set forth in subsections(d)(1)—(d)(3), the city may request an administrative hearing pursuant to sections 30-71 through 30-79 if the violation is irreparable or irreversible in nature. In such case, the fines and penalties in said sections shall apply.
- (5) Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.
- (e) *Recovery of unpaid fines; unpaid fines to constitute a lien; foreclosure.*
- (1) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.
- (2) 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 lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.
- (f) *Injunctive relief; license or certificate of use revocation.* As an additional means of enforcement, the city may seek injunctive relief and/or revoke an occupational license/certificate of use as set forth in chapters 14 and 18 of this Code when there are more than three offenses by the same violator within one year of the first offense.
- (g) *Liability of parents or legal guardians.* In the case of a minor, the parents or legal guardians shall be jointly and severally liable with the minor for the payment of all fines. Failure of the parents or legal guardian to pay any fines will result in the filing of a lien on the real property of the parents or legal guardians, which lien shall include all administrative costs.

(Ord. No. 2009-3640, § 1, 5-13-09; Ord. No. 2021-4431, 7-28-21)

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**Sec. 70-124. Possession of spray paint and broad-tipped indelible markers; enforcement; penalties.**

- (a) *[Intent to make graffiti.]* Possession of spray paint and broad-tipped indelible markers with intent to make graffiti is prohibited.
- (b) *[Minor on public property.]* Possession of spray paint and broad-tipped indelible markers by minors on public property is prohibited. No person under the age of 18 shall have in his or her possession any aerosol container of spray paint or broad-tipped indelible marker while on any public property, or right-of-way, except in the company of a supervising adult.
- (c) *[Minors on private property.]* Possession of spray paint and broad-tipped indelible markers by minors on private property is prohibited without the consent of the owner. No person under the age of 18 shall have in his or her possession any aerosol container of spray paint or broad-tipped indelible marker while on any private property unless the owner, agent, manager, or person(s) in possession of the property have knowledge of the minor's possession of the aerosol container or broad-tipped indelible marker and have consented to the minor's possession while on his or her property.
- (d) *(1) Civil fines and penalties for violators. ....* The following civil fines and penalties shall be imposed for each violation of this section:

- a. First offense \$125.00
- b. Second offense (within one year of the first offense) 250.00
- c. Third or more offenses (within one year of the first offense) 500.00

In lieu of a fine, the special magistrate may accept voluntary community service removing graffiti in the city equivalent to one hour of community service for each \$5.00 of an imposed fine and voluntary restitution. If the community service is not completed and the restitution is not paid within six months of an adjudication of guilt, the fine shall be reinstated.

- (2) *Criminal fines and penalties.* In addition to the above civil fines and penalties, a court may impose both civil fines and penalties, restitution, not less than 40 hours and, if possible, at least 100 hours of community service that involves the removal of graffiti in the city, and imprisonment for up to six months in accordance with the requirements of state law.
- (e) *Rights of violators; payment of fine; right to appeal; failure to pay civil fine or to appeal.*
  - (1) A violator who has been served with a notice of violation shall elect either to:
    - a. Pay the civil fine in the manner indicated on the notice; or
    - b. Request an administrative hearing before a special magistrate to appeal the notice of violation within 20 days of the issuance of the notice of violation.
  - (2) The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73.
  - (3) If the named violator after notice fails to pay the civil fine, or fails to timely request an administrative hearing before a special magistrate, the special magistrate shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision 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 magistrate. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, and fines and penalties may be assessed accordingly.

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- (4) Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.
- (f) *Recovery of unpaid fines; unpaid fines to constitute a lien; foreclosure.*
- (1) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.
- (2) 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 lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.
- (g) *Injunctive relief; license or certificate of use revocation.* As an additional means of enforcement, the city may seek injunctive relief and/or revoke an occupational license/certificate of use as set forth in chapters 14 and 18 of this Code when there are more than three offenses by the same violator within one year of the first offense.
- (h) *Liability of parents or legal guardians.* In the case of a minor, the parents or legal guardians shall be jointly and severally liable with the minor for the payment of all fines. Failure of the parents or legal guardian to pay any fines will result in the filing of a lien on the real property of the parents or legal guardians, which lien shall include all administrative costs.
- (Ord. No. 2009-3640, § 1, 5-13-09; Ord. No. 2021-4431, 7-28-21)

## **Sec. 70-125. Responsibility of property owner(s) to abate graffiti; graffiti abatement and notice; enforcement.**

- (a) (1) Maintenance or allowance of graffiti to exist for more than 48 hours from the receipt or delivery of the notice to abate graffiti as referenced within this section, on either a commercial or noncommercial property is prohibited.
- (2) Maintenance or allowance of etched graffiti to remain visible to public view for more than 48 hours, or to exist for more than ten business days from the receipt or delivery of the notice to abate graffiti as referenced within this section, on either a commercial or noncommercial property is prohibited.
- (b) Whenever the city becomes aware of the existence of graffiti on any property, a code compliance officer is authorized upon such discovery to give, or cause to be given, notice to conceal and abate the graffiti to the property owner or the property owner's agent or manager, as follows:
- (1) *Commercial property.* For commercial property, the property owner or the property owner's agent or manager shall abate the graffiti within 48 hours from the receipt or delivery of the notice as referenced within this section, except that etched graffiti shall be completely concealed from public view with an opaque covering within 48 hours and shall be abated within ten business days from the receipt or delivery of the notice as referenced within this section.
- (2) *Noncommercial property.* For noncommercial property, the property owner, or property owner's agent shall abate the graffiti Within 48 hours from the receipt or delivery of the notice as referenced within this section, except that etched graffiti shall be completely concealed from public view with an opaque covering within 48 hours and shall be abated within ten business days from the receipt or delivery of the notice as referenced within this section.
- (c) Such notice shall be given by:

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- (1) a. Certified mail, return receipt requested to the property owner, or registered agent, of record (which mailed notice shall be deemed complete and sufficient notice when so deposited in the United States mail with proper postage prepaid); or
    - b. Hand delivery by code compliance officer to the owner of record of the property, any person residing at the property who is above 15 years of age, or the property owner's agent, manager or other person in charge of the premises, and informing such person of the contents of the notice; and
  - (2) Conspicuously posting such notice at the property.
  - (d) The city shall waive painting permit requirements for abating graffiti, subject to the use of the same, or substantially same, colored exterior paint, provided that the existing paint complies with all city requirements.
  - (e) Graffiti abatement shall consist of:
    - (1) Painting of the entire area defaced by graffiti with paint matching, or substantially matching, the permitted paint color on the surface, regardless of whether the city has temporarily abated the graffiti with a different paint color;
    - (2) Pressure-cleaning or cleaning by any other method that will successfully remove graffiti from the area defaced by the graffiti without causing damage; or
    - (3) Professional glass restoration or replacement of glass for etched graffiti to completely remove the graffiti.
  - (f) The property owner is responsible for ensuring compliance with sections 142-1191 through 142-1193 of the City Code and a violation of those sections shall be enforced pursuant to sections 114-7 through 114-8. In addition, the property owner is responsible for ensuring compliance with subsections 70-125(a), (b), and (e) and a violation of those subsections shall be enforced pursuant to chapter 30 of the City Code.
- (Ord. No. 2009-3640, § 1, 5-13-09; Ord. No. 2011-3719, § 1, 2-9-11; Ord. No. 2022-4508, § 1, 9-14-22)

#### **Sec. 70-126. Appeal.**

- (a) A property owner who has been served with the notice set forth in section 70-125 shall elect either to:
  - (1) Remove or cause to remove the graffiti within the time specified on the notice; or
  - (2) Request an administrative hearing before the special magistrate to appeal the determination of the inspector which resulted in the issuance of the notice.
- (b) An appeal for an administrative hearing shall be held before the special magistrate and shall be accomplished by filing a request in writing to set the hearing for review and mailed to the code compliance officer or designee not later than two business days after the service of the notice. The remainder of the appeal procedures, and penalty and lien provisions, will be in accordance with sections 30-72 through 30-79 of the Code.

(Ord. No. 2009-3640, § 1, 5-13-09; Ord. No. 2021-4431, 7-28-21; Ord. No. 2022-4508, § 1, 9-14-22)

#### **Sec. 70-127. Cost of graffiti removal as lien on property; collection foreclosure and sale.**

- (a) Upon failure of the owner of the property to timely remedy the conditions existing in violation of section 70-125, the code compliance officer shall proceed to have such condition remedied by the city and/or city agent in an effort to abate the nuisance.

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- (b) City employees and/or the city's agents may enter upon private property to abate the nuisance pursuant to the provisions of this article. No person shall obstruct, impede, or interfere with any city employee and/or city's agent whenever said person is engaged in the work of graffiti abatement pursuant to this article, or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant to this article.
  - (c) Following corrective action taken by the city or city's agent, the code compliance officer shall proceed to have all cost(s) incurred, if such cost(s) remain unpaid, become a lien against the property 30 days after notice of completion of work by the city or the date the city prevails in any appeal against the property owner, whichever is later. Said lien shall be of equal dignity with a lien for special assessments, and with the same penalties and with the same rights of collection, foreclosure, sale and forfeiture provided for special assessment liens.

(Ord. No. 2009-3640, § 1, 5-13-09; Ord. No. 2022-4508, § 1, 9-14-22)

**Sec. 70-128. Interested persons may petition to dispute assessed costs.**

- (a) Any person owning property which has been found to be in violation of this article, and upon which remedial work by the city has been done shall have the right, at any time within 30 days after notice of completion of work under this article, to present to the city clerk a sworn petition stating his or her interest in the property and alleging that in the opinion of the petitioner, the cost of the work exceeds the actual cost thereof or is otherwise erroneous.
- (b) Such petition shall be presented to the special magistrate for consideration. The special magistrate may fix and confirm the amount to be charged based on the information presented.

(Ord. No. 2009-3640, § 1, 5-13-09; Ord. No. 2021-4431, 7-28-21)

**Secs. 70-129—70-145. Reserved.**

C4 W REFERRAL TO THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE  
COMMITTEE TO DISCUSS INCREASE IN GRAFFITI AND STICKERING ACROSS  
THE CITY OF MIAMI BEACH.

Applicable Area:

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Commissioner Kristen Rosen Gonzalez

DATE: February 26, 2025

TITLE: REFERRAL TO THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE TO DISCUSS INCREASE IN GRAFFITI AND STICKERING ACROSS THE CITY OF MIAMI BEACH.

### **RECOMMENDATION**

### **BACKGROUND/HISTORY**

The past few years we have seen a proliferation of graffiti and “sticker tagging” on causeways and public rights of way in Miami Beach, especially in commercial tourism areas like the entertainment district on South Beach. In order to clean this up, we are suggesting that cleaning resources be allocated to only graffiti and tagging in Miami Beach. Either a few code compliance officers could be directed to only look for graffiti and “sticker tagging” and work in conjunction with public works, or a public works team that is dedicated to painting over graffiti and sticker removal. We would also like suggestions as to how we could strengthen our code and raise fines for illegal “sticker tagging”.

### **ANALYSIS**

### **FISCAL IMPACT STATEMENT**

NA

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

If applicable, the Business Impact Estimate (BIE) was published on:  
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?**

Yes

**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**

Office of Commissioner Kristen Rosen Gonzalez

**Sponsor(s)**

Commissioner Kristen Rosen Gonzalez

**Co-sponsor(s)**

**Condensed Title**

Ref: PSNQLC - Increase in Graffiti and Stickers Across City of Miami Beach. (Rosen Gonzalez)

**Previous Action (For City Clerk Use Only)**