

R5 M AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70, ENTITLED "MISCELLANEOUS OFFENSES"; ARTICLE I, ENTITLED "IN GENERAL"; SECTION 70-8, ENTITLED "APPROACHING A LAW ENFORCEMENT OFFICER, AFTER WARNING, WITH INTENT TO IMPEDE, PROVOKE OR HARASS" TO PROVIDE PROTECTION FOR MORE CITY FIRST RESPONDERS AND BRING LANGUAGE INTO COMPLIANCE WITH SEC. 843.21, FLA. STAT.; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: October 30, 2024 11:05 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, ENTITLED "MISCELLANEOUS OFFENSES"; ARTICLE I, ENTITLED "IN GENERAL"; SECTION 70-8, ENTITLED "APPROACHING A LAW ENFORCEMENT OFFICER, AFTER WARNING, WITH INTENT TO IMPEDE, PROVOKE OR HARASS" TO PROVIDE PROTECTION FOR MORE CITY FIRST RESPONDERS AND BRING LANGUAGE INTO COMPLIANCE WITH SEC. 843.21, FLA. STAT.; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

BACKGROUND/HISTORY

ANALYSIS

The proposed Ordinance was approved on first reading. No changes have been made between first and second reading.

On April 12, 2024, Governor Ron DeSantis signed into law Senate Bill 184 (SB 184), which created Sec. 843.21, Fla. Stat., and provided, effective January 1, 2025, that an individual who approaches a limited list of first responders, with specified intent, is guilty of a misdemeanor of the second degree.

City of Miami Beach first responders, which include law enforcement officers, detention officers, firefighters, emergency medical providers, parking enforcement specialists, code compliance officers, and park rangers, serve a critical and essential role in keeping our community safe and should be protected similarly to the list of first responders provided in Sec. 843.21, Fla. Stat.

The work of the City's first responders is of great importance and, as such, there exists a need to maintain and improve the safety, security and working conditions of these officers and those they seek to protect.

The City's first responders, while engaged in the lawful performance of their legal duties, continue to encounter individuals who, after receiving warnings not to do so, violate such warnings and approach or remain within close proximity of the first responder(s), with no regard for the first responders' personal safety and no consideration for the first responders' responsibility to maintain public safety, order and social peace.

Certain individuals who fail to heed such warnings not to approach a first responders in the lawful performance of a legal duty, occasionally intend to provoke a physical response from first responders, hinder first responders' performance of their legal duties or incite the crowd surrounding such first responders.

Threats to the life and safety of first responders and the protection of the right to life, liberty and security of the persons in the surrounding area (and potentially, any arrestee) must be seen as imperative to the stability of society as a whole.

By extending the protections offered in new Sec. 843.21, Fla. Stat., to law enforcement officers, detention officers, firefighters, emergency medical providers, parking enforcement specialists, code compliance officers, and park rangers, this proposed Ordinance will advance the important public safety goals of the City and protect the well-being of our dedicated first responders.

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: 10/11/2024
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

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 David Suarez

Co-sponsor(s)

Commissioner Joseph Magazine
Commissioner Alex Fernandez

Condensed Title

11:05 a.m. 2nd Rdg, Approaching First Responder with Specified Intent.
(Suarez/Magazine/Fernandez) CA

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70, ENTITLED "MISCELLANEOUS OFFENSES"; ARTICLE I, ENTITLED "IN GENERAL"; SECTION 70-8, ENTITLED "APPROACHING A LAW ENFORCEMENT OFFICER, AFTER WARNING, WITH INTENT TO IMPEDE, PROVOKE OR HARASS" TO PROVIDE PROTECTION FOR MORE CITY FIRST RESPONDERS AND BRING LANGUAGE INTO COMPLIANCE WITH SEC. 843.21, FLA. STAT.; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, on April 12, 2024, Governor Ron DeSantis signed into law Senate Bill 184 (SB 184), which created Sec. 843.21, Fla. Stat., and provided, effective January 1, 2025, that an individual who approaches a limited list of first responders, with specified intent, is guilty of a misdemeanor of the second degree;

WHEREAS, City of Miami Beach first responders, which include law enforcement officers, detention officers, firefighters, emergency medical providers, parking enforcement specialists, code compliance officers, and park rangers, serve a critical and essential role in keeping our community safe and should be protected similarly to the list of first responders provided in Sec. 843.21, Fla. Stat.; and

WHEREAS, the work of the City's first responders is of great importance and, as such, there exists a need to maintain and improve the safety, security and working conditions of these officers and those they seek to protect; and

WHEREAS, the City's first responders, while engaged in the lawful performance of their legal duties, continue to encounter individuals who, after receiving warnings not to do so, violate such warnings and approach or remain within close proximity of the first responder(s), with no regard for the first responders' personal safety and no consideration for the first responders' responsibility to maintain public safety, order and social peace; and

WHEREAS, certain individuals who fail to heed such warnings not to approach a first responders in the lawful performance of a legal duty, occasionally intend to provoke a physical response from first responders, hinder first responders' performance of their legal duties or incite the crowd surrounding such first responders; and

WHEREAS, threats to the life and safety of first responders and the protection of the right to life, liberty and security of the persons in the surrounding area (and potentially, any arrestee) must be seen as imperative to the stability of society as a whole; and

WHEREAS, the Mayor and City Commission finds that it is in the best interest of the City's first responders, its residents and visitors to adopt this ordinance to protect the general public health, safety and welfare.

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

SECTION 1. That Article I of Chapter 70 of the Code of the City Miami Beach is hereby amended as follows:

CHAPTER 70. MISCELLANEOUS

ARTICLE I. IN GENERAL

Sec. 70-8. Approaching a law enforcement officer, after warning, with intent to impede, provoke or harass first responder with specified intent.

~~(a) As used in this section, the term "law enforcement officer" shall be defined as set forth in section 70-86 of the City Code.~~

~~(b) It shall be unlawful for any person, after receiving a warning from a law enforcement officer, to approach or remain within 20 feet of a law enforcement officer engaged in the lawful performance of any legal duty with the intent to:~~

~~(1) Interrupt, disrupt, hinder, impede or interfere with a law enforcement officer's ability to perform such duty; or~~

~~(2) Provoke a physical response from a law enforcement officer; or~~

~~(3) Directly or indirectly harass a law enforcement officer.~~

~~(c) A violation of this section shall be punished in accordance with section 1-14 of the City Code.~~

(1) As used in this section, the term:

(a) "First responder" includes a law enforcement officer as defined in s. 943.10(1), a firefighter as defined in s. 784.07(1), an emergency medical care provider as defined in s. 784.07(1), a parking enforcement specialist as defined in s. 316.640, a code compliance officer as defined in s. 162.21, an individual employed as a detention officer by the City, and an individual employed as a park ranger by the City.

(b) "Harass" means to willfully engage in a course of conduct directed at a first responder which intentionally causes substantial emotional distress in that first responder and serves no legitimate purpose.

(2) (a) It is unlawful for a person, after receiving a verbal warning not to approach from a person he or she knows or reasonably should know is a first responder, who is engaged in the lawful performance of a legal duty, to knowingly and willfully violate such warning and approach or remain within 25 feet of the first responder with the intent to:

1. Impede or interfere with the first responder's ability to perform such duty;

2. Threaten the first responder with physical harm; or

3. Harass the first responder.

(b) A violation of this section shall be punished in accordance with section 1-14 of the City Code.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same 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 relettered 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 _____, 2024.

PASSED AND ADOPTED this _____ day of _____, 2024.

ATTEST:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

(Sponsored by Commissioner David Suarez)

Underline denotes additions
~~Strike through~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney



Date

9/31/2024