

R5 L 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, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE III, ENTITLED "GRAFFITI," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," BY AMENDING SECTION 70-123 THEREOF, ENTITLED "PROHIBITIONS; ENFORCEMENT; AND PENALTIES," TO DOUBLE THE CIVIL FINES FOR VIOLATIONS OF THIS SECTION; 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: June 25, 2025 9:45 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 CODE OF THE CITY OF MIAMI BEACH, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE III, ENTITLED "GRAFFITI," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," BY AMENDING SECTION 70-123 THEREOF, ENTITLED "PROHIBITIONS; ENFORCEMENT; AND PENALTIES," TO DOUBLE THE CIVIL FINES FOR VIOLATIONS OF THIS SECTION; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

BACKGROUND/HISTORY

ANALYSIS

The attached ordinance is presented for the consideration of the Mayor and City Commission on first reading by the sponsor, Commissioner Kristen Rosen Gonzalez.

Section 70-123 of the Miami Beach City Code establishes penalties for graffiti-related property damage.

The Public Safety and Neighborhood Quality of Life Committee (PSNQLC), at its April 9, 2025 meeting, recommended increasing the penalties for violations of this section, which currently range from \$250 for a first offense to \$1,000 for third and subsequent offenses within one year.

If adopted, the proposed ordinance would double the amounts of fines imposed under Section 70-123.

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: 6/9/2025
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 Kristen Rosen Gonzalez

Co-sponsor(s)

Commissioner David Suarez
Mayor Steven Meiner

Condensed Title

9:45 a.m. 2nd Rdg, Double Graffiti Fines. (Rosen Gonzalez/Suarez/Meiner) CA

Previous Action (For City Clerk Use Only)

First Reading Public Hearing on 5/21/2025 - R5 AH

ORDINANCE NO. _____

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, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE III, ENTITLED "GRAFFITI," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," BY AMENDING SECTION 70-123 THEREOF, ENTITLED "PROHIBITIONS; ENFORCEMENT; AND PENALTIES," TO DOUBLE THE CIVIL FINES FOR VIOLATIONS OF THIS SECTION; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Section 70-123 of the Miami Beach City Code establishes penalties for graffiti-related property damage; and

WHEREAS, the Public Safety and Neighborhood Quality of Life Committee (PSNQLC), at its April 9, 2025 meeting, recommended increasing the penalties for violations of this section; and

WHEREAS, the Mayor and City Commission find that doubling the existing civil fines is necessary to enhance deterrence and promote public cleanliness and safety.

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

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

CHAPTER 70

MISCELLANEOUS OFFENSES

* * *

ARTICLE III. GRAFFITI

* * *

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~~ \$500.00.

b. Second offense (within one year of the first offense) ~~500.00~~ \$1000.00.

c. Third or more offenses (within one year of the first offense) ~~1,000.00~~ \$2,000.00.

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.

(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:

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.
- (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.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

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 a 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 _____.

PASSED and **ADOPTED** this ____ day of _____, 2025.

ATTEST:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

Sponsored by Commissioner _____)

Underline denotes additions.
~~Strikethrough~~ denotes deletions.

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *RR* 5/7/2025
Date