

Condensed Title:

An Ordinance amending Chapter 70 of the Miami Beach City Code entitled "Miscellaneous Offenses" by amending Article III entitled "Graffiti."

Key Intended Outcome Supported:

Ensure Well Maintained Infrastructure; Ensure Compliance with Code Within Reasonable Time Frame; Improve Cleanliness of Miami Beach Rights of Way Especially in Business Areas; & Increase Resident Satisfaction With Level of Code Enforcement

Supporting Data (Surveys, Environmental Scan, etc.): 2008 Environmental Scan shows that the Number of Warnings for Property Maintenance Decreased by 39%; and that the Overall City Cleanliness Score has improved by 15.4% compared to the base 2005/06 year; The 2007 Community Survey Suggests that 61% of the City's residents are very satisfied or satisfied with the fairness and consistency of the enforcement of codes and ordinances in their neighborhoods; The same survey suggests that 61% of the City's residents and 52% of the City's Businesses rate cleanliness of streets in residential/business areas as good or excellent.

Issue:

Shall the Mayor and the City Commission Approve The Amendments to the Ordinance?

Item Summary/Recommendation:

SECOND READING

At the City Commission meetings on September 8, 2008 and October 7, 2008 discussion was held regarding the problem of graffiti in the City and the City's response to graffiti on public and private property. As discussed, unabated graffiti is a major concern, especially as it frequently triggers the "broken window" theory. In the broken window theory, it is believed that when behaviors such as graffiti or litter are left unabated, these issues trigger further acts of the same behavior or accelerates other acts of vandalism. At that time, Commissioner Jerry Libbin requested that the matter of amending the graffiti ordinance be referred to the Neighborhoods/Community Affairs Committee for discussion. At the Neighborhood/Community Affairs Committee Meeting on October 22, 2008, a further discussion occurred concerning the current situation with graffiti in the City, and the need to update the City's existing anti-graffiti ordinance. Of particular concern was what appeared to be a possible disconnect between the criminal cases opened by the Police Department, and City Code cases that would be handled by the Special Master. A draft ordinance was developed that addressed definitions, fines and penalties, including voluntary community service and restitution, reduced compliance periods, and provided for an easier means for graffiti to be remediated.

The ordinance was considered and approved on first reading at the March 18, 2009 Commission meeting, and a referral made to the NCAC for further discussion on the fines, as well as the remediation process for graffiti that is acid etched on glass. In the interim, the City Attorney's office also made other minor, non-substantive adjustments to the ordinance intended to provide further clarity. The proposed ordinance amendment is adjusted to reflect the comments from the Commission at the March 18th meeting and the direction of the NCAC at their April 15th meeting. The committee requested language that allowed for paint that substantially matched to be used (rather than an actual match), but could not agree on language relating to the abatement of acid etched graffiti. The Committee approved moving the ordinance to the Commission for second reading, and bringing back options for the remediation of graffiti that is acid etched on glass for potential amendments to the ordinance. The Committee also decided not to amend the ordinance to change compliance time from business to calendar days.

The proposed draft ordinance has been developed by the Administration together with the City Attorney's Office pursuant to the instruction by the Neighborhood/Community Affairs Committee. The amendments to the City's existing anti-graffiti ordinance provide updated definitions and modernized terminology as well as more effective fine and penalty schedules. The proposed changes provide for voluntary community service in the City and restitution to victims for code prosecutions in court, and provide the City with a means to recover unpaid fines.. The mentioned changes should make the City's endeavors to fight graffiti more effective. The Administration recommends approving the ordinance on second reading.

Advisory Board Recommendation:

Neighborhoods/Community Affairs Committee, 10/22/08; NCAC meeting on April 15, 2009.

Financial Information:

Source of Funds:	Amount		Account
	1		
OBPI	Total		

Financial Impact Summary: The proposed amendment includes fines and penalties that could produce revenues for the City. The change to a shorter timeframe for private property to remediate the graffiti prior to the City remediating the graffiti may result in an increase in the number of properties remediated by the City on behalf of private property owners. While there are provisions for liens to be attached to private property owners, the City will incur the hard costs (labor and paint) until such time as the reimbursement to the City is made. Additionally, the ordinance provides that penalties can include restitution to the victim, which would include the private property owner, or the public property owner (such as the City).

City Clerk's Office Legislative Tracking:

Hilda Fernandez, ACM

Sign-Offs:

Department Director	Assistant City Manager	City Manager
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AGENDA ITEM RSE
DATE 4-22-09



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: April 22, 2009

SECOND READING

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE MIAMI BEACH CITY CODE ENTITLED "MISCELLANEOUS OFFENSES"; BY AMENDING ARTICLE III ENTITLED "GRAFFITI"; BY AMENDING DIVISION I, ENTITLED "GENERALLY"; BY AMENDING SECTION 70-121 ENTITLED "RESERVED" TO PROVIDE PROVISIONS DECLARING GRAFFITI A NUISANCE; BY AMENDING SECTION 70-122 ENTITLED "DEFINITIONS" TO PROVIDE ADDITIONAL AND AMENDED DEFINITIONS RELATIVE TO GRAFFITI; BY AMENDING SECTION 70-123 ENTITLED "PROHIBITIONS" BY AMENDING THE ACTS PROHIBITED AND AMENDING ENFORCEMENT AND PENALTY PROVISIONS; BY AMENDING SECTION 70-124 ENTITLED "POSSESSION OF SPRAY PAINT AND MARKERS" BY AMENDING ENFORCEMENT AND PENALTY PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-125 ENTITLED "GRAFFITI DECLARED A NUISANCE" BY MOVING SAID SECTION TO SECTION 70-121; BY AMENDING AND RENUMBERING SECTION 70-126 ENTITLED "RESPONSIBILITY OF PROPERTY OWNER(S); GRAFFITI REMOVAL AND NOTICE" BY AMENDING THE RESPONSIBILITIES OF PROPERTY OWNERS WITH REGARD TO THE REMOVAL OF GRAFFITI AND AMENDING ENFORCEMENT PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-127 ENTITLED "APPEAL" BY PROVIDING FOR PENALTY AND LIEN PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-128 ENTITLED "COST OF GRAFFITI REMOVAL AS LIEN ON PROPERTY, COLLECTION; FORECLOSURE AND SALE" BY AMENDING CITY LIEN PROCEDURES; BY RENUMBERING SECTION 70-129 ENTITLED "INTERESTED PERSONS MAY PETITION TO DISPUTE ASSESSED COSTS"; BY RENUMBERING SECTIONS 70-130 THROUGH 70-145, ENTITLED "RESERVED;" BY AMENDING DIVISION II ENTITLED "SPRAY PAINT, BROAD-TIPPED INDELIBLE MARKERS" BY AMENDING SECTION 70-146, ENTITLED "SALE PROHIBITED," AND SECTION 70-147, ENTITLED "SIGNS REQUIRED," BY ADDING ETCHING ACID TO THE ITEMS PROHIBITED FOR SALE TO MINORS AND SIGNAGE REQUIREMENTS; BY AMENDING SECTION 70-148, ENTITLED "PENALTIES; PROCEDURES FOR ADMINISTRATION," BY AMENDING THE ENFORCEMENT AND PENALTY PROVISIONS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

Adopt the Ordinance on second reading.

BACKGROUND

Graffiti on private or public property is currently enforceable by City Code, Chapter 70 Article III. "Graffiti" (Section 70-122-129). This section also provides for fines and penalties for violators, as well as requirements or the abatement of graffiti by private property owners.

Section 70-126 describes the responsibility of property owners with regard to graffiti removal. As currently provided in the Code, commercial property owners must take corrective action within seven (7) business days from the receipt or delivery of a notice requiring corrective action; residential property owners must take corrective action within ten (10) business days from receipt or delivery of the notice. The Code Compliance Division issues notices to private property owners.

Under the current ordinance, the City waives permitting fees related to abating graffiti as long as the same color exterior paint is used and the existing paint complies with all city requirements. Currently, abatement requires the painting the entire wall and/or non-permanent structure defaced by graffiti, or pressure cleaning or using any other method that will successfully remove the graffiti from a wall and/or other non-permanent structure without causing damage. Under the current ordinance, the City can, upon the failure of the private property owner to abate the graffiti, enter the private property to address the nuisance. The private property owner is then billed for the expense associated with the abatement, and is provided an opportunity to appeal the costs billed for the abatement. This appeal is heard by the special master. Unpaid bills are deemed special assessment liens and are subject to foreclosure.

It is the City's responsibility to remove graffiti from public property. The Public Works Department dispatches staff to address public property graffiti including, occasionally, graffiti on public property that many not be under the City's direct jurisdiction (e.g., FDOT signs on the Julia Tuttle, County street traffic signs, etc.). Generally, public property graffiti is removed within 24 hours to 72 hours after it is reported to Public Works. However, it must be noted that it may take longer to remove after a major event weekend. A contract with a contractor to address private property graffiti that has not been abated following a violation notice and expiration of the time to clean the graffiti, was discontinued due to budget adjustments. However, historically, there has been a high rate of compliance with graffiti on private property.

ANALYSIS

At the City Commission meetings on September 8, 2008 and October 7, 2008, discussion was held regarding the problem of graffiti in the City and the City's response to graffiti on public and private property. As discussed, unabated graffiti is a major concern, especially as it frequently triggers the "broken window" theory. In the broken window theory, it is believed that when behaviors such as graffiti or litter are left unabated, these issues trigger further acts of the same behavior or accelerates other acts of vandalism. At that time, Commissioner Jerry Libbin requested that the matter of amending the graffiti ordinance be referred to the Neighborhoods/Community Affairs Committee for discussion.

At the Neighborhood/Community Affairs Committee Meeting on October 22, 2008, a further discussion was held concerning the current situation with graffiti in the City, as well as the need to update the City's existing anti-graffiti ordinance, especially to ensure better coordination between the City's police department and other enforcement agencies. Among the discussion items was the need to ensure that violators (persons caught in the act of placing graffiti) are assigned community service hours on Miami Beach.

The Committee instructed the Administration to make changes to the existing ordinance to among other things, update the definitions to reflect current trends in graffiti vandalism; amend the fine schedule for violators, including a requirement to perform community service within Miami Beach; and adjust the period for private property compliance, to ensure that private property graffiti was handled in a more timely manner.

While in the process of developing the proposed amendments to the ordinance, the City implemented certain internal changes to ensure a more timely response to graffiti. This included establishing a program, "T.A.G. – You're It!" designed to encourage residents, businesses and employees to notify the City when they see graffiti. An email (graffiti@miamibeachfl.gov) was activated to allow for easy reporting of incidences of graffiti. Reports are then evaluated to determine if they are public or private locations. For public locations, the Public Works Department is immediately dispatched to abate the nuisance, and information is shared with the Police Department to assist with any investigations and/or prosecutions. Private property graffiti cases are referred to Code Compliance for handling (and information also provided to Police). The Police Department's processes have also been adjusted to ensure that graffiti arrests are reported to Code Compliance, so that an accompanying Code Violation case can also be opened. This new internal process appears to have improved the routing of these cases, and as a result our response to this nuisance.

PROPOSED ORDINANCE AMENDMENT

As instructed by the Neighborhood/Community Affairs Committee, the Administration worked with the City Attorney's Office to propose amendments to the City's existing anti-graffiti legislation, and reviewed current programs and legislation in other metropolitan cities' (Chicago, Atlanta, Los Angeles and New York). The Administration has also considered the model ordinance developed by the International Municipal Lawyer Association (IMLA).

The ordinance was considered on first reading at the March 18, 2009 Commission meeting. To follow is the proposed ordinance amendment, adjusted to reflect the comments from the Commission at the March 18th meeting. Additionally, the Commission requested that the proposed ordinance amendment be referred to the Neighborhoods/Community Affairs Committee (NCAC) for the Committee's review of potential changes to the fine process relating to community service hours and to discuss the manner in which to address abatement for graffiti that is acid etched on glass. The item was considered at the NAC meeting of April 15, 2009. In the interim, the City Attorney's office also made other minor, non-substantive adjustments to the ordinance intended to provide further clarity. The below reflects these additions and deletions.

Updated definitions and modernized terminology

The proposed draft ordinance updates the definition of graffiti and makes it more comprehensive. The amended definition no longer limits graffiti to the vandalism on permanent structures, but covers all public and private properties, structures and fixtures. The amendment also provides an updated more comprehensive definition of graffiti implements, as it adds broad-tipped indelible marker, pen, aerosol paint container, gummed label, paint stick, graffiti stick, etching equipment, brush or any other type of device or, instrument, liquid, substance, or etching acid to the list of the items that can deface properties in the city. The proposed ordinance also incorporates the definition of etching acid which has been increasingly used in cities for graffiti vandalism. The ordinance defines minor as a person who has not attained the age of 18 years. As discussed at the NCAC, the definition of Code Compliance Officer has also been amended to include anyone hired by the City, or authorized, to enforce city codes and ordinances.

Section 70-123 (b)

This section was changed to reflect that the community service hours are voluntary, not required.

Amended fine and penalty schedules

In order to provide a more effective and quick mechanism for the enforcement of the City's anti-graffiti legislation, the Administration proposed a revised fine and penalty schedules for graffiti vandalism, possession of graffiti implements and sale of graffiti implements to minors, which are the three (3) types of violations that can occur under the ordinance. These schedules are as follows:

Fine and penalty schedule for graffiti vandalism

	Fine (\$)
1 st offense within a 12 month period:	250.00
2 nd offense within a 12 month period:	500.00
3 rd offense within a 12 month period:	1000.00

As an alternative means of enforcement, the City may take a violator to the Special Master, in which case fines may be imposed of up to \$1,000.00 per day for a first offense, \$5,000.00 per day for a second offense, and up to \$15,000.00 per violation if the graffiti violation is irreparable or irreversible in nature.

Fine and penalty schedule for possession of graffiti implements

	Fine (\$)
1 st offense within a 12 month period:	125.00
2 nd offense within a 12 month period:	250.00
3 rd offense within a 12 month period:	500.00

Fine and penalty schedule for sale of graffiti implements to minors

	Fine (\$)
1 st offense within a 12 month period:	250.00
2 nd offense within a 12 month period:	500.00

The proposed fine and penalty schedules are intended to serve as a deterrent to graffiti. As you will note, Section 70-123 (c) (2) provides that in addition to these fines and penalties, a court can also impose fines and penalties, as well as imprisonment for up to six months (as per state law). Direction from the Commission on these fine schedules is requested.

Community service

Pursuant to the instruction by the Neighborhood/Community Affairs Committee, the Administration was requested to incorporate mandatory community service hours as part of the fine and penalty provisions for violations of the City code. However, following review by the City Attorney's office, it was determined that a Special Master cannot impose community service hours. However, language in the ordinance provides that when any criminal case is filed for violations of the City Graffiti ordinance, the court can impose community service hours as an additional penalty, with a specific reference that the community service be graffiti remediation in the City. Additionally, we have included a provision that would allow a violator to voluntarily choose to serve community service in the City in lieu of payment of their fines for city code violations. At the first reading, it was recommended that the proposed service-in-lieu of payment schedule of one community service hour for every \$25.00 of an imposed fine be changed to one community service hour (in the City) for every \$5.00 of an imposed fine. The option to serve community service hours in lieu of paying the fine remains voluntary. Section 70-124 (d) was amended to reflect that it is a voluntary option that can be accepted by the Special Master.

Restitution

In order to provide compensation to the victims of graffiti vandalism, the proposed draft ordinance provides for restitution to the victim(s). However, the Special Master cannot order restitution; it must be ordered by a court.

Recovery of unpaid fines

In order to provide the City with an effective means to recover unpaid fines for graffiti vandalism and possession of graffiti implements, the proposed draft ordinance authorizes the City to either institute proceedings in a court to compel payment or to impose a lien that may lead to a property foreclosure. The proposed changes also envision revocation of an occupational license or certificate of use. Section 70-

123 (g) also clarifies that the parents or legal guardians of a minor will be jointly and severally liable with the minor for the payment of fines.

Adjusted period for private property compliance

The ordinance at first reading substituted the use of business days for compliance (abatement) with calendar days in order to require a much quicker time for graffiti removal from the private property, especially as this abatement period begins after there has been notice, which means the graffiti may be on the property for at least 20-30 days before the City can abate if the private property owner fails to do so. However, at the NCAC on April 15, 2009, it was requested that the compliance period be allowed to remain as business days instead of calendar days.

Process for Graffiti Abatement

The ordinance provides for more flexibility in the manner in which abatement occurs to allow for a much faster response to graffiti abatement. Section 70-125 (d) and (e) address this process, which currently includes the waiver of a painting permit when the painting is necessary to abate graffiti. Additionally, language has been incorporated in Section 70-125 (e) (1) that, instead of requiring the entire wall that has been "tagged" to be remediated as is currently required, only the "area" that has been defaced needs to be remediated. Additionally, at the request of the NCAC on April 15th, language has been added in 70-125 (d) and (e) (1) that the paint color used to abate the graffiti must substantially match the paint of the area that was defaced.

The Committee was presented with alternatives to address the abatement of acid etched graffiti on glass. The memo presented to Committee is attached for your reference (Attachment A). However, they did not conclude on this issue and referred this back to Committee with the intention that a new amendment to the ordinance would be prepared once consensus was reached on the best approach. The ordinance, as currently written, provides no direction on abating graffiti other than painted graffiti. As you will note, there are no penalty provisions included in the ordinance for the failure of the private property owner to remediate the graffiti, nor is one recommended.

FISCAL IMPACT

The proposed amendment includes additional fines and penalties that could produce revenues for the City. The change to a shorter timeframe for private property to remediate the graffiti prior to the City remediating the graffiti may result in an increase in the number of properties remediated by the City on behalf of private property owners. While there are provisions for liens to be attached to private property owners, the City will incur the hard costs (labor and paint) until such time as the reimbursement to the City is made. Additionally, the ordinance provides that penalties can include restitution to the victim, which would include the private property owner, or the public property owner (such as the City).

CONCLUSION

The proposed draft ordinance has been developed by the Administration together with the City Attorney's Office pursuant to the instruction by the Neighborhood/Community Affairs Committee. The amendments to the City's existing anti-graffiti ordinance provide updated definitions and modernized terminology as well as more effective fine and penalty schedules. The proposed changes add an option for voluntary community service in the City, and restitution for court prosecutions under the City Code; provide the City with a means to recover unpaid fines; and provide for easier means for property owners to abate graffiti on their property. The mentioned changes should make the City's endeavors to fight graffiti more effective. The staff will provide the NCAC with options to address graffiti that is acid etched on glass at the next Committee meeting for possible, future amendments to the ordinance.

JMG/HF/VJ



COMMITTEE MEMORANDUM

TO: Members of the Neighborhoods/Community Affairs Committee

FROM: Jorge M. Gonzalez, City Manager

DATE: April 15, 2009

SUBJECT: Additional Information re: Proposed Graffiti Ordinance

During the March 18, 2009 meeting, the City Commission referred the Graffiti Ordinance to the Neighborhoods/Committee Affairs for further discussion of several provisions of the proposed amendments, including the requirements for property owners that are the victims of graffiti that is acid etched on glass. Of specific concern was the cost associated with the replacement of glass that has been etched, as compared to the remediation of graffiti that requires painting. However, it is important to note that the cost of remediating painting, when it covers a large area, can be more costly than replacing a very small glass area.

Staff looked at possible options to address this concern, including options that would still achieve the primary goal of the City's graffiti remediation program, which is the removal of graffiti to prevent the perception that an area is un-kept, and prevent additional graffiti from occurring. Staff contacted their counterparts in the cities of Chicago, Atlanta and New York, as they are known to have graffiti remediation programs. The results of our inquiries on how the cities handle etched-glass graffiti are attached (Attachment A) for your reference. While we had hoped for some specific guidance and examples of how this is dealt with in these cities, it appears that the issue is not so wide spread to have created a need to develop an alternative solution.

POTENTIAL OPTIONS:

Several options for the committee's consideration are provided below. However, it is the administration's recommendation that any graffiti that includes obscene words or graphics must be removed or otherwise remediated within the allotted timeframes of the proposed ordinance amendment, regardless of the cost to the property owner. Options to be considered in other cases:

1) Requirement to replace the glass is tied to the size of the glass pane that is tagged. An assessment of the typical storefront pane sizes would have to be conducted to determine what typical pane sizes are in the city, as well as replacement costs for each size, and then options can be incorporated into the ordinance.

2) In addition to or in lieu of #1, require replacement depending on the percentage of the total glass surface that is etched. For example, for a glass pane that is 16 square feet, if more than 25% of the surface is etched the entire glass pane would have to be replaced; if less than 25% of the surface was damaged, then the entire pane would not have to be replaced unless the etching is obscene.

3) Provide additional time to replace etched glass than provided for remediation that only involves painting. This option could be used in partnership with option 2, providing the property owner that will be required to replace a glass pane with additional time (e.g. six months) to do so.

ATTACHMENT A

CHICAGO:

- Legally the City can require property owners to remove acid etched glass
- The City is more lenient about demanding removal of glass due to its significant financial impact, mostly by allowing additional time to remediate
- The City uses protective film to protect glass on some of the City's properties

ATLANTA AND NEW YORK:

- Acid etching on glass has not yet been a major issue in these cities
- According to the City attorneys from both Atlanta and New York, acid etching on glass would be subject to the same removal requirements as any other type of graffiti

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE MIAMI BEACH CITY CODE ENTITLED "MISCELLANEOUS OFFENSES"; BY AMENDING ARTICLE III ENTITLED "GRAFFITI"; BY AMENDING DIVISION I, ENTITLED "GENERALLY"; BY AMENDING SECTION 70-121 ENTITLED "RESERVED" TO PROVIDE PROVISIONS DECLARING GRAFFITI A NUISANCE; BY AMENDING SECTION 70-122 ENTITLED "DEFINITIONS" TO PROVIDE ADDITIONAL AND AMENDED DEFINITIONS RELATIVE TO GRAFFITI; BY AMENDING SECTION 70-123 ENTITLED "PROHIBITIONS" BY AMENDING THE ACTS PROHIBITED AND AMENDING ENFORCEMENT AND PENALTY PROVISIONS; BY AMENDING SECTION 70-124 ENTITLED "POSSESSION OF SPRAY PAINT AND MARKERS" BY AMENDING ENFORCEMENT AND PENALTY PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-125 ENTITLED "GRAFFITI DECLARED A NUISANCE" BY MOVING SAID SECTION TO SECTION 70-121; BY AMENDING AND RENUMBERING SECTION 70-126 ENTITLED "RESPONSIBILITY OF PROPERTY OWNER(S); GRAFFITI REMOVAL AND NOTICE" BY AMENDING THE RESPONSIBILITIES OF PROPERTY OWNERS WITH REGARD TO THE REMOVAL OF GRAFFITI AND AMENDING ENFORCEMENT PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-127 ENTITLED "APPEAL" BY PROVIDING FOR PENALTY AND LIEN PROVISIONS; BY AMENDING AND RENUMBERING SECTION 70-128 ENTITLED "COST OF GRAFFITI REMOVAL AS LIEN ON PROPERTY, COLLECTION; FORECLOSURE AND SALE" BY AMENDING CITY LIEN PROCEDURES; BY RENUMBERING SECTION 70-129 ENTITLED "INTERESTED PERSONS MAY PETITION TO DISPUTE ASSESSED COSTS"; BY RENUMBERING SECTIONS 70-130 THROUGH 70-145, ENTITLED "RESERVED;" BY AMENDING DIVISION II ENTITLED "SPRAY PAINT, BROAD-TIPPED INDELIBLE MARKERS" BY AMENDING SECTION 70-146, ENTITLED "SALE PROHIBITED," AND SECTION 70-147, ENTITLED "SIGNS REQUIRED," BY ADDING ETCHING ACID TO THE ITEMS PROHIBITED FOR SALE TO MINORS AND SIGNAGE REQUIREMENTS; BY AMENDING SECTION 70-148, ENTITLED "PENALTIES; PROCEDURES FOR ADMINISTRATION," BY AMENDING THE ENFORCEMENT AND PENALTY PROVISIONS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the immediate removal of graffiti is the most effective deterrent to its reoccurrence; and

WHEREAS, graffiti depreciates the value of the defaced property as well as the surrounding neighborhood; and

WHEREAS, the presence of graffiti etching acid on surfaces which come in contact with the public pose a health and safety risk; and

WHEREAS, the City recognizes the importance of preserving the City's aesthetic beauty and protecting the City's image and quality of life for its residents and visitors; and

WHEREAS, in order to preserve the integrity of the commercial and residential neighborhoods of the City, including its historically designated districts, and to protect the health, safety, and welfare of the general public, the Mayor and City Commission find that more stringent measures and updated terminology with regard to graffiti are needed in the City Code to serve and protect the best interests of the citizens of Miami Beach and to promote and maintain the aesthetic appearance of the City of Miami Beach, which is an internationally renowned tourist destination.

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 III, entitled "Graffiti," of Chapter 70 of the Miami Beach City Code, entitled "Miscellaneous Offenses," is hereby amended as follows:

CHAPTER 70

MISCELLANEOUS OFFENSES

* * *

ARTICLE III. GRAFFITI

DIVISION 1. GENERALLY

Sec. 70-121. ~~Reserved.~~ Graffiti declared a nuisance.

The creating or maintaining of the unauthorized application of paint, ink, chalk, dye, felt tip or indelible marker, or any non-water 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.

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.

Bona fide evidence of majority means a document issued by a federal, state, county, or municipal government or agency thereof, including but not limited to, a motor vehicle operator's license, or registration certificate issued under the Federal Selective Service Act, a passport, or an identification card issued to a member of the armed forces which identifies an individual and provides proof of the age of such individual.

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 (1/2) 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 non-permanent 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 non-profit 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 of paint, ink, chalk, dye, felt-tip or broad-tipped indelible marker, crayon or any non-water 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 permanent structures property, structures, or fixtures located on publicly or privately owned real property within the city.

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

~~fluid which is not water soluble and which has a flat, angled, or rounded writing surface one-quarter inch or greater.~~

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

Non-commercial property means all property that is not included in the definition of commercial property in this section.

Non-permanent 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 twenty-one (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.

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) Any person violating this section shall be punished by a fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the court or a special master finds the violation to be irreparable or reversible in nature; or by imprisonment in accordance with the requirements of state law or both fine and imprisonment at the discretion of the court.~~

~~(1) In the case of a minor, the parents or legal guardian shall be jointly and severally liable with the minor for payment of all fines.~~

~~(2) Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents or legal guardian's real property to include the fine and administrative costs.~~

~~(3) Upon an application and finding of indigence the court may decline to order fines against the minor or parents.~~

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 required 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) ~~In addition to any punishment listed in this section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offenses in the amount or manner determined by the court.~~

~~(1) In the case of a minor, the parents or legal guardian shall be ordered jointly and severally liable with the minor to make such restitution.~~

Civil fines and penalties for violators. The following civil fines and penalties shall be imposed for each violation of this article-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 Master may accept voluntary community service removing graffiti in the City may be served equivalent to one hour of community service for each \$25.00 \$5.00 of an imposed fine and voluntary restitution. If the community service is not completed and the restitution is not paid within 6 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 6 months in accordance with the requirements of state law.

(d) ~~In addition to any punishment listed in this section, the court shall order any violator to perform monitored community service in the removal of graffiti. 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 master 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 master, the special master 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 master. 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 (d)(1)-(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 master 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.

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

(a) Possession of spray paint and broad-tipped indelible markers with intent to make graffiti is prohibited.

(b) 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) 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) ~~Any person violating this section shall be punished by a fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the court or a special master finds the violation to be irreparable or irreversible in nature.~~

~~(1) In the case of a minor, the parents or legal guardian shall be responsible for payment of all fines.~~

~~(2) Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents' or legal guardian's real property to include the fine and administrative costs.~~

(1) *Civil fines and penalties for violators.* The following civil fines and penalties shall be imposed for each violation of this article 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 Master may accept voluntary community service removing graffiti in the city may be served equivalent to one hour of community service for each \$25.00 \$5.00 of an imposed fine and voluntary restitution. If the community service is not completed and the restitution is not paid within 6 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 6 months in accordance with the requirements of state law.

(e) *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 master 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 master, the special master 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 master. 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) Any party aggrieved by a decision of a special master 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.

Sec. 70-125. Graffiti declared a nuisance.

~~The creating or maintaining of the unauthorized application of paint, ink, chalk, dye, felt tip or indelible marker, or any non-water 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.~~

Sec. 70-1265. Responsibility of property owner(s) to remove graffiti; graffiti removal and notice; enforcement.

(a) Maintenance or allowance of graffiti to exist for more than seven business days on a commercial property, or 10 business days on a residential 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 take corrective action to the property owner or the property owner's agent or manager.

(1) Commercial property. For commercial property, the property owner or the property owner's agent or manager shall take corrective action within seven business days from the receipt or delivery of the notice referenced within this section.

(2) Non-commercial property. For non-commercial property, the property owner, or property owner's agent shall take corrective action within 10 business days from the receipt or delivery of the notice referenced within this section.

(c) Such notice shall be given by certified mail, return receipt requested; or by hand delivery by code compliance officer to the owner of record of the property described as recorded in the current county tax rolls. Mailed notice shall be deemed complete and sufficient notice when so deposited in the United States mail with proper postage prepaid.

(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 wall, and/or non-permanent structure surface 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 a wall, and/or non-permanent structure, the surface area defaced by the graffiti without causing damage.

(f) The property owner is responsible for ensuring compliance with sections 142-1191 through 142-1193 of the City Code and a violation of this section shall be enforced pursuant to sections 114-7 through 114-8.

Sec. 70-1276. Appeal.

(a) A property owner who has been served with the notice set forth in section 70-1265 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 master 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 master 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.

Sec. 70-1287. Cost of graffiti removal as lien on property; collection; foreclosure and sale.

(a) Upon failure of the owner of the property to remedy the conditions existing in violation of section 70-123, 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.

(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 incurred thereof to be and become a lien against such property thirty (30) days after notice of completion of work by the city if such costs remain unpaid. 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. ~~The cost chargeable to the owner shall not exceed the amount of cost as set forth in the notice served to the property owner or owners required herein under section 70-126.~~

Sec. 70-1298. 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 master for consideration. The special master may fix and confirm the amount to be charged based on the information presented.

Secs. 70-13029--70-145. Reserved.

DIVISION 2. SALE OF SPRAY PAINT, BROAD-TIPPED INDELIBLE MARKERS, ETCHING-ACID.

Sec. 70-146. Sale prohibited.

It shall be unlawful for any person to sell, barter, exchange or otherwise transfer any aerosol containers of spray paint or any broad-tipped indelible marker, or etching acid to any person under the age of 18 years.

Sec. 70-147. Signs required.

Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers of spray paint or broad-tipped indelible markers, or etching acid shall:

(1) Place a sign in clear public view at or near the display of such products stating:

Graffiti is a crime. Any person defacing real or personal property not his own with paint or any other liquid or device is guilty of a crime punishable by imprisonment for up to six months, with a fines up to \$1,000.00, or up to \$15,000.00 if the violation is irreparable or irreversible in nature, restitution, and a minimum of 100 hours of community service in the city.

(2) Place a sign in the direct view of such persons responsible for accepting customer payment for aerosol containers of spray paint, or broad-tipped indelible markers, or etching acid stating:

It is a violation of the law punishable by a civil fine of ~~\$100.00~~ 250.00 for a first offense to sell aerosol containers of spray paint, or broad-tipped indelible markers, or etching acid to persons under 18 years of age.

(3) Store or cause such aerosol containers, or broad-tipped indelible marker pens, or etching acid to be stored either in the direct line of sight from the cash register work station or any other work station normally continuously occupied while the store is open, or in a place not accessible to the public in the regular course of business without employee assistance, pending legal sale or disposition of such marker pens or paint containers items.

Sec. 70-148. Penalties; procedures for administration.

(a) Violation of this division shall result in a civil penalty of ~~\$100.00~~ 250.00 for a first offense and ~~\$200.00~~ 500.00 for all subsequent offenses within 12 months of a prior offense. When three such offenses occur within any calendar year at a commercial establishment, that establishment shall be subject to an injunction from a court of competent jurisdiction forbidding the sale of aerosol containers of spray paint, and broad-tipped indelible markers, and etching acid for a period of two years.

(b) Procedures for enforcement, appeals, and collection of fines by the city shall be as provided in subsections 70-6(c) and (d) 30-71 through 30-79.

Secs. 70-149--70-180. Reserved.

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, 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 the _____ day of _____, 2009.

PASSED and **ADOPTED** this _____ day of _____, 2009.

ATTEST:

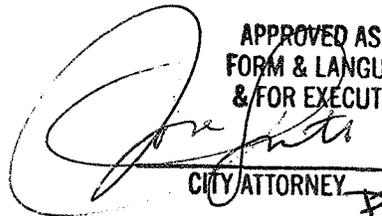
Robert Parcher
City Clerk

Matti Herrera Bower
Mayor

Underline denotes additions

~~Strike through~~ denotes deletions

Shading denotes amendments subsequent to the Neighborhoods/Community Affairs Committee Meetings

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

CITY ATTORNEY DATE 4/16/08

CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS



MIAMI BEACH

NOTICE IS HEREBY given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, April 22, 2009**, to consider the following:

10:15 a.m.

An Ordinance Amending Section 22-22, Entitled "General Requirements," Of Division I, Entitled "Generally," Of Article III, Entitled "Agencies, Boards And Committees," Of Chapter 2 Entitled "Administration," Of The Miami Beach City Code To Require An Annual Reporting To The City Commission With Regard To City Agency, Board, And Committee Appointments And City Workforce Diversity Statistics.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

10:20 a.m.

An Ordinance Amending The City Code Of The City Of Miami Beach, By Creating New Chapter 100, Entitled "Sustainability," By Creating New Article I, "Green Building Ordinance," Establishing Definitions, Standards, Procedures And Incentives Providing For Property Owner Voluntary Participation, And City Mandatory Participation, In The LEED Certification Program As Established By The U.S. Green Building Council Or Other Recognized Rating System, For New Construction Or Substantial Renovations As Provided In The Ordinance, Providing For A Bond To Guarantee Participation In The Program If A Property Owner Receives Incentives, And Procedures For Use Of The Bond For Failure To So Participate.

Inquiries may be directed to the City Manager's Office at (305) 673-7010.

11:10 a.m.

An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 2 Entitled "Officers, Employees And Agency Members," Section 2-459 Entitled "Certain Appearances Prohibited," By Amending Subsection (B) Thereof Establishing This Code Section's Exclusion For Lobbyists Who Represent Non-Profit Entities Without Special Compensation, By Narrowing This Exclusion To Only Certain Representatives Of Non-Profit Entities.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

11:20 a.m.

An Ordinance Relating To The Jurisdiction Of The Special Master, Amending Chapter 30, "Code Enforcement," Article III, "Enforcement Procedure," Section 30-73, "Powers Of The Special Master," By Clarifying That The Special Master Lacks Jurisdiction Over Appeals From Or Challenges To Interpretations Or Actions Of The Building Official, Planning Director And Fire Marshal, Or Claims That An Act Of The City Is Unconstitutional, Which Are By Applicable Law Vested In Other Authorities.

Inquiries may be directed to the City Attorney's Office at (305) 673-7470.

11:30 a.m.

An Ordinance Amending Chapter 70 Of The Miami Beach City Code Entitled "Miscellaneous Offenses"; By Amending Article III Entitled "Graffiti"; By Amending Division I, Entitled "Generally"; By Amending Section 70-121 Entitled "Reserved" To Provide Provisions Declaring Graffiti A Nuisance; By Amending Section 70-122 Entitled "Definitions" To Provide Additional And Amended Definitions Relative To Graffiti; By Amending Section 70-123 Entitled "Prohibitions" By Amending The Acts Prohibited And Amending Enforcement And Penalty Provisions; By Amending Section 70-124 Entitled "Possession Of Spray Paint And Markers" By Amending Enforcement And Penalty Provisions; By Amending And Renumbering Section 70-125 Entitled "Graffiti Declared A Nuisance" By Moving Said Section To Section 70-121; By Amending And Renumbering Section 70-126 Entitled "Responsibility Of Property Owner(s); Graffiti Removal And Notice" By Amending The Responsibilities Of Property Owners With Regard To The Removal Of Graffiti And Amending Enforcement Provisions; By Amending And Renumbering Section 70-127 Entitled "Appeal" By Providing For Penalty And Lien Provisions; By Amending And Renumbering Section 70-128 Entitled "Cost Of Graffiti Removal As Lien On Property, Collection; Foreclosure And Sale" By Amending City Lien Procedures; By Renumbering Section 70-129 Entitled "Interested Persons May Petition To Dispute Assessed Costs"; By Renumbering Sections 70-130 Through 70-145, Entitled "Reserved"; By Amending Division II Entitled "Spray Paint, Broad-Tipped Indelible Markers" By Amending Section 70-146, Entitled "Sale Prohibited," And Section 70-147, Entitled "Signs Required," By Adding Etching Acid To The Items Prohibited For Sale To Minors And Signage Requirements; By Amending Section 70-148, Entitled "Penalties; Procedures For Administration," By Amending The Enforcement And Penalty Provisions.

Inquiries may be directed to the City Manager's Office at (305) 673-7010.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305) 673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #530