



AGENDA ITEM COVER PAGE

File ID: #10623

Ordinance

First Reading

Sponsored by: Joe Carollo, Commissioner

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 37 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, ENTITLED "OFFENSES-MISCELLANEOUS," MORE PARTICULARLY BY ADDING A NEW SECTION TO PROHIBIT ENCAMPMENTS ON PUBLIC PROPERTY; PROVIDING FOR DEFINITIONS AND PENALTIES; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.



City of Miami

Legislation

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Final Action Date:

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WHEREAS, the City of Miami ("City") owns or maintains public properties that have associated outdoor areas including parking areas, greenspaces, lawns, landscaping, terraces, outdoor walkways, courtyards, and similar facilities which are generally open to the public but are not suitable for overnight use or camping; and

WHEREAS, such public outdoor areas exist for the purpose of facilitating ingress and egress to all buildings and facilities, and maintaining attractive and welcoming exteriors to all properties to be enjoyed by all members of the public; and

WHEREAS, the unauthorized use of public property for camping where the property in question is neither intended for nor designed as a camp site, campground, or site for temporary human habitation tends to impair, obstruct, or otherwise detract from the use for its intended purpose; and

WHEREAS, the act of unauthorized camping on public property tends to endanger the health, safety, and wellbeing of those engaged in such camping as well as the public at large;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings found in the Preamble of this Ordinance are adopted by reference and incorporated as fully set forth in this Section.

Section 2. Chapter 37 of the Code of the City of Miami, Florida as amended, entitled "Offenses-Miscellaneous," is amended in the following particulars:¹

"CHAPTER 37

OFFENSES-MISCELLANEOUS

* * * *

Sec. 37-16.

(a) Definitions.

¹ Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

Unless the particular provisions or the context otherwise requires, the definitions contained in this Section shall govern the construction, meaning, and application of words and phrases used in this Chapter.

Code inspector means the authorized agent or employee of the City so designated in Chapter 2, Article X, Code Enforcement whose duty it is to ensure code compliance.

Encampment means any one or more of the following:

1. The unauthorized use of fabric, metal, cardboard, or other materials as a tent or other temporary structure for living accommodation purposes or human habitation; or
2. The unauthorized use of a heating device in an area; or
3. The unauthorized accumulation of personal property (other than durable medical equipment) that would not fit in a container three feet high, three feet wide, and three feet deep.

Department means the Department of Human Services.

Durable medical equipment means equipment customarily used for medical purposes, able to withstand repeated use, and generally not useful to a person in the absence of illness or injury. Non-exclusive examples of such equipment include wheelchairs, canes, crutches, and portable oxygen tanks.

Heating device means a camp stove, grill, heater, or other container or device capable of generating or containing an open flame.

Police Officer means a law enforcement officer as defined in Section 943.10(1), Florida Statutes, as amended.

Public place means an outdoor area owned, managed, or controlled by the city to which the public has access, including public rights-of-way, parks, streets, sidewalks, hike and bike trails, transit facilities, underpasses, and parking lots.

(b) Prohibitions:

1. Encampment in a public place in the City is unlawful.
2. Any person who violates this Section shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in Section 1-13 of the Code or may be enforced by a civil violation as set forth in Chapter 2, Article X.

(c) Procedure for enforcement.

(1) A Police officer or Code inspector may issue a citation for a violation of this Article if prior to issuing the citation:

(i) The Police officer or Code inspector has tendered a written warning to the person stating that a failure to comply with the City's prohibition against encampment may result in the issuance of a citation to the person or in the person's arrest; and

(a) The written warning required by Subsection (c)(1)(i) of this Section may be accompanied by written information regarding the availability of medical treatment (including mental health treatment) or social services (including temporary shelter or drug or alcohol rehabilitation).

(ii) The officer has provided a reasonable time (two hours) for the person to pick up their belongings and comply with the prohibition, yet the person has not complied.

(2) A Police officer may arrest a person for a violation of this Article if prior to the arrest:

(i) The Police officer has tendered the written warning required by Subsection (c)(1)(i) of this Section and has provided a reasonable time (two hours) for the person to pick up their belongings and comply with the prohibition, yet the person has not complied;

(ii) The Police officer has verified that there is an available shelter bed for the person and they have refused the offer of shelter;

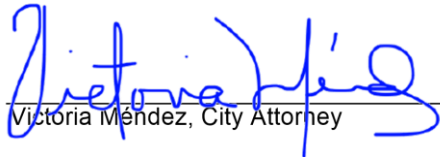
(iii) In the event of an arrest pursuant to this Section the Police officer will follow the established City policies for the handling and storage of the person's property.

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Section 3. If any section, part of a section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. This Ordinance shall become effective thirty (30) days after final reading and adoption thereof.²

APPROVED AS TO FORM AND CORRECTNESS:



Victoria Mendez, City Attorney

9/2/2021

² This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.