

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Raul J. Aguila, City Attorney  
DATE: October 18, 2017

**10:10 a.m. Second Reading Public Hearing**

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ANIMALS," BY CREATING SECTION 10-19, TO BE ENTITLED "CRUELTY TO ANIMALS"; AND BY AMENDING SECTION 10-2, ENTITLED "FINES FOR VIOLATIONS OF ANIMAL CONTROL ORDINANCES; UNPAID FINES TO CONSTITUTE LIEN AND BASIS FOR REVOCATION OF CITY PARKING PERMITS/DECALS," TO CROSS-REFERENCE THE NEW PROVISIONS IN SECTION 10-19; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

---

### **RECOMMENDATION**

Pursuant to the request of Mayor Philip Levine, the above-referenced Ordinance is submitted for consideration by the City Commission at the July 26, 2017 Commission Meeting on First Reading.

### **Legislative Tracking**

Office of the City Attorney

### **Sponsor**

Mayor Philip Levine

### **ATTACHMENTS:**

#### **Description**

- ▣ Creating Sec 10-19 Cruelty to Animals

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ANIMALS," BY CREATING SECTION 10-19, TO BE ENTITLED "CRUELTY TO ANIMALS"; AND BY AMENDING SECTION 10-2, ENTITLED "FINES FOR VIOLATIONS OF ANIMAL CONTROL ORDINANCES; UNPAID FINES TO CONSTITUTE LIEN AND BASIS FOR REVOCATION OF CITY PARKING PERMITS/DECALS," TO CROSS-REFERENCE THE NEW PROVISIONS IN SECTION 10-19; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

**WHEREAS**, pursuant to Section 828.27 of the Florida Statutes, municipalities are authorized to enact ordinances relating to animal control or cruelty; and

**WHEREAS**, the Mayor and City Commission deem it in the best interest of the City of Miami Beach to prohibit the neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.

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

**SECTION 1.** That Chapter 10 entitled "Animals," of the Code of the City Miami Beach is hereby amended as follows:

**CHAPTER 10**

**ANIMALS**

\* \* \*

**Sec. 10-2. Fines for violations of animal control ordinances; unpaid fines to constitute lien and basis for revocation of city parking permits/decals.**

(a) All violations of this chapter are civil infractions, except as otherwise provided in section 10-5. Each violation of this chapter shall constitute a separate offense. Violations of this chapter, except as otherwise provided in sections 10-17 and 10-18, or Section 10-19, within a 12-month period will be punished as follows:

- (1) For a first offense, a \$50.00 fine.
- (2) For a second offense within the preceding 12 months, a \$100.00 fine.
- (3) For each additional offense within the preceding 12 months, a \$200.00 fine.

For purposes of this section, an offense shall be deemed to have occurred on the date that the violation occurred. An offense occurring 12 months after the last offense shall be treated as a first offense for purposes of incurring new fines. However, any fines imposed in any prior 12-month period shall not be waived.

- (b) The failure of any person to pay the appropriate fine within the time allowed or to appeal the violation shall constitute a waiver of the right to an administrative hearing before the special master and fines may be assessed accordingly.
- (c) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien upon any 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 violator's personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the recording of any such lien that which remains unpaid, the city may foreclose or otherwise execute upon the lien. In addition, any order of the special master imposing a fine for a violation of section 10-11 that remains unpaid two months after the date of the order shall be grounds for the revocation of any and all residential parking permits or decals issued to the violator by the city.

\* \* \*

**SECTION 2.** That Chapter 10 entitled "Animals," of the Code of the City Miami Beach is hereby amended to create Section 10-19 to be entitled "Cruelty to Animals," as follows:

**Sec. 10-19. Cruelty to Animals.**

- (1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, commits animal cruelty, punishable by a fine of not more than \$10,000.
- (2) A person who intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits aggravated animal cruelty, punishable by a fine of not more than \$20,000.
  - (a) A person convicted of a violation of this subsection, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal, shall be ordered to pay a minimum mandatory fine of \$20,000 and undergo psychological counseling or complete an anger management treatment program.
  - (b) A person convicted of a second or subsequent violation of this subsection shall be required to pay a minimum mandatory fine of \$40,000. Any admission of guilt shall be considered a conviction for purposes of this subsection.
- (3) A person who commits multiple acts of animal cruelty or aggravated animal cruelty against an animal may be charged with a separate offense for each such act. A person who commits animal cruelty or aggravated animal cruelty against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.
- (4) A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.

**SECTION 3. REPEALER.**

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

**SECTION 4. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. 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 6. EFFECTIVE DATE.**

This Ordinance shall take effect ten (10) days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Mayor Philip Levine

Underline denotes new language

(Sponsored by Mayor Philip Levine)

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney

7/25/17  
\_\_\_\_\_  
Date