

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 102 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "TAXATION," BY AMENDING ARTICLE V, ENTITLED "LOCAL BUSINESS TAX," BY AMENDING SECTION 102-356 THEREOF, ENTITLED "CONSTRUCTION OF ARTICLE; DEFINITIONS," BY CREATING ADDITIONAL DEFINITIONS; AND BY AMENDING SECTION 102-386 THEREOF, ENTITLED "PROPERTY OWNER'S RESPONSIBILITIES REGARDING LEGALLY PERMISSIBLE TRANSIENT RENTAL AND OCCUPANCY (SHORT-TERM) OF RESIDENTIAL PROPERTY," BY SETTING FORTH ADDITIONAL REQUIREMENTS FOR THE ISSUANCE OF A BUSINESS TAX RECEIPT, AND ESTABLISHING NEW RESPONSIBILITIES UPON OWNERS OF SHORT-TERM RESIDENTIAL RENTAL PROPERTIES; AND BY AMENDING SECTION 102-387 THEREOF, ENTITLED "PLATFORMS' RESPONSIBILITIES REGARDING LEGALLY PERMISSIBLE TRANSIENT RENTAL AND OCCUPANCY (SHORT-TERM) OF RESIDENTIAL PROPERTY," BY ESTABLISHING FURTHER REQUIREMENTS FOR THOSE PLATFORMS LISTING SHORT-TERM RENTALS OF RESIDENTIAL PROPERTIES; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") is an internationally renowned tourist destination; and

WHEREAS, the rental of single-family and multi-family residential properties for periods of less than six months and one day is generally prohibited by the City's Land Development Regulations ("LDRs"), with very limited exceptions (such as within certain residential multi-family zoning districts and various commercial zoning districts); and

WHEREAS, the City desires to regulate those property owners of single and multi-family residence(s) or unit(s) that continue to engage in short-term residential rentals in order to address quality of life issues which include, but are not limited to, excessive numbers of guests and vehicles, noise, and a multitude of other adverse impacts (including excessive litter, garbage and parking issues) upon the surrounding residences and residential neighborhood; and

WHEREAS, Section 509.032 of the Florida Statutes preempts the City from enacting an ordinance which prohibits short-term residential rentals, or regulates the duration or frequency of such rentals, but the City is legally permitted to enact legislation that establishes certain minimum criteria or standards in order to address the negative impacts from the operation of these short-term residential rentals; and

WHEREAS, the City has a substantial interest in ensuring and maintaining the aesthetics, character, and tranquility of its residential neighborhoods, as well as ensuring compliance with those provisions of the City Code regarding these commercial activities, and the following narrowly tailored provisions directly advance these City interests; and

WHEREAS, owners of residential properties or units seeking to engage in the transient rental or occupancy of such properties or units will be legally required to comply with additional requirements prior to obtaining and receiving a City Business Tax Receipt, Resort Tax Certification Number or listing their property on any site or platform advertising such property for short-term rental; and

WHEREAS, hosting platforms will be legally required to ensure compliance with those amendments to Sections 102-386 and 102-387 in order to minimize the adverse impacts upon the City due to short-term residential rentals and their transient occupants; and

WHEREAS, the Mayor and City Commission have determined that these additional requirements and regulations are necessary for the protection of City residents' quality of life and are consistent with, and further, the public health, safety and welfare of the City; and

WHEREAS, the amendments set forth below are necessary to accomplish the objectives identified herein.

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

SECTION 1. That those Sections of the City's Local Business Tax Ordinance, as such Ordinance is codified in Sections 102-356, 102-386, and 102-387 of the City Code, be amended as follows and as hereinafter set forth below:

CHAPTER 102

TAXATION

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ARTICLE V. LOCAL BUSINESS TAX

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Sec. 102-356. - Construction of article; definitions.

All of the provisions of this article shall be construed liberally on behalf of the city. Words and terms not defined in this section shall be interpreted in accordance with their normal dictionary meaning and customary usage. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Advertise, advertising, advertisement and publish means all means of conveying to the public, whether by word of mouth, newspaper, magazine, periodical, handbill, written notice, printed display, poster, billboard, radio or television announcement or by any other means, notice of a sale or intention to conduct a sale.

Amusement attraction means any building or structure around, over, or through which persons may move or walk, without the aid of any moving device integral to the building or structure, which building or structure provides amusement, pleasure, thrills or excitement. This term does not include enterprises principally devoted to the exhibition of products of agriculture, industry, education, science, religion or the arts.

Amusement ride means any mechanical device that carries or conveys passengers around, over, or along a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

Antique means an object 50 years of age or older that has a special value due to age or reproduction of the same.

Apartment house means a building with or without resident supervision occupied or intended to be occupied by more than two families living separately with separate cooking facilities in each unit.

Arcade means any place of business that has coin-operated game machines and/or pool tables that, when counted together, exceed five in number.

Auction business means a sole proprietorship, partnership or corporation that maintains a permanent office or branch office in the city and that, in the regular course of business, conducts, arranges, advertises, or promotes auctions or uses or allows the use of its facilities for auctions.

Automobile rental agency means any person who rents, leases or offers to rent or lease five or more motor vehicles within the city within any given year.

Automobile shipper means any person engaged in the business or occupation, as principal, agent, broker, intermediary or otherwise, or holding himself out by advertisement, solicitation or otherwise as being engaged in the business or occupation of receiving and accepting the custody or possession of the automobile of another, under any contract, agreement, understanding or arrangement, which provides for

the furnishing, procuring or arranging for the transportation or shipment of such automobile to an agreed point or destination, by driving the same thereto, under its own power or propulsion, in lieu of the transportation or shipment thereof as freight by any auto transportation company or common carrier.

Bed and breakfast inn means an historic structure originally built as a single-family residence, which is owner occupied and operated to provide guest rooms with breakfast and/or dinner included as part of the room rate.

Bottle club means a commercial establishment, operated for a profit, whether or not a profit is actually made, wherein patrons consume alcoholic beverages brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises.

Business means every trade, occupation, profession or other manner of revenue-producing activity regardless of whether a profit is actually made. Business, profession and occupation do not include the customary religious, charitable or educational activities of nonprofit religious, nonprofit charitable and nonprofit educational institutions in this state, which institutions are more particularly defined and limited as follows:

- (1) *Religious institutions* means churches and ecclesiastical or denominational organizations or established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on, and also means church cemeteries.
- (2) *Educational institutions* means state tax-supported or parochial, church and nonprofit private schools, colleges or universities conducting regular classes and courses of study required for accreditation by or membership in the Southern Association of Colleges and Schools, the Department of Education, or the Florida Council of Independent Schools. Nonprofit libraries, art galleries and museums open to the public are defined as educational institutions and eligible for exemption.
- (3) *Charitable institutions* means only nonprofit corporations operating physical facilities in the state at which are provided charitable services, a reasonable percentage of which are without cost to those unable to pay.

Business tax means the fees charged and the method by which the city grants the privilege of engaging in or managing any business, profession, or occupation within the city's jurisdiction.

City manager or his designee means the city manager or one of his assistants or another employee of the city designated by the city manager to perform a function required by this article; however, that review required by section 102-385 shall not be conducted by the same person who performs functions pursuant to any other section of this article. Alternatively, "designee" for purposes of section 102-385 may also mean an independent hearing officer appointed pursuant to resolution of the city commission to perform the review functions set forth in this resolution or to adjudicate violations of the city's codes.

Closing-out sale means the sale or offer to sell by any person, to the public, of goods in stock, on order or in transit, with a declared advertised purpose that such sale:

- (1) Is anticipatory to the termination, closing, liquidation, discontinuance, conclusion, or abandonment, of the business, or any part thereof, or any line of goods, or any one store of a group of stores in connection with such sale; and it shall include all sales advertised in such manner as to reasonably convey to the public the impression that upon the disposal of the goods advertised or on hand, the business will permanently cease and be discontinued;
- (2) Is anticipatory to the temporary closing or discontinuance of the business due to alterations or remodeling of the premises or relocation;
- (3) Will consist of goods damaged or altered by fire, smoke, water, hurricane, flood, explosion or other means; or
- (4) Will consist of goods derived from a business that has failed, been closed, discontinued or liquidated, or where such advertising indicates a business failure or emergency affecting the seller or any previous holder of the goods to be sold.

Compensation means any money, reward or consideration, tangible or intangible, personal property or real property, or the use of real or personal property, received directly or indirectly or in trust or by other means.

Driver means an individual operating a motor vehicle whether as the vehicle owner or as agent, employee or lessee of the owner.

Electrologist means any person who removes hair from or destroys hair on the human body by the use of an electric needle.

Electrolysis means the practice of removing surplus hair from any part of the human body by the application of electric current to the hair papilla by means of a needle to cause decomposition of hair papilla.

Employment agent or *employment agency* means any person in this city engaged for hire or compensation in the business of furnishing persons seeking employment or changing employment with information or other service, intended to enable such persons to procure employment, or furnishing any person who may be seeking to employ, for compensation, help of any kind, with information intended to enable such person to procure such help.

Escort service means any person in this city engaged for hire or compensation in the business of providing companions.

Ferrous metals means any metals containing significant quantities of iron or steel.

Firearm means any revolver, pistol, rifle, shotgun, machine gun, destructive device or other weapon that expels a projectile by the action of an explosive or air pressure or gas.

Florist means any person regularly engaged in the business of selling at retail flowers, funeral sprays, wreaths, designs or corsages.

Flower stand means any person engaged in the business of selling cut flowers exclusive of any, all and every other type and kind of flowers or plants.

For cause means the failure of a licensee to comply with those conditions, standards or requirements required for the issuance of his business tax receipt, or the violation of any other provision of this article or chapters of this Code incorporated in this article.

Gallery means a business which displays art for viewing and/or for sale regardless of whether a fee is charged for admission.

Geofencing or *geocoding* or any type of computational process of transforming a physical address description to a location on the Earth's surface means converting addresses into geographic coordinates and using them to virtually define a real-world geographical boundary. As used in this article, an established geofence will trigger an automatic response prohibiting the property from being listed on the hosting platform when a person enters an address that is within a zoning district that prohibits short-term rentals.

Guard, watchman, patrol includes any person, who, for consideration, advertises as providing or is engaged in the business of furnishing watchman, guard, patrol, or armored car services or who, for consideration, transports prisoners. This includes any person, who utilizes dogs to perform security services unless otherwise excluded.

Hosting platform, advertisement platform, or short-term residential rental advertising platform means an internet-enabled application, mobile application, or any other digital platform that is used to connect guests with a short-term residential rental provider for the purpose of renting a short-term residential rental.

Hotel means a building occupied or intended to be occupied generally for transient occupancy.

Janitorial service means any person in this city engaged for hire or compensation to provide cleaning services or persons who will perform these services for others.

Medical clinic means an outpatient facility in which the name of a fictitious entity is prominently featured, which provides for surgical and nonsurgical medical treatment and is not directly associated with a hospital.

Motor scooter means a two-wheeled vehicle with small wheels and a low powered engine.

Motor vehicle or *vehicle* means any motor-propelled vehicle, with the exception of motor scooters, including but not limited to motorbuses, vans and automobiles operating on the streets of the city for compensation.

News depot means a location where newspaper carriers pick up and prepare newspapers for delivery.

Nonferrous metals means metals not containing significant quantities of iron or steel, including but not limited to copper, brass, aluminum, bronze, lead, nickel, zinc, and alloys thereof.

Not-for-profit organization means an organization registered as a corporation not for profit pursuant to F.S. ch. 617, no part of the income or profit of which is distributable to its members, directors or officers.

Parking lot means any business engaged in whole or in part in the parking of motor vehicles for the payment of a fee.

Pawn means either of the following transactions:

- (1) *Loan of money* means a written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.
- (2) *Buy-sell agreement* means any agreement whereby a purchaser agrees to hold property for a specified period of time to allow the seller the exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

Pawnbroker means any person who is not solely a secondary metals recycler subject to F.S. ch. 538, pt. II, which is regularly engaged in the business of making pawns. The term does not include a financial institution as defined in F.S. § 655.005 or any person who regularly loans money or any other thing of value on stocks, bonds or other securities.

Person means any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator, receiver, or other fiduciary, and includes the plural as well as the singular.

Precious metals is as defined in F.S. § 538.03: Any item containing any gold, silver, or platinum, or any combination thereof, excluding any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.

Precious metals dealer is as defined in F.S. § 538.03: A secondhand dealer who normally or regularly engages in the business of buying used precious metals for resale. The term does not include those persons involved in the bulk sale of precious metals from one secondhand or precious metals dealer to another.

Prearranged travel or tourist-related services means any service, including but not limited to car rentals, lodging, transfers, and sightseeing tours, for which a traveler receives a premium or for which he contracts or pays prior to departure.

Preowned merchandise means personal property previously owned or used, including secondhand goods.

Private investigative agency includes any person who, for consideration, advertises as providing or is engaged in the business of furnishing private investigations as defined in F.S. § 493.6101(17).

Professional corporation means a corporation organized for the sole and specific purpose of rendering professional service and has as its shareholders only individuals who themselves are duly licensed or otherwise legally authorized within this state to render the same professional service as the corporation.

Professional service means any type of personal service to the public that requires as a condition precedent to the rendering of such service the obtaining of a business tax receipt or other authorization from the state. By way of example and without limiting the generality thereof, the personal services which come within the provisions of this article are the personal services rendered by certified public accountants, public accountants, chiropractors, dentists, osteopaths, physicians and surgeons, Doctor of Medicine, doctors of dentistry, podiatrists, chiropractists, architects, veterinarians, attorneys at law, and life insurance agents.

Promoter means any person who promotes a dance or entertainment event, which is to occur or take place on the premises of an alcoholic beverage establishment. To promote a dance or entertainment event is to be involved in one or more of the following activities:

- (a) Hiring any of the persons staffing the event (e.g., deejay, host, cashier, doorman, etc.);
- (b) Hiring any of the persons to market or advertise the event including, without limitation, disseminating information on the internet, social media, and other forms of electronic communications, and/or distributing or mailing invitations, flyers, posters, or other marketing materials in connection with such event;
- (c) Making a decision concerning the cost of entrance to the event; or
- (d) Other activities which evidence that the person is directly or indirectly responsible for the organization of the dance or entertainment event.

A "promoter" does not include:

- (1) The promotion of a dance or entertainment event by an alcoholic beverage establishment, or any full-time employee of that establishment to occur on its premises (i.e., self-promotion);
- (2) A 501(c) not-for-profit corporation, to the extent that the not-for-profit personally plans, prepares, or executes an event on its own behalf; on the premises of such other business;
- (3) A person who holds or promotes a private reception not open to the general public;
- (4) A person who is hired by a promoter to host, a dance or entertainment event but exercises no other promoter related activities, as set forth herein; or
- (5) A person who sponsors or allows his/her name to be used in connection with, a dance or entertainment event, but exercises no other promoter related activities, as set forth herein.

The term promoter shall not be deemed to include the City of Miami Beach or any city-owned facility (including, without limitation, the Miami Beach Convention Center, the Fillmore at the Jackie Gleason Theater of the Performing Arts, the Colony Theater, and the Botanical Garden) which is operated and managed by a third party pursuant to a written agreement with the city. A person or entity issued a City of Miami Beach special event permit, or who enters into a written agreement with the city to plan, prepare and execute a special event, shall also not be deemed to be a promoter under this section.

Property owner shall mean the person who, or entity that, owns the property being used or occupied as a short-term residential rental.

Public food service establishment means any building, vehicle, place or structure, or any room or division in a building, vehicle, place or structure, that is maintained and operated as a place where food is regularly prepared, served or sold.

Purchase transaction means a transaction in which a recycler gives consideration having a value in excess of \$10.00 in exchange for regulated metals property.

Receipt means the document that is issued by the city which bears the words "Local Business Tax Receipt" and evidences that the person in whose name the document is issued has complied with the provisions of this article relating to business tax.

Receptive tour operator means any person who prearranges tourist-related or tour guide services for individuals or groups visiting the city whose point of origin or departure is a foreign country. This does not include any person who provides services limited solely to any single one of the following: transportation, lodging, food or entertainment.

Recyclers means all persons engaged in the business of gathering or obtaining of ferrous or nonferrous metals, paper, glass or plastic products that have served their original economic purpose, or is in the business of performing the manufacturing process by which these products are converted into raw products consisting of prepared grades and having an existing or potential economic value; by methods including without limitation, processing, sorting, cutting, classifying, clearing, bailing, wrapping, shredding, shearing or changing the physical form or chemical content thereof.

Regulated metals property means any item composed primarily of any nonferrous metals, but shall not include aluminum beverage containers, used beverage containers, or similar beverage containers.

Responsible party shall mean the person or entity authorized by the property owner to obtain a business tax receipt, certificate of use and resort tax registration certificate for a short-term residential rental, and who will be:

(a) Responsible for ensuring compliance with all regulations related to short-term residential rentals;
and

(b) Available to respond 24 hours per day, 7 days per week to any issue that arises relating to the short-term residential rental.

The property owner may serve as the responsible party.

Restaurant means the same as "public food establishment."

Retail establishment means any store, merchant or organization selling merchandise to the general public.

• *Sale* includes all transfers, assignments, pledges, leases, loans, barter or gifts.

Secondhand dealer is as defined in F.S. § 538.03: Any person, corporation, or other business organization or entity which is not a secondary metals recycler subject to part II and which is engaged in the business of purchasing, consigning, or trading secondhand goods.

Secondhand goods is as defined in F.S. § 538.03: Personal property previously owned or used, which is not regulated metals property regulated under part II and which is purchased, consigned, or traded as used property. Such secondhand goods do not include office furniture, pianos, books, clothing, organs, coins, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use, and secondhand sports equipment that is not permanently labeled with a serial number. For purposes of this paragraph, "secondhand sports equipment" does not include golf clubs.

Seller of travel, travel bureau means any person maintaining a business location or branch office within the city who offers for sale, directly or indirectly, at wholesale or retail, prearranged travel or tourist-related services for individuals or groups through vacation or tour packages or through lodging or travel certificates in exchange for a fee, commission or other valuable consideration. This includes offering membership in a travel club or travel services for an advance fee or payment, even if no travel contracts or certificates or vacation or tour packages are sold.

Short-term residential rental means a dwelling unit located within the city that is rented as, or held out as being used as, a shared housing unit, bed-and-breakfast establishment, or vacation rental.

Talent agency means any person engaged in the occupation of operating an agency, bureau, office or other place for the purpose of procuring or attempting to procure engagements, or for the purpose of giving information as to where such engagements may be provided, for an artist who seeks employment by a buyer in, but not limited to, the following: a live or motion picture production, whether made on or by film, electronic tape, or other electronic device used to produce theatrical motion pictures, television entertainment motion pictures, industrial motion pictures, or television commercials; modeling services; conventions; print media; the legitimate stage; radio; circus; vaudeville; musical arts; or a musical organization.

Taxee means any person operating under a business tax receipt granted pursuant to this article.

Window cleaning service means any person engaged for hire or compensation to provide window cleaning services or persons who will perform these services for others.

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Sec. 102-386. - Property owner's responsibilities regarding legally permissible transient rental and occupancy (short-term) of residential property.

Prior to receiving a business tax receipt, resort tax registration certificate or advertising the property, a property owner must comply with the following provisions:

- (a) An owner of a residential property is prohibited from advertising the residential property, or any portion thereof, for its transient rental or occupancy, unless:
 - (1) The property owner submits an affidavit to the city, under penalty of perjury, for each residential property or unit (or any portion thereof), which states that the property owner:

- a. Has confirmed that the city's land development regulations, which are applicable to the residential property, authorize the property owner to engage in the transient rental or occupancy of the residential property or unit; and
 - b. Has obtained a business tax receipt that has been issued to the property owner for the purpose of engaging in the transient rental or occupancy of the residential property or unit, as authorized by the city's land development regulations; and
 - c. Has registered the residential property with the city finance director, and obtained the appropriate resort tax registration certificate pursuant to chapter 102, article IV, division 4 of this Code;
 - d. Has complied with those applicable requirements of the American Disabilities Act Regulations and design standards, as may be required for the residential property or unit, in conjunction with attaining compliance with the Florida Fire Prevention Code and the Florida Building Code;
 - e. Has obtained written authorization from the condominium association that expressly authorizes the property owner to engage in the transient rental or occupancy of the residential property or unit. The written authorization must be attached to, and incorporated within, the affidavit submitted to the City of Miami Beach;
 - f. Has disclosed the business tax receipt number for each residential property or unit in the advertisement, and that the property owner has fully complied with those provisions set forth within section 102-386.
 - g. shall provide, to the Code Compliance Department, the name and contact information for all hosting platforms, advertisement platforms and short-term residential rental advertising platforms on which the residential property is, or will be, listed for rent;
 - h. shall remit all applicable City business and tourist taxes to the appropriate governmental entities;
 - i. shall identify whether the entire residential property, or just a portion thereof (i.e., a room or rooms), will be utilized as a short-term residential rental;
 - j. shall have insurance coverage which will be in effect at all times while the residential property is being utilized as a short-term residential rental to cover all liability for any injury or harm which occurs to short-term residential rental occupants or their invitees;
 - k. has acknowledged, in a separate writing attached to the affidavit, that the property owner has received, reviewed and recognized that the use of the residential property as a short-term residential rental could result in the loss of the Homestead Exemption;
 - l. has accurately set forth the total amount of days the residential property was utilized as a short-term residential rental within the preceding business tax year, which is effective from October 1 through September 30 of the following year;
 - m. acknowledges that the short-term residential rental must be registered with the Florida Department of Revenue, or successor agency, for purposes of collecting and remitting applicable state taxes and all such state taxes have been, or will be, paid;
- (b) Supporting documentation. The property owner of the short-term residential rental shall maintain all required licenses, records, and other documentation sufficient to demonstrate that the statements and information required by subsection (a)(1) above are true and accurate. All such licenses, records, and other documentation shall be provided, upon request, to the City's Code Compliance Department, and any failure to do so may result in the denial, suspension or revocation of the Business Tax Receipt and/or the Certificate of Use.
- (c) Providing false information. Any false or misleading information in an application for a Business Tax Receipt and/or Certificate of Use shall be sufficient to deny or revoke the Business Tax Receipt and/or Certificate of Use. A determination that false or misleading information was provided by the property owner in an application is not appealable.
- (d) Inspection. Upon the issuance or renewal of a Business Tax Receipt and/or Certificate of Use, the short-term residential rental shall be subject to inspection to ensure compliance with all applicable

code requirements. The property owner shall provide all licenses, records and other documentation sufficient to demonstrate compliance with all requirements of this section during the inspection by the City.

(e) *Maximum occupancy.* The maximum occupancy for short-term residential rentals shall be a maximum of two persons per bedroom, excluding children under two years of age. Notwithstanding the foregoing, at no time may the occupancy of a short-term residential rental exceed the maximum occupant load for the residential property pursuant to the Florida Building Code or the Florida Fire Prevention Code.

(f) *Sexual offenders and sexual predators.*

(1) If the short-term residential rental property is located within 2,500 feet of a school, pursuant to section 21-283 of the Miami-Dade County Code, it shall be a violation to allow any person to occupy the short-term residential property with knowledge that such person is a registered sexual offender or registered sexual predator in any jurisdiction. The property owner shall be required to obtain confirmation of a nationwide search from the Miami Beach Police Department, or other law enforcement agency, that none of the prospective transient occupant(s) are a registered sexual offender or sexual predator as a result of a conviction of a sexual offense, as defined in section 21-280 of the Miami-Dade County Code. The property owner may call the Miami-Dade County Answer Center (311) to obtain assistance or referrals to determine whether a prospective transient occupant is a sexual offender or sexual predator, and to determine whether a residence is within 2,500 feet from a school.

(2) If the short-term residential rental property is within 2,500 feet of a school, pursuant to section 21-281 of the Miami-Dade County Code, it shall be a violation of this section for a sexual offender or sexual predator to occupy the property.

(g) *Parking and vehicles.* All vehicles associated with the short-term residential rental, whether in the possession or control of the property owner, responsible party, or transient occupant, shall only be parked within a driveway or in a designated parking area on the subject property; or, where there is no such driveway or designated parking area, vehicles shall only be parked on the street or swale directly in front of the subject property. Transient occupants shall not be permitted to park more than two vehicles at any one time on the subject property or on the street or swale during the rental period.

(h) *Noise.* All transient occupants shall abide by section 46-152 of the Miami Beach City Code, which prohibits unreasonably loud, excessive, unnecessary, or unusual noise. In addition, outdoor amplified sound at the short-term residential rental property is prohibited at all times.

(i) Notwithstanding the requirements of subsection (a), a property owner of a residential unit(s), which is located within an apartment-hotel or a condominium-hotel, must disclose within the affidavit that each prospective guest receives written notification that the unit(s) is/are not affiliated with the primary hotel operator at the property, and whether or not the prospective guest is entitled to those benefits and amenities that are offered by the primary hotel operator. The advertisement of the residential unit(s) by the property owner must include a disclaimer that the unit(s) is/are not affiliated with the primary hotel operation at the property and whether or not there is entitlement to those benefits and amenities that may be offered by the primary hotel operator. A property owner of a residential unit(s), as set forth herein must provide the contact information (name, telephone number and email address) to the guest at the time of the reservation of the non-affiliated unit(s) at the property.

(j) Each property owner shall provide and conspicuously display the city-issued business tax receipt number and the resort tax certificate number in every advertisement or listing of any type in connection with the rental of the residential property. Failure to comply with this requirement shall create a rebuttable presumption that the residential property is being operated without the proper registration.

(k) *Duties of property owner.* For each short-term residential rental, the property owner shall:

(1) Provide written notice to transient occupants, prior to occupancy of the short-term residential rental property, of the short-term residential rental standards of this section and other applicable laws, ordinances, or regulations concerning noise, public nuisance, vehicle

parking, solid waste collection, and common area usage. This information shall also be prominently displayed for each transient occupant within the subject property;

- (2) Provide notice to prospective transient occupants at the time the subject property is listed as a short-term residential rental of any limitations on the property pertaining to access for the disabled;
- (3) Ensure compliance with all provisions of this section, including the short-term residential rental standards of this section, and promptly address and report any violations of this section or of such other law or regulation of which the property owner knows or should know to the City's Code Compliance Department or City's Police Department, as appropriate, as well as to the hosting platform, advertisement platform or short-term residential rental advertising platform;
- (4) Ensure that any violations regarding the short-term residential rental property are promptly addressed and resolved 24 hours a day/7 days per week; and
- (5) Maintain a register with names and dates of stay of all guests, including but not limited to all transient occupants and their invitees, which shall be open to inspection by the City.

(I) Penalties and enforcement.

- (1) A violation of this section shall be subject to the following fines:
 - a. If the violation is the first offense, a person or business shall receive a written warning civil fine of \$1,000.00;
 - b. If the violation is the second or subsequent violation within the preceding six months, a person or business shall receive a civil fine of \$5,000.00, and the Business Tax Receipt and/or Certificate of Use shall be revoked.
 - ~~c. If the violation is the third violation within the preceding six months, a person or business shall receive a civil fine of \$7,500.00; and~~
 - ~~d. If the violation is the fourth or subsequent violation within the preceding six months, a person or business shall receive a civil fine of \$10,000.00 and the business tax receipt shall be revoked.~~

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Sec. 102-387. - Platforms' responsibilities regarding legally permissible transient rental and occupancy (short-term) of residential property.

Prohibitions for publishing property listings on hosting platforms, advertisement platforms or short-term residential rental advertisement platforms; requiring business tax receipt number and resort tax certificate number.

- (a) Each platform under this section will not list, or permit any person to list, any short-term residential rental on its platform, unless the platform:
 - (1) Posts a notice, in a conspicuous place on its website, advising short-term residential rental providers and property owners that such providers are required under this section to obtain a city-issued business tax receipt and a resort tax registration certificate in order to list a rental property on a hosting platform, advertisement platform or a short-term residential rental advertising platform; and
 - (2) Displays the property owner's city-issued business tax receipt number and resort tax registration certificate number for each listing that appears on a short-term residential rental advertising platform, hosting platform or advertisement platform.
 - (3) Provides notice of the requirements of this section and section 102-386 to any person or entity listing or offering a short-term residential rental on its service or platform by including a summary of such requirements, on its service or platform.
- (b) No hosting platform shall provide payment processing services, or otherwise facilitate payment for a short-term residential rental that does not have a valid Business Tax Receipt, Certificate of

Use, and other requirements that are mandated in accordance with this section and section 102-386. A hosting platform, advertisement platform or short-term residential rental advertising platform shall not be held liable pursuant to this subsection where it:

- (1) As part of its short-term residential rental listing registration process, informs the property owner that a Business Tax Receipt and/or Certificate of Use must be obtained prior to listing a short-term residential rental in the City; requires the property owner to confirm that such party has been advised of the City's regulations, as set forth in this section and section 102-386, including the Business Tax Receipt and/or Certificate of Use requirements; and provides a dedicated field to enable the property owner to input the Business Tax Receipt and/or Certificate of Use numbers prior to the property owner completing the registration and listing the short-term residential rental on the hosting platform, advertisement platform or short-term residential rental advertising platform;
- (2) Provides the Code Compliance Department, on a monthly basis, a report disclosing, for each short-term residential rental listing, the information entered by the property owner in the Business Tax Receipt and/or Certificate of Use dedicated fields; the total number of short-term residential rental listings on the service or platform during the prior month; and the total number of nights that short-term residential rentals listed on the service or platform were rented during the prior month; and
- (c) Comply with administrative subpoenas or other appropriate legal process from the City seeking information relating to persons or entities listing or offering short-term residential rentals on its service or platform.
- (d) Penalties and enforcement.
 - (1) A violation of this section shall be subject to the following fines:
 - a. If the violation is the first offense, a person or business shall receive a civil fine of \$1,000.00;
 - b. If the violation is the second violation within the preceding six months, a person or business shall receive a civil fine of \$2,000.00;
 - c. If the violation is the third violation within the preceding six months, a person or business shall receive a civil fine of \$3,000.00; and
 - d. If the violation is the fourth or subsequent violation within the preceding six months, a person or business shall receive a civil fine of \$5,000.00.
 - (2) Enforcement. The code compliance department shall enforce this section. This shall not preclude other law enforcement agencies from any action to assure compliance with this section and all applicable laws. If a violation of this section is observed, the code enforcement officer will be authorized to issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.
 - (3) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master.
 - a. A violator who has been served with a notice of violation must elect to either:
 - i. Pay the civil fine in the manner indicated on the notice of violation; or
 - ii. Request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.
 - b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.

- c. If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special master, the special master may be informed of such failure by report from the code enforcement officer. The failure of the named violator to appeal the decision of the code enforcement officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
 - d. 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, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the 61st day following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien.
 - e. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.
 - f. The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.
 - g. The special master shall not have discretion to alter the penalties prescribed in subsection ~~(b)(1)~~ (d)(1).
- (e) Exceptions. Penalties listed in subsection ~~(b)(1)~~ (d)(1) shall not apply to:
- (1) Any platforms that integrate geofencing or geocoding within their respective mobile or web-based applications that prohibit property owners from listing those properties that are within a zoning district that prohibits short-term rentals.
 - (2) Platforms that integrate geofencing or geocoding within their respective mobile or web-based applications must still comply with the provisions of subsections (a) and (b) herein.
 - (3) Enforcement. The exceptions set forth herein shall be valid, provided that the hosting platform submits a certificate to the Code Compliance Department of the City of Miami Beach, verifying that the geofencing or geocoding is active and effective. The certificate must be submitted to the city on the first day of each month, unless the first day of the month falls on a Saturday, Sunday, or a legal holiday.
 - a. Any hosting platform that knowingly submits a false certification of an active and effective geocode or geofence to the city shall be punished in accordance with section 1-14 of the City Code.
 - b. A hosting platform will not be held in violation of this section in an event of a property owner providing a false address that falls within a zoning district that allows short-term rentals and after booking, personally directing the guest to a different property located within a zoning district that prohibits short-term rentals. However, in an event that a hosting platform discovers the falsity of the provided property address, it must disclose the falsity and the identity of the property owner to the city within 15 days of the discovery. Should the hosting platform fail to disclose property owner's misconduct, the hosting platform shall be punished in accordance with section 1-14 of the City Code.
 - c. Any person or property owner who knowingly commits the act described in subsection ~~102-387(e)(2)b.~~ 102-387(e)(3)b. or any other act done to bypass a hosting platform's geofencing or geocoding in order to list properties within a zoning district that prohibits short-term rentals, 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 Miami Beach City Code. 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 _____, 2021

PASSED AND ADOPTED this ____ day of _____, 2021.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Mayor Dan Gelber)

Underline denotes additions
~~Strikethrough~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

AB
City Attorney

7-23-21
Date