

MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

RAFAEL PAZ, CITY ATTORNEY

COMMISSION MEMORANDUM

TO: MAYOR DAN GELBER
MEMBERS OF THE CITY COMMISSION FIRST READING
ALINA HUDAK, CITY MANAGER

FROM: RAFAEL PAZ, CITY ATTORNEY 

DATE: March 9, 2022

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE II THEREOF, ENTITLED "CITY COMMISSION," BY AMENDING SECTION 2-12 THEREOF, ENTITLED "MEETING PROCEDURES AND AGENDAS," TO REQUIRE AN INCENTIVE STATEMENT AS PART OF THE ANALYSIS ACCOMPANYING ALL ORDINANCES PLACED ON CITY COMMISSION AGENDAS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Pursuant to the request of Commissioner Alex J. Fernandez, the above-referenced Ordinance is submitted on First Reading for consideration by the Mayor and City Commission at the March 9, 2022 City Commission meeting.

Section 2-12 of the City Code, entitled "Meeting Procedures and Agendas," requires a fiscal impact statement as part of the consideration of any proposed measure, in order to provide the members of the City Commission and the public with the financial information necessary to take into account the budgetary effects of proposed measures. However, in addition to potential fiscal impacts, proposed ordinances could potentially create new fees, or increase fees above Consumer Price Index ("CPI"), as well as impose new costs on local businesses and residents.

In an effort to move away from a framework of merely imposing fines and penalties for non-compliance, the Sponsor proposes that the Administration include an "Incentive Statement" to accompany the Commission Memorandum for any proposed Ordinance that creates additional financial burdens on residents and businesses. The foregoing is not intended to replace the existing framework of the imposition fines and penalties for non-compliance with the City Code. However, it is merely an additional tool for incentivizing good conduct by offering the proverbial "carrot," and not just the "stick."

The concept is for the Administration, to the extent it is possible to do so in the context of the subject ordinance, to identify and offer potential incentive options, to the extent possible, to reward timely compliance with the objectives and requirements of the subject ordinance. For instance, possible examples of incentives may include, but, not be limited to, a discount against a Building

Recertification Fee for timely submittal of annual maintenance logs, a discount or a waiver of Business Tax Receipt or other fees for an establishment that had no Code violations issued in a twelve month period, or a discount to other fees such as water fees for usage under City average or measures which promote and advance the City's sustainability goals.

The approach seeks to formalize efforts the City Commission has undertaken in the past year, such as incentivizing residential development (and not hotel uses) by providing certain height or other land development incentives to applicants that voluntarily proffer covenants to prohibit short term rentals, or to offer significantly discounted sidewalk café permit fees to applicants who agree to abide by City's terms relating to sidewalk cafes, with respect to the sale or service of undesirable oversized alcoholic beverages and the like. This Ordinance seeks to formalize the City Commission's prior efforts with regard to programs to incentivize behavior.

If approved on first reading, we anticipate that second reading will take place on April 6, 2022.

RAP/FA/ag