

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Rafael A. Paz, City Attorney



DATE: February 9, 2022

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 18 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "BUSINESSES," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY CREATING SECTION 18-4 THEREOF, ENTITLED "RESUSCITATION EQUIPMENT REQUIRED; CONTENTS; LABELING REQUIREMENTS; NOTICE; PENALTIES," BY REQUIRING SPECIFIED BUSINESS ESTABLISHMENTS TO MAINTAIN CERTAIN RESUSCITATION (CPR) EQUIPMENT, AND PROVIDING FOR NOTICE, LABELING, AND PENALTY PROVISIONS; AND BY CREATING SECTION 18-5 THEREOF, ENTITLED "DISLODGING FOOD FROM PERSON CHOKING; SIGN REQUIRED; NO DUTY TO ACT; PENALTIES," BY REQUIRING BUSINESS ESTABLISHMENTS THAT SELL FOOD AND DESIGNATE SEATING AREA(S) FOR ITS CONSUMPTION TO POST SIGNAGE INSTRUCTING HOW TO DISLODGE FOOD FROM CHOKING PERSONS, AND SETTING FORTH NO DUTY TO ACT AND PENALTY PROVISIONS; AND BY CREATING SECTION 18-6 THEREOF, ENTITLED "ENFORCEMENT; PENALTIES; APPEALS; UNPAID FINES TO CONSTITUTE LIENS," TO ESTABLISH THE ENFORCEMENT, PENALTY, AND APPEAL PROVISIONS AND PROCEDURES FOR VIOLATIONS OF SECTIONS 18-4 AND 18-5; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

The proposed Ordinance (the "Ordinance"), which is sponsored by Commissioner Alex J. Fernandez, is submitted to the City Commission for first reading on February 9, 2022.

According to statistics provided by the American Heart Association, hundreds of thousands of people die in the United States each year from cardiac arrest. Importantly, of these, a majority of cardiac arrests occur outside of the hospital, which results in the death of about 90 percent of those people who experience an out-of-hospital cardiac arrest.

Cardiopulmonary resuscitation ("CPR") is an emergency life-saving procedure performed when the heart stops beating, and immediate CPR can double or triple the chances of a person's survival after experiencing a cardiac arrest event. Unfortunately, only about 46% of people who experience an out-of-hospital cardiac arrest get the immediate bystander CPR help they need prior to the arrival of medical professionals.

Another life-threatening emergency is choking, which is the stoppage of the flow of air from the environment into the lungs that prevents breathing (either partially or completely). Choking causes

over 100,000 visits to the emergency room each year and a choking death occurs every two hours. Moreover, choking is a leading cause of death in children, as one child dies every 5 days from choking, and choking is also a leading cause of death in persons over the age of 65.

The average emergency response time is typically between 7-12 minutes in a choking incident. Regrettably, in a choking incident, time is of the essence because after 0-4 minutes of choking, brain damage to the victim is unlikely; however, between 4-6 minutes of choking, brain damage is possible; between 6-10 minutes of choking, brain damage is likely; and more than 10 minutes of choking results in probable catastrophic brain damage.

Without question, providing immediate assistance to cardiac arrest and choking victims, prior to the arrival of emergency medical professionals, can result in lives being saved.

Accordingly, the proposed Ordinance would create three (3) new sections of the City Code:

(1) Section 18-4, which would require certain business establishments to maintain specified resuscitation (CPR) equipment on premises, and provide appropriate notice and labeling requirements pertaining to the CPR equipment;

(2) Section 18-5, which would require all businesses that sell food and designate area(s) for its consumption to post signage graphically depicting how to assist a choking person (a template of which will be posted on the City's website for use by affected business establishments); and

(3) Section 18-6, establishing monetary fines for violation(s) of Section(s) 18-4 and 18-5, but also providing that the City shall conduct a 90-day educational campaign following the effective date of the Ordinance, during which period of time no violation of either Section 18-4 or 18-5 shall be issued. After the 90-day educational campaign period, no notice of violation shall be issued without a prior written warning having first been issued to the violator.

If the Ordinance is approved by the City Commission at first reading on February 9, 2022, the City Administration will evaluate, prior to second reading on March 9, 2021, the fiscal and administrative impact of the Ordinance, including any cost, staffing or other resources necessary to implement these new requirements.

RAP/RFR/MAF/bhs