

ORDINANCE NO. _____

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.

WHEREAS, according to statistics provided by the American Heart Association, in one year alone, approximately 475,000 Americans die from a cardiac arrest; and

WHEREAS, more than 350,000 cardiac arrests occur outside of the hospital each year, and about 90 percent of those people who experience an out-of-hospital cardiac arrest die; and

WHEREAS, cardiopulmonary resuscitation ("CPR") is an emergency life-saving procedure performed when the heart stops beating; and

WHEREAS, immediate CPR can double or triple the chances of a person's survival after experiencing a cardiac arrest event; and

WHEREAS, 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; and

WHEREAS, choking is the stoppage of the flow of air from the environment into the lungs, which prevents breathing (either partially or completely); and

WHEREAS, partial choking allows some, although inadequate, flow of air into the lungs, and complete choking (or prolonged partial choking) results in asphyxia which leads to anoxia and is potentially fatal; and

WHEREAS, choking is a leading cause of death in children, as one child dies every 5 days from choking; and

WHEREAS, choking is also a leading cause of death in persons over the age of 65; and

WHEREAS, a choking death occurs every two hours, and choking causes over 100,000 visits to the emergency room yearly; and

WHEREAS, time is of the essence in a choking incident, because where between 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 brain death; and

WHEREAS, the average emergency response time is typically between 7-12 minutes; and

WHEREAS, most choking deaths are caused by food, but could be prevented by the prompt initiation of the Heimlich Maneuver (or a comparable technique) to the choking person; and

WHEREAS, providing immediate assistance to cardiac arrest and choking victims, prior to the arrival of emergency medical professionals, can result in lives being saved; and

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

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

SECTION 1. That Sections 18-4, 18-5 and 18-6 of the City Code shall be created as follows, and as hereinafter set forth below:

CHAPTER 18

BUSINESSES

* * *

ARTICLE I. IN GENERAL

* * *

Sec. 18-4. – Resuscitation equipment required; contents; labeling requirements; notice; penalties.

- (1) Resuscitation equipment required. The owner or operator of the following business establishments shall maintain resuscitation equipment in a readily accessible location on the business premises, so that patrons and employees can obtain such equipment in a timely manner, and at no time be required to travel more than one floor to obtain the equipment:
 - (a) Restaurants, alcoholic beverage establishments, night clubs, dance halls, and any other entertainment or public food service establishment; and

- (b) Public lodging establishments classified as a hotel, motel, nontransient apartment, transient apartment, bed and breakfast inn, timeshare project, or short-term residential rental.

The required resuscitation equipment shall not be placed or stored in any location which may subject the contents of the package to extremes of temperature, mechanical stress, or any other potentially damaging condition(s).

- (2) Contents. The required resuscitation equipment shall include at least:
 - (a) One adult exhaled air resuscitation mask;
 - (b) One child exhaled air resuscitation mask; and
 - (c) Two pairs of latex gloves.

The exhaled air resuscitation masks must be in their original, sealed, manufacturer-provided packaging, and all required resuscitation equipment shall be enclosed in an envelope or container that allows any person to immediately remove it for use. Exhaled air resuscitation masks and latex gloves shall be discarded after a single use.

- (3) Labeling requirements. The following written statement, which must be presented in a manner that is readily visible and in lettering not less than 1/2 inch in height, shall be affixed to the outside of each envelope or container:

IN THE EVENT OF AN EMERGENCY, REQUEST ASSISTANCE BY DIALING 911

DO NOT ATTEMPT TO USE UNLESS TRAINED IN CARDIOPULMONARY RESUSCITATION (CPR) AND IN THE USE OF EXHALED AIR RESUSCITATION MASKS

RESUSCITATION EQUIPMENT CONTENTS INCLUDE:

One Adult Exhaled Air Resuscitation Mask

One Child Exhaled Air Resuscitation Mask

Two Pairs, Latex Gloves

Discard Mask(s) and Gloves After One Use

- (4) Notice required. The owner or operator of those business establishments set forth in subsection 18-4(1) herein shall display a poster or sign, in a conspicuous location that is clearly visible to patrons and employees, which specifically provides notice as follows:

- (a) Resuscitation masks and latex gloves are available at [insert location(s) where resuscitation equipment can be found]; and;
- (b) Learn CPR. For information contact [insert name(s) of organization(s) qualified to offer CPR training, which shall include, but are not limited to, the American Red Cross and the American Heart Association].

The required notice on posters and signs shall be of sufficient size so that all information is clear, conspicuous, and easily read.

- (5) Penalties. The penalty for any violation(s) of this section shall be as provided in section 18-6 of the city code.

* * *

Sec. 18-5. – Dislodging food from person choking; required sign; no duty to act; fees; penalties.

- (1) Sign required. Every business establishment that sells food and has space designated for its consumption shall display, in a conspicuous location that is clearly visible to patrons and employees within such eating area(s), a sign graphically depicting the Heimlich Maneuver or a comparable technique, which provides instructions on how to dislodge food from a choking person. A sample template sign shall be posted on the City’s website at no cost for use by businesses.
- (2) No duty to act. Nothing contained in this section shall impose any duty or obligation on any business owner, operator, employee, customer, or other person to remove, assist in removing, or attempt to remove food from the throat of the victim of a choking emergency.
- (3) Penalties. The penalty for any violation(s) of this section shall be punished as provided in section 18-6 of the city code.

* * *

Sec. 18-6. - Enforcement; penalties; appeals; unpaid fines to constitute liens.

- (1) The enforcement of sections 18-4 and 18-5 shall be in accordance with the following procedures:
- (2) For a period of 90 days following the effective date of this Ordinance, the City shall conduct an educational campaign to advise affected businesses of the requirements contained herein and no violation shall be issued for noncompliance during this period.
- (3) After the initial 90-day educational period, if a code compliance officer finds a violation of these section(s), the code compliance officer shall issue a written warning to the violator before issuing a violation for a first offense.
- (4) If, after the initial education period and after an initial written warning, a code compliance officer finds a violation of these section(s), the code compliance officer

shall issue a notice of violation to the violator as provided in chapter 30. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator may be liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within 10 days after service of the notice of violation, and that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing.

- (5) A violator who has been served with a notice of violation shall elect either to:
- (a) Pay the civil fine as follows:
 - (i) First offense: \$100.00;
 - (ii) Second offense: \$200.00;
 - (iii) Third and subsequent offenses: \$500.00; or
 - (b) Request an administrative hearing within 10 days before a special magistrate appointed as provided in article II of chapter 30 to appeal the decision of the code compliance officer which resulted in the issuance of the notice of violation;
 - (c) The special magistrate shall not have discretion to alter the penalties prescribed in this subsection.
- (6) If the named violator, after notice, fails to pay the civil fine or fails to timely request an administrative hearing before a special magistrate, the special magistrate shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate. A waiver of the right to an administrative hearing shall be treated as an admission of the violation and penalties may be assessed accordingly.
- (7) Any party aggrieved by the decision of the special magistrate may appeal the decision in accordance with law.
- (8) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.
- (9) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other 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 personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.
- (a) The procedures for appeal of the notice of violation by administrative hearing shall be as set forth in sections 102-384 and 102-385 of the city code.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same 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 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 6. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____, 2022.

PASSED AND ADOPTED this ____ day of _____, 2022.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner Alex J. Fernandez)

Underline denotes additions
~~Strikethrough~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

MAF

2-1-22
Date