

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 102 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "TAXATION," BY AMENDING ARTICLE V, ENTITLED "LOCAL BUSINESS TAX," BY AMENDING SECTION 102-377 THEREOF, ENTITLED "PENALTIES, ENFORCEMENT; COLLECTION OF DELINQUENT FEES AND TAXES, AND CRIMINAL PENALTIES," BY PROVIDING FOR A MISDEMEANOR OFFENSE IN LIEU OF A CIVIL FINE IF THE NUMBER OF VIOLATIONS EXCEEDS TWO AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, currently, penalty provisions of Chapter 102, Article V, Section 102-377 initially impose a civil fine of \$1,000.00 for conducting any business for which a tax receipt is required without first obtaining such tax receipt; and

WHEREAS, persons continue to engage in or conduct business without a business tax receipt as required by the City in spite of existing civil penalties; and

WHEREAS, it is deemed in the best interest of the City that third or any other subsequent violation of the aforementioned section shall be classified as a misdemeanor offense and enforced by the City of Miami Beach Police Department in order to deter such behavior.

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

SECTION 1. That Section 102-377 of Article V of Chapter 102 of the Code of the City of Miami Beach is hereby amended as follows:

CHAPTER 102

TAXATION

* * *

ARTICLE V. LOCAL BUSINESS TAX

Sec. 102-377. Penalties, enforcement; collection of delinquent fees and taxes, and criminal penalties.

- (a) Any person who shall carry on or conduct any business for which a tax receipt is required by this article without first obtaining such tax receipt shall be subject to the following penalties: ~~issued a violation for the offense, which shall have a civil fine of \$1,000.00. The enhanced enforcement for this violation shall be pursuant to subsection 102-377(d) herein.~~

- (1) If the violation is the first offense, a person or business shall receive a civil fine of \$1,000.00;
- (2) If the violation is the second violation, a person or business shall receive a fine of \$3,000.00;
- (3) If the violation is the third violation or subsequent violation, a person or business shall be punished in accordance with Section 1-14 of the Code of the City of Miami Beach.

Each day that any person or business continues to operate without a tax receipt as required by this article shall be regarded as a new and separate offense.

The enforcement and appeal of the notice of violation shall be consistent with those requirements set forth in subsection 102-386(c)(2) and (3).

- (b) Any person who violates any other provision of this article shall be cited with a notice of violation as provided in subsection 102-386(c) of this Code, and may be subject to one or more of the following enforcement/collection procedures:
 - (1) Suspension/revocation proceedings as set forth in sections 102-383 through 102-385.
 - (2) Suit for injunctive relief to enjoin operation of the business in violation of this article.
- (c) As an additional means of enforcement/collection and supplemental to the above, when a notice or record of any past-due business tax/fees and penalties that become due and payable to the city after the effective date of this section is recorded in the public records of the county, the notice shall constitute a special assessment lien upon all real and personal property of the business owing such fees and penalties, and shall remain a lien equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the property involved. Such liens may be foreclosed or levied upon in the manner provided by law.
- ~~(d) In addition to the above, a continued violation of subsection 102-377(a) for a period of 30 days or more without first obtaining a tax receipt, shall be punished by imprisonment not to exceed 60 days or by imposition of a fine not to exceed \$500.00 or both.~~
- (d) (e) As an additional means of enforcement and supplemental to the above, if any person carries on or conducts any business for which a tax receipt is required by this article without first obtaining such tax receipt, then the city may prevent the business from operating until the required tax receipt is obtained.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith 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 Code of the City of Miami Beach, Florida. 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 _____, 2018.

PASSED AND ADOPTED this ____ day of _____, 2018.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

Underline denotes additions
~~Strikethrough~~ denotes deletions

(Sponsored by Mayor Dan Gelber)

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

RLC/L 9/12/18
City Attorney Date
AB