

# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY  
RAFAEL A. PAZ, CITY ATTORNEY

## COMMISSION MEMORANDUM

**TO:** Mayor Dan Gelber and Members of the City Commission  
Alina T. Hudak, City Manager

**FROM:** Rafael A. Paz, City Attorney



**FIRST READING**

**DATE:** June 28, 2023

**SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 102 OF THE MIAMI BEACH CITY CODE, ENTITLED "TAXATION," BY AMENDING ARTICLE V, ENTITLED "LOCAL TAX," BY CREATING SECTION 102-388 THEREOF, ENTITLED "HOMELESS AND DOMESTIC VIOLENCE TAX" TO AUTHORIZE MIAMI-DADE COUNTY TO LEVY, COLLECT, AND ADMINISTER THE 1% LOCAL OPTION FOOD AND BEVERAGE TAX (ALSO KNOWN AS THE "HOMELESS AND DOMESTIC VIOLENCE TAX") WITHIN THE MUNICIPAL LIMITS OF THE CITY OF MIAMI BEACH, AS PROVIDED IN SECTION 212.0306 OF THE FLORIDA STATUTES; AND, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

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The attached Ordinance was prepared at the request of the sponsor, Vice-Mayor Ricky Arriola. The proposed Ordinance is the first necessary step to authorize Miami-Dade County (the County) to levy, collect, and administer the 1% local option food and beverage tax, also known as the "Homeless and Domestic Violence Tax" (the "1% Tax") within the municipal limits of the City, as provided in Section 212.0306 of the Florida Statutes.

Section 212.0306(1)(b) of the Florida Statutes authorizes the County to levy a 1% local option food and beverage tax, with the proceeds thereof dedicated for homeless services and the construction and operation of domestic violence centers.

Pursuant to Fla. Stat. §212.0306 and Section 29-51 of the Miami-Dade County Code of Ordinances, the 1% Tax is collected throughout the County, with the exception of the three municipalities authorized to impose their own municipal resort tax, namely, our City, the Town of Surfside, and Bal Harbour Village, each of which are exempt from the 1% Tax pursuant to Fla. Stat. §212.0306(1)(d).

The 1% Tax has long been a priority for the City and Miami-Dade County, both of which have supported efforts to apply the 1% Tax in the City of Miami Beach. On February 20, 2019, the Board of County Commissioners for Miami-Dade County adopted Resolution No. R-214-19, urging the Florida Legislature to amend Section 212.0306 and expand the 1% Tax to include sales in the City of Miami Beach.

On November 2, 2021, 53.45% of the voters voting in the City of Miami Beach Special Election approved a nonbinding straw ballot measure, which called for the City Commission to adopt a Resolution urging the Florida Legislature to amend Section 212.0306 of the Florida Statutes, to allow for the collection of the 1% Tax in the City of Miami Beach.

Subsequently, on December 8, 2021, the Mayor and City Commission adopted Resolution No. 2021-31952, urging the Florida Legislature to amend Section 212.0306 of the Florida Statutes to allow for the collection of the 1% Tax within the City of Miami Beach.

On May 25, 2023, Governor Ron DeSantis signed into law House Bill 7063 (HB 7063), which includes a provision authorizing the 1% Tax to be imposed within the municipal limits of the City of Miami Beach, subject to certain requirements.

Specifically, HB 7063 amended Section 212.0306(1)(d) to provide that “the tax authorized by paragraph (1)(b) may be levied in” a city or town which collects its own municipal resort tax “if the governing authority of the city or town adopts an ordinance that is subsequently approved by a majority of the registered electors in such city or town at a referendum held at a general election as defined in s. 97.021.”

Accordingly, the first step to authorize the 1% Tax within the City is for the Mayor and City Commission to consider adoption of this Ordinance. If adopted, the Ordinance will be subject to subsequent referendum approval in accordance with Fla. Stat. §212.0306(1)(d) as part of the **November 5, 2024** general election.

If the requisite referendum approval is obtained, the Miami-Dade County Board of County Commissioners would then likely need to amend Section 29-51 of the County Code to impose the 1% Tax, as the current County Code specifically exempts the City from the 1% Tax.