

R5 AF AN ORDINANCE OF THE MAYOR AND 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 CLARIFYING THE PENALTIES FOR BUSINESSES THAT REPEATEDLY OPERATE WITHOUT PROCURING THE REQUIRED LOCAL BUSINESS TAX RECEIPT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: June 25, 2025 2:10 p.m. First Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND 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 CLARIFYING THE PENALTIES FOR BUSINESSES THAT REPEATEDLY OPERATE WITHOUT PROCURING THE REQUIRED LOCAL BUSINESS TAX RECEIPT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

BACKGROUND/HISTORY

ANALYSIS

The attached ordinance is presented on first reading by the sponsor, Commissioner Alex Fernandez.

The City consistently finds businesses that operate without first obtaining the required local business tax receipt ("BTR").

However, the current penalties, as set forth in the City Code impose a mandatory thirteen (13) month prohibition on the issuance of any BTR for third offenses without any showing that the violation was knowing and willful.

The proposed ordinance would amend the mandatory thirteen (13) month prohibition on the issuance of any BTR for third offenses to authorize the City Manager to impose this prohibition only with a showing that the violation was knowing and willful.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? No
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Condensed Title

2:10 p.m. 1st Rdg PH, Clarify Penalties for BTR Violations. (Fernandez) CA

Previous Action (For City Clerk Use Only)

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND 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 CLARIFYING THE PENALTIES FOR BUSINESSES THAT REPEATEDLY OPERATE WITHOUT PROCURING THE REQUIRED LOCAL BUSINESS TAX RECEIPT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City consistently finds businesses that operate without first obtaining the required local business tax receipt ("BTR"); and

WHEREAS, the current penalties, as set forth in the City Code impose a mandatory thirteen (13) month prohibition on the issuance of any BTR for third offenses without any showing that the violation was knowing and willful; and

WHEREAS, the Mayor and City Commission hereby amend the mandatory thirteen (13) month prohibition on the issuance of any BTR for third offenses to authorize the City Manager to impose this prohibition only with a showing that the violation was knowing and willful.

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

SECTION 1. Those Sections of the City's Local Business Tax Ordinance, as such Ordinance is codified in Sections 102-373 and 102-377 of the City Code, shall be amended as follows and hereinafter set forth below:

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 issued a violation for the offense which shall be subject to the following fines and penalties:

(1) First offense within a 12-month period: punishable by a \$1,000.00 civil fine, and the business shall be prohibited from operating until the required tax receipt is obtained.

- (2) Second offense within a 12-month period: punishable by a \$3,500.00 civil fine, and the business shall be prohibited from operating for a period of 10 days from the date of the second violation or until the required tax receipt is obtained, whichever is later.
- (3) Third offense within a 12-month period: punishable by a \$5,000.00 civil fine, and the ~~business shall be prohibited~~ city manager may prohibit the business from operating and applying for a tax receipt for a period of 13 months from the date of the third violation if the city manager finds the violation to have been committed willfully and/or knowingly. Additionally, if the city manager invokes this 13 month prohibition, no new tax receipt shall be issued during such 13-month period to any other business, person, firm, corporation or entity in which the violator (taxee), or any of its corporate officers in the immediately preceding 12-month period, or any person owning, directly or indirectly, ten percent or more of the violator (taxee) in the preceding 12-month period, have any monetary or equitable interest.
- (4) Any offense committed during a period of time in which the city manager, or the city manager's designee, has declared a high impact period and established any high impact measure(s) pursuant thereto, ~~shall authorize the city manager, or the city manager's designee, to prohibit~~ the city manager may prohibit the business from operating and applying for a tax receipt for a period of 13 months from the date of the violation if the city manager finds the violation to have been committed willfully and/or knowingly. Additionally, if the city manager invokes this 13 month prohibition, ~~the city manager, or the city manager's designee,~~ may prohibit the issuance of any new tax receipt during such 13-month period to any other business, person, firm, corporation or entity in which the violator (taxee), or any of its corporate officers in the immediately preceding 12-month period, or any person owning, directly or indirectly, ten percent or more of the violator (taxee) in the preceding 12-month period, have any monetary or equitable interest.

Businesses issued a notice of violation and/or prohibited from operating, pursuant to subsections (a)(1) – (a)(4) herein, may request a prompt post-closure hearing, before a special magistrate, by remitting a notice of appeal and request for hearing within 10 days of the issuance of the notice of violation.

Enhanced enforcement for continuing violations shall be pursuant to subsection 102-377(d) herein.

* * *

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same 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 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 5. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____, 2025.

PASSED AND ADOPTED this _____ day of _____, 2025.

ATTEST:

Steven Meiner, 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 *RR* *6/17/2025*
Date