

R5 F 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, FLORIDA, ENTITLED "TAXATION," BY AMENDING ARTICLE IV, ENTITLED "LOCAL BUSINESS TAX," BY AMENDING SECTION 102-368 THEREOF, ENTITLED "POSTING OF BUSINESS TAX RECEIPT AND DECAL," BY REQUIRING THAT SPECIFIED VESSEL-RELATED BUSINESSES PROMINENTLY DISPLAY THEIR CITY-ISSUED BUSINESS TAX RECEIPT NUMBER IN ALL ADVERTISING, SOLICITATION AND MARKETING MATERIALS; 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: July 24, 2024 10:40 a.m. Second 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, FLORIDA, ENTITLED "TAXATION," BY AMENDING ARTICLE IV, ENTITLED "LOCAL BUSINESS TAX," BY AMENDING SECTION 102-368 THEREOF, ENTITLED "POSTING OF BUSINESS TAX RECEIPT AND DECAL," BY REQUIRING THAT SPECIFIED VESSEL-RELATED BUSINESSES PROMINENTLY DISPLAY THEIR CITY-ISSUED BUSINESS TAX RECEIPT NUMBER IN ALL ADVERTISING, SOLICITATION AND MARKETING MATERIALS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

ANALYSIS

The proposed Ordinance, sponsored by Commissioner David Suarez, is proposed for Second Reading Public Hearing.

The City has seen an increasingly large number of vessels (including charter boats, rental boats, and jet skis) operating within its jurisdictional limits, and the sizeable number of individuals boating has posed various challenges for the City. The City has also received numerous complaints of commercial charter vessels, rental vessels, and other vessels illegally using both public and private property for the embarkation and/or disembarkation of passengers, docking, and the loading or unloading of food, goods, equipment fuel and supplies, in violation of the City Code.

Presently, the City Code requires commercial vessel businesses operating on, or from, any real property in the City to obtain a business tax receipt ("BTR") prior to commencing their business operations. However, the City has identified numerous online advertisements, marketing materials and solicitations pertaining to unauthorized commercial vessel activity (i.e., vessel charters and rentals) taking place in the City (from both public and private property), wherein such unpermitted and unregulated activity causes numerous public safety, noise, and sanitation issues, and is patently illegal without the person or business entity having obtained a BTR from the City.

The proposed Ordinance would require every person and entity conducting business in the City to prominently display their current City-issued BTR number (and the exact location of vessel embarkations and disembarkations) on all advertisements, solicitations and marketing materials relating to any commercial vessel activity occurring in the City.

The failure to fully comply with the proposed Ordinance would result in fines and penalties that range from \$1,000 for a first offense (and the business being prohibited from operating until it obtains a valid BTR), \$3,500 for a second offense within the preceding 12 months (and the business being prohibited from operating for 10 days or until it obtains a valid BTR, whichever is later), and \$5,000 for a 3rd offense within the preceding 12 months (and the business being prohibited from operating or applying for any new BTR for a 13-month period).

By adopting the proposed Ordinance, the Mayor and City Commission would provide the Code Compliance Department with a mechanism to more efficiently and effectively identify and issue violations to persons or entities advertising and conducting illegal commercial vessel operations within the City.

FISCAL IMPACT STATEMENT

Administration is requested to be prepared to address the fiscal impact of this proposed measure, if any, at the June 26, 2024 City Commission meeting.

Does this Ordinance require a Business Impact Estimate? Yes
(FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on 7/5/2024. See BIE at:
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

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 David Suarez

Co-sponsor(s)

Commissioner Joseph Magazine

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, FLORIDA, ENTITLED "TAXATION," BY AMENDING ARTICLE IV, ENTITLED "LOCAL BUSINESS TAX," BY AMENDING SECTION 102-368 THEREOF, ENTITLED "POSTING OF BUSINESS TAX RECEIPT AND DECAL," BY REQUIRING THAT SPECIFIED VESSEL-RELATED BUSINESSES PROMINENTLY DISPLAY THEIR CITY-ISSUED BUSINESS TAX RECEIPT NUMBER IN ALL ADVERTISING, SOLICITATION AND MARKETING MATERIALS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the protection of the health, safety, and general welfare of the City's residents and visitors is the most fundamental function of the City government; and

WHEREAS, the City has seen an increasingly large number of vessels (including charter boats, rental boats, and jet skis) operating within its jurisdictional limits and the sizeable number of individuals boating has posed numerous challenges for the City; and

WHEREAS, the City Code requires commercial vessel businesses operating on, or from, any real property in the City to obtain a business tax receipt ("BTR"), and abide by all state and local regulations in conducting their business operations; and

WHEREAS, the City has received numerous complaints of commercial charter vessels (and other vessel rentals) illegally using public and private property for the embarkation and/or disembarkation of passengers, docking, and the loading or unloading of food, goods, equipment fuel and supplies, in violation of various provisions of the City Code; and

WHEREAS, the City has also identified numerous online advertisements, marketing materials and solicitations pertaining to unauthorized commercial vessel activity (i.e., vessel charters and rentals) taking place in the City (from both public and private property), wherein such unpermitted and unregulated activity is illegal and causes numerous public safety, noise, sanitation, and other concerns.

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

SECTION 1. That the section of the City Code setting forth the requirement for the posting of the business tax receipt and display of the business tax receipt number in advertisements, solicitations and marketing materials, as such Ordinance is codified in section 102-368 of the City Code, shall be amended as follows and as hereinafter set forth below:

CHAPTER 102

TAXATION

* * *

ARTICLE IV. LOCAL BUSINESS TAX

* * *

Sec. 102-368. Posting of business tax receipt and decal; and display of business tax receipt number in advertisements.

- (a) Any person conducting a business for which a tax receipt is required by this article shall post his the city-issued business tax receipt in a conspicuous place in or about his the place of business where it may be seen upon inspection by any official of the city. ~~For his failure to do so, he may be fined as if he had never procured such tax receipt. The failure to do so shall result in fines and penalties, pursuant to section 102-377, as if such tax receipt had never been procured.~~
- (b) ~~If the city supplies a decal indicating that a business has a current tax receipt to the taxee, the taxee shall display the decal in the front window of the business premises within 15 days of the date of mailing by the city of the decal. Failure to display the decal as required shall result in a fine of \$25.00. Failure to pay the fine will be considered a violation of this article. Every person and entity conducting business in the city shall prominently display their current city-issued business tax receipt number and the exact location(s) of vessel embarkations and disembarkations on all advertisements, solicitations and marketing materials relating to any commercial vessel activity occurring in the city pursuant to any of the following categories. The failure to fully comply with the requirements of this subsection shall result in fines and penalties, pursuant to section 102-377, as if such person or entity had never procured a business tax receipt.~~
- (1) Charter – 95003403
 - (2) Livery (renting) – 95003200
 - (3) Commercial Passenger Boat – 95003402
 - (4) Sightseeing, Excursion – 95003401
 - (5) Boat or Surfboard Rentals, as an accessory use in hotels – 99003417
 - (6) Water Taxi - 95003415

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 _____, 2024.

PASSED AND ADOPTED this ____ day of _____, 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner David Suarez)

Underline denotes additions.
~~Strikethrough~~ denotes deletions.

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

5/1/2024

Date

MAF