

ORDINANCE NO. 2020-010

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 86 ENTITLED "TAXATION AND FEES", ARTICLE II. LOCAL BUSINESS TAX, OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, AND IN PARTICULAR, REVISING HIALEAH CODE SECTION 86-35 ENTITLED "DOING BUSINESS WITHOUT A LOCAL BUSINESS TAX RECEIPT" SUBSECTION (a), TO REMOVE THE PROVISION FOR ARRESTS AND ADDING A NEW SUBSECTION (d) TO PROVIDE FOR A CIVIL PENALTY FOR VIOLATIONS OF ARTICLE II IN CHAPTER 86, INCLUDING AGAINST PERSONS OPERATING A BUSINESS OR ENGAGING IN AN OCCUPATION OR PROFESSION WITHOUT A BUSINESS TAX RECEIPT, WITHIN 150 DAYS AFTER THE INITIAL NOTICE OF TAX DUE IS RECEIVED; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, by eliminating the provisions for arrest to enforce violations of the City's business tax code is consistent with the provisions of the City Code making all violations of City ordinances civil in nature; and

WHEREAS, providing for penalties through administrative code enforcement is consistent with the provisions of Florida Statutes §205.053 which provides for the assessment of additional penalties for violations of municipal business tax receipt ordinances; and

WHEREAS, the City finds adoption of this ordinance will encourage compliance and is in the public's welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 86 entitled "Taxation and Fees", Article II. Local Business Tax, of the Code of Ordinances of the City of Hialeah, Florida, in particular, Hialeah Code § 86-35 entitled "Doing business without a local business tax receipt", is hereby amended to read as follows:

Chapter 86

TAXATION AND FEES

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ARTICLE II. LOCAL BUSINESS TAX

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Sec. 86-35. - Doing business without a local business tax receipt.

- (a) The business tax administrator will issue to any person doing business without a valid business tax receipt, a cease and desist order allowing reasonable time, but not less than five working days, for compliance, after which the city will initiate all enforcement action allowed by law, including legal proceedings to ensure the closing of the place of business ~~and/or arrest of violators~~ if continuing to operate without a valid business tax receipt. These actions may include impounding of vehicles, equipment, and other property as well as placing liens to ensure the recovery of fees, penalties, fines and legal costs.
- (b) Any person engaging in or managing any business or profession or occupation without first obtaining a business tax receipt shall be subject to a penalty of 25 percent of the business tax determined to be due, in addition to regular fees and any other penalty provided by law or ordinance.
- (c) No person who shall have operated a business in the city without a business tax receipt in prior years shall be granted a current business tax receipt without first having paid to the city all amounts owed as business taxes and penalties for previous years during which the operation was carried on under such person or ownership, including late fees which shall be 25 percent of the business tax per year.

(d) Any person who engages in any business, occupation, or profession covered by this chapter, who does not pay the required business tax receipt within 150 days after a cease and desist order is issued, and who does not obtain the required business tax receipt is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a civil penalty in the amount of \$100.00.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

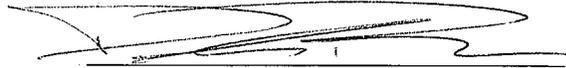
Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

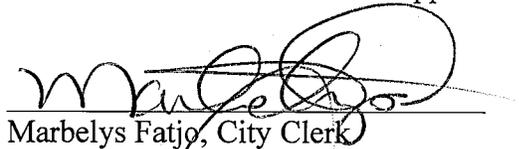
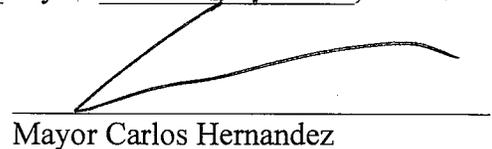
PASSED AND ADOPTED this 25 day of February, 2020.



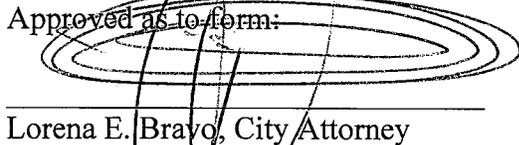
Oscar De la Rosa
Council Vice-President

Attest:

Approved on this 2 day of March, 2020.


Marbelys Fatjo, City Clerk
Mayor Carlos Hernandez

Approved as to form:


Lorena E. Bravo, City Attorney

Ordinance was adopted by a 5-0-2 vote with Councilmembers, De La Rosa, Garcia-Roves, Perez, Tundidor and Zogby voting "Yes" and with Council President Hernandez and Councilmember Cue-Fuente absent.

Strikethrough indicates deletion. Underline indicates addition.