

R5 AC 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 CREATING SECTION 102-368.1 THEREOF, ENTITLED "POSTING OF CONDITIONAL USE PERMIT (CUP) DECAL," TO REQUIRE ANY BUSINESS OPERATING PURSUANT TO AN ACTIVE CONDITIONAL USE PERMIT TO POST A DECAL, ISSUED BY THE CITY, INDICATING THAT THE BUSINESS HAS AN ACTIVE CONDITIONAL USE PERMIT (CUP), AND PROVIDING INFORMATION ON HOW THE APPROVED CUP MAY BE ACCESSED VIA THE INTERNET; 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 First Reading

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 CREATING SECTION 102-368.1 THEREOF, ENTITLED "POSTING OF CONDITIONAL USE PERMIT (CUP) DECAL," TO REQUIRE ANY BUSINESS OPERATING PURSUANT TO AN ACTIVE CONDITIONAL USE PERMIT TO POST A DECAL, ISSUED BY THE CITY, INDICATING THAT THE BUSINESS HAS AN ACTIVE CONDITIONAL USE PERMIT (CUP), AND PROVIDING INFORMATION ON HOW THE APPROVED CUP MAY BE ACCESSED VIA THE INTERNET; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

BACKGROUND/HISTORY

Pursuant to the request of Commissioner Alex Fernandez, the attached Ordinance has been placed on the City Commission meeting agenda for First Reading.

Currently, pursuant to City Code Section 102-368, each business operator in the City is required to post a business tax receipt ("BTR") in a conspicuous place, so that it is visible to the City, upon inspection, and to members of the public.

Under the Land Development Regulations, certain uses are classified as "conditional uses," requiring conditional use permit (CUP) approval from the Planning Board. As part of each CUP approval, the Planning Board is authorized to impose conditions to ensure the business operates in a manner consistent with the Code, and to mitigate the potential impacts of the use on neighboring properties. Each CUP, including any conditions of approval, is memorialized in a detailed written order.

ANALYSIS

This Ordinance amends the City Code to require businesses to post a decal, issued by the City, indicating that the business has an active CUP, and providing information on how the approved CUP may be accessed via the internet. This may include a link, bar code, QR code, or other machine-readable code linking to the full text of the approved CUP. This Ordinance will enhance transparency relating to each business operation and its conditions of approval, and will allow the public to verify that the business is operating consistent with its approval. By enhancing transparency, this Ordinance will also promote accountability and improve compliance with CUP approvals.

FISCAL IMPACT STATEMENT

If this Ordinance is adopted at First Reading, the Administration will provide an estimated fiscal impact prior to Second Reading.

CONCLUSION

If the Ordinance is adopted at First Reading, a Second Reading/Public Hearing will be scheduled on July 24, 2024.

Applicable Area

Citywide

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

Yes

**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): N/A

Department

City Attorney

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Commissioner Joseph Magazine
Commissioner Tanya K. Bhatt

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 CREATING SECTION 102-368.1 THEREOF, ENTITLED "POSTING OF CONDITIONAL USE PERMIT (CUP) DECAL," TO REQUIRE ANY BUSINESS OPERATING PURSUANT TO AN ACTIVE CONDITIONAL USE PERMIT TO POST A DECAL, ISSUED BY THE CITY, INDICATING THAT THE BUSINESS HAS AN ACTIVE CONDITIONAL USE PERMIT (CUP), AND PROVIDING INFORMATION ON HOW THE APPROVED CUP MAY BE ACCESSED VIA THE INTERNET; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, currently, each business operator in the City is required to post a business tax receipt ("BTR") in a conspicuous place, so that it is visible to the City, upon inspection, and to members of the public; and

WHEREAS, under the Land Development Regulations, certain uses are classified as "conditional uses," requiring conditional use permit (CUP) approval from the Planning Board; and

WHEREAS, as part of each CUP approval, the Planning Board is authorized to impose conditions to ensure the business operates in a manner consistent with the Code, and to mitigate the potential impacts of the use on neighboring properties; and

WHEREAS, each CUP, including any conditions of approval, is memorialized in a detailed written order; and

WHEREAS, the City Commission now desires to amend the City Code to require businesses to post a decal, issued by the City, indicating that the business has an active CUP, and providing information on how the approved CUP may be accessed via the internet; and

WHEREAS, this ordinance will enhance transparency relating to each business operation and its conditions of approval, and will allow the public to verify that the business is operating consistent with its approval; and

WHEREAS, by enhancing transparency, this Ordinance will also promote accountability and improve compliance with CUP approvals.

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

SECTION 1. That Chapter 102 of the Code of the City of Miami Beach, entitled "Taxation," at Article V, entitled "Local Business Tax," is hereby amended as follows:

**CHAPTER 102
TAXATION**

* * *

Article V. Local Business Tax.

* * *

Sec. 102-368.1. Posting of conditional use permit (CUP) decal.

- (a) Any business establishment conducting a business pursuant to an active conditional use permit approved by the planning board shall be required to post a decal, issued by the city, indicating that the business holds an active conditional use permit. The decal shall be displayed in the front window of the business premises upon the later of the effective date of this ordinance, or within 15 days of the recording of the conditional use permit. The decal shall indicate that the business is operating pursuant to a conditional use permit approved by the planning board, and shall include a link, bar code, QR code, or other machine-readable code linking to the full text of the conditional use permit.

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 a part of the Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or re-lettered 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 October 1, 2025.

PASSED and ADOPTED this _____ day of _____, 2024.

ATTEST:


Mayor Steven Meiner

Rafael E. Granado, City Clerk

Underline denotes new language

(Sponsored by Commissioner Alex J. Fernandez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 6/17/2024
City Attorney Date
NK