

R5 C 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; AND BY AMENDING APPENDIX A TO THE CITY CODE, ENTITLED "FEE SCHEDULE," TO CREATE A FEE TO OBTAIN THE REQUIRED DECAL; 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: September 11, 2024 10:20 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, 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; AND BY AMENDING APPENDIX A TO THE CITY CODE, ENTITLED "FEE SCHEDULE," TO CREATE A FEE TO OBTAIN THE REQUIRED DECAL; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

### **BACKGROUND/HISTORY**

Pursuant to the request of Vice-Mayor Alex J. Fernandez, the attached Ordinance has been placed on the September 11, 2024 City Commission meeting agenda for Second Reading/Public Hearing. The Ordinance was approved at First Reading on July 24, 2024.

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.

The Ordinance has been revised for Second Reading to provide for a one-time fee in the amount of \$10.00 for each business operating pursuant to a CUP. The purpose of the fee is to cover the City's administrative costs and the cost of printing each decal.

### **FISCAL IMPACT STATEMENT**

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

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

The Business Impact Estimate (BIE) was published on 8/23/2024. See BIE at:  
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

### **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; AND BY AMENDING APPENDIX A TO THE CITY CODE, ENTITLED "FEE SCHEDULE," TO CREATE A FEE TO OBTAIN THE REQUIRED DECAL; AND 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 (or at the main entrance to the establishment, in the absence of a front window) 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.** Appendix A to the City Code, entitled "Fee Schedule," is hereby amended as follows:

**FEE SCHEDULE**

Pursuant to section 1-15 of this Code, this appendix includes all fees and charges established by the city commission that are referred to in the indicated sections of the Code of Ordinances. Certain specified fees and charges, as identified herein, shall be subject to annual adjustment by the city manager, pursuant to the provisions of section 1-15 and this Appendix "A". A schedule of all current city fees and charges as set forth in Appendix "A" shall be maintained on the city's website.

\* \* \*

Section of this Code	Description	FY2024 Fee	Annual adjustment (References shown are defined at the end of this Appendix A)
	* * *		
	Chapter 102. Taxation		
	* * *		



	Article V. Local Business Tax		
	* * *		
<u>102-368.1</u>	<u>Conditional use permit (CUP) decal</u> <u>(fee shall apply to issuance of original decal as well</u> <u>as replacement decals)</u>	<u>10.00</u>	[A]
	* * *		

#### NOTES ON ANNUAL ADJUSTMENTS

[A] Indexed to CPI - Rounded up to the nearest dollar

[B] Indexed to CPI - Rounded up to the nearest cent

\* \* \*

#### **SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

#### **SECTION 4. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

#### **SECTION 5. 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 6. 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 Vice-Mayor Alex J. Fernandez)

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

NK

\_\_\_\_\_  
Date

8/22/2024