



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Members of the Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: July 22, 2013

SUBJECT: **DISCUSSION REGARDING FOOD TRUCKS ON PRIVATE PROPERTY**

BACKGROUND

On September 12, 2012, at the request of Commissioner Wolfson, the Mayor and City Commission approved a referral to the Land Use and Development Committee (LUDC) for a discussion regarding permitting Food Trucks on private property. On February 13, 2013, the Land Use Committee discussed the item and directed staff to prepare an Ordinance Amendment, for consideration by the Committee.

ANALYSIS

Section 142-874 of the City Code requires that business be conducted within substantially enclosed, permanent buildings. This code section, provided below, is cited frequently, and is important for discouraging unwanted outdoor business activities, display of inventory in front of stores, and other unaesthetic outdoor sales activities.

Section 142-874. - Required enclosures.

- (a) *Store enclosures.* In all use districts designated in these land development regulations, the sale, or exposure for sale or rent, of any personal property, including merchandise, groceries or perishable foods, such as vegetables and fruits, is prohibited, unless such sale, or exposure for sale, is made from a substantially enclosed, permanent building; provided, however, that nothing herein contained shall be deemed applicable to rooftop areas not visible from the right-of-way, filling stations, automobile service stations or repair shops; uses having revocable permits or beach concessions operated or granted by the city, newsracks or newspaper stands, or displays at sidewalk cafes as permitted in subsection 82-384(ff), wherever such uses are otherwise permissible.

There are exceptions to the requirement for enclosures for rooftops not visible from the right-of-way, gas stations, beach concessions, newsracks, and sidewalk cafes. Currently, the City is permits food trucks as part of City sponsored special events; this is permissible through the approval of a Special Event permit. In order to permit Food Trucks to operate permanently from private property, Section 142-874 of the Code would be required to be amended to add an additional exemption.

However, in the past, objections have been raised to permitting food trucks to operate on a more widespread basis within the City, primarily from operators of restaurants already located within permanent buildings. The permitting of a restaurant by the City involves a sometimes arduous process of plan review and licensing, involving requirements to meet a variety of different codes. The expansion of the food truck program from limited intermittent special events, which is the current situation in the City and most common in other areas, to permitting food trucks to permanently locate within the City, may have additional negative impacts on surrounding neighborhoods that should be studied further.

At the February 13, 2013 Land Use Committee meeting, the following policy directives were given to staff, to incorporate into the proposed Ordinance:

- Food Trucks will only be permitted on licensed, private commercial parking lots.
- Food Trucks will not be located within 500 feet of any outdoor or sidewalk café.
- Food Trucks will not be located in or abutting a residential zoning district.

Other issues related to required parking, setbacks, alcoholic beverage regulation, hours of operation, and access from adjacent sidewalks, have also been addressed in the subject Ordinance.

ADMINISTRATION RECOMMENDATION

The Administration seeks guidance from the Land Use and Development Committee. If desired to move forward, the proposed Ordinance should be forwarded to the full Commission for referral to the Planning Board for formal consideration.

JLM/JMJ/RGL

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FOOD TRUCKS ON PRIVATE PROPERTY

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE IV, "SUPPLEMENTARY DISTRICT REGULATIONS," DIVISION 1, "GENERALLY," BY AMENDING SECTION 142-874, "REQUIRED ENCLOSURES," TO CREATE AN EXCEPTION TO THE ORDINANCE LIMITATING SALES FROM SUBSTANTIAL ENCLOSED STRUCTURES FOR FOOD TRUCKS ON PRIVATE PROPERTY; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission have deemed it in the public health, safety and welfare of the City to adopt requirements, standards and procedures for the use of food trucks on private property; and

WHEREAS, the Mayor and City Commission deem it appropriate to create distance separation requirements and location safeguards for the use of food trucks on private property, in order to protect the health, safety and welfare in Miami Beach; and

WHEREAS, the City of Miami Beach Planning Board has considered the ordinance on _____ and voted _____ to recommend approval of this proposed amendment to the Code; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article IV, "Supplementary District Regulations," Division 1, "Generally," Section 142-874, "Required enclosures," is hereby amended as follows:

Section 142-874. - Required enclosures.

- (a) *Store enclosures.* In all use districts designated in these land development regulations, the sale, or exposure for sale or rent, of any personal property, including merchandise, groceries or perishable foods, such as vegetables and fruits, is prohibited, unless such sale, or exposure for sale, is made from a substantially enclosed, permanent building; provided, however, that nothing herein contained shall be deemed applicable to rooftop areas not visible from the right-of-way, filling stations, automobile service stations or repair shops; uses having revocable permits or beach concessions operated or granted by the city, newsracks or newspaper stands, or displays at sidewalk cafes as permitted in subsection 82-384(ff), wherever such uses are otherwise permissible.
- (b) *Food Trucks on private property.* Notwithstanding subsection (a) above, food trucks shall only be permitted on licensed, private commercial parking lots not located within 500 feet of any outdoor or sidewalk café and not located in or abutting a residential zoning district in accordance with the following:
 - (1) Alcohol may only be sold with food. All applicable State and County regulations for the sale and distribution of food and alcohol shall apply.

- (2) Food Trucks shall not result in the permanent removal of any parking spaces;
- (3) Food trucks shall be setback a minimum distance of 10 feet from any property line, and unencumbered access from adjoining sidewalks shall be required; and
- (4) Food Trucks shall not operate past midnight.

(c) Mechanical equipment. All mechanical equipment located above the roof deck shall be enclosed or screened from public view.

SECTION 2. 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 Code of the City of Miami Beach, Florida. 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 3. REPEALER.

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

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2013.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

City Attorney

Date

First Reading: _____, 2013
Second Reading: _____, 2013

Verified by: _____
Richard G. Lorber, AICP, LEED AP
Acting Planning Director

Underscore denotes new language
03/13/2013

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ADDENDUM

- C4I Referral To The Sustainability Committee – Discussion On Adopting And Implementing Practices At The Miami Beach Convention Center (MBCC) That Contribute To Energy Conservation And Mitigate Greenhouse Gas Emissions.
(Requested by Commissioner Michael Góngora)

ACTION: Referred. Fred Beckmann to place on the committee agenda and to handle.

ADDENDUM

- C4J Referral To The Finance And Citywide Projects Committee – Update On The Status Of Convention Center And Lincoln Road.
(Requested by Commissioner Jerry Libbin)

ACTION: Referred. Patricia Walker to place on the committee agenda. **Jorge Gomez, Maria Estevez and Max Sklar to handle.**

11:12:28 a.m.

EMERGENCY ADDENDUM ITEM

- * C4K Referral To The Land Use And Development Committee Discussion Concerning The Food Trucks On Private Property.
(Requested by Commissioner Wolfson)

ACTION: Referred. Motion made by Commissioner Wolfson; seconded by Commissioner Tobin; Voice vote: 7-0. **Richard Lorber to place on the committee agenda. Max Sklar to handle.**

Commissioner Wolfson explained the reason for his referral, and this item was added to the Agenda as an Emergency Item. See motion with Addendum on Page 2 of this Afteraction.

C6 - Commission Committee Reports

- C6A Report Of The Land Use And Development Committee Meeting Of July 25, 2012: **1)** Discussion Regarding A Resolution By The Historic Preservation Board To Modify The Code Governing The Voluntary Designation Of Single Family Homes. **2)** Reduced Parking Rates For Hotel Employees. **3)** Discussion Regarding Not Charging Double Permit Fees For People Who Come Forward And Request Permits For Work Done Without A Permit. **4)** Discussion On Ways To Enhance The Land Use Boards Of Miami Beach In Order To Improve The City Of Miami Beach Building And Planning Department And Processes. **5)** Discussion Regarding An Agreement With Marriott Seville, For Improvements To And The Maintenance Of The 29th Street End And Traffic Circle And For The Construction Of A Portion Of The Beachwalk. **6)** Discussion Regarding A Proposed Sewage Lift Station In 18th Street For The Shelbourne Hotel. **7)** Discussion Regarding The Commission Serving As The Evaluation Committee In Larger Significant Projects.

ACTION:

Item No.1: Discussion Regarding A Resolution By The Historic Preservation Board To Modify The Code Governing The Voluntary Designation Of Single Family Homes.

MOTION: Libbin/Bower: (3-0) Bring back to the Committee a draft ordinance amendment setting the date for DRB review of single family homes to 1966.