

Mobility Fee Waiver for Restaurants and Sidewalk Cafes

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH BY AMENDING CHAPTER 122 OF THE LAND DEVELOPMENT REGULATIONS, ENTITLED "CONCURRENCY MANAGEMENT AND MOBILITY FEES," ARTICLE I, ENTITLED "PURPOSE AND GENERAL PROVISIONS," AT SECTION 122-2, ENTITLED "DEFINITIONS"; ARTICLE II, ENTITLED "CONCURRENCY," AT SECTION 122-12, ENTITLED "DETERMINATION OF CONCURRENCY," AND ARTICLE III, ENTITLED "MOBILITY FEES," AT SECTION 122-23, ENTITLED "IMPOSITION AND COLLECTION OF MOBILITY FEES," TO PROVIDE FOR A MOBILITY FEE CREDIT AND CAPACITY CREDIT FOR RESTAURANT AND SIDEWALK CAFÉ USES THAT HAVE REDUCED THE TOTAL NUMBER OF SEATS SUBSEQUENT TO THE INITIAL MOBILITY FEE AND/OR CONCURRENCY DETERMINATION FOR THE USE, AND PROVIDE FOR RELATED CLARIFICATIONS; AND PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, due to the economic impacts of the COVID-19 pandemic, several restaurants in Miami Beach scaled back their business operations by reducing seat counts; and

WHEREAS, as the worst impacts of the pandemic subside, restaurants are increasing their total number of seats to match their original approvals; and

WHEREAS, the City desires to encourage investment in restaurants and promote economic recovery; 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 122 of the City Code, entitled "Concurrency Management and Mobility Fees," Article I, entitled "Purpose and General Provisions," at Section 122-2, entitled "Definitions," is hereby amended as follows:

**CHAPTER 122
CONCURRENCY MANAGEMENT AND MOBILITY FEES
ARTICLE I. PURPOSE AND GENERAL PROVISIONS**

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Sec. 122-2. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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Active use means a use for which a business tax receipt, certificate of occupancy, or certificate of use has been issued. This term "active use" shall not include a use that is authorized pursuant to a special event permit.

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Capacity credit means a credit for certain existing or demolished improvements toward concurrency requirements for future development.

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Legally established use means the following, for purposes of calculating capacity credits under article II of this chapter, and for purposes of calculating mobility fees under article III of this chapter:

- (1) For existing structures that have an active use, the current use shall be used as the basis for calculating capacity credits or mobility fees.
- (2) For vacant structures or structures undergoing construction, the most recent active use shall be used as the basis for calculating capacity credits or mobility fees.
- (3) For vacant land, the most recent active use, within the preceding ten years, shall be used as the basis for calculating capacity credits or mobility fees.
- (4) For restaurant and sidewalk café uses that previously reduced the total number of seats, subsequent to the initial mobility fee and/or concurrency determination for the use, the greatest number of legally established seats during the two (2) years prior to a re-introduction of seats shall be used as the basis for calculating capacity credits or mobility fees, provided no intervening change of use or change of ownership has occurred.

SECTION 2. Chapter 122 of the City Code, entitled "Concurrency Management and Mobility Fees," Article II, entitled "Concurrency," at Section 122-12, entitled "Determination of concurrency," is hereby amended as follows:

ARTICLE II. CONCURRENCY

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Sec. 122-12. Determination of concurrency.

- (a) As part of an application for a development order that increases the density or intensity of a site, as applicable, each applicable review department shall make a determination of

concurrency in accordance with section 122-26 as to whether required public facilities are or will be available when needed to serve the proposed development; determine the effective period during which such facilities will be available to serve the proposed development; and issue an invoice for necessary concurrency mitigation fees or identify other mitigation measures.

(b) Capacity credits shall be given for a legally established use as follows: as defined in section 122-2.

~~(1) For existing structures that have an active use, the current use shall be used as the basis for calculating capacity credits.~~

~~(2) For vacant structures or structures undergoing construction, the last active use shall be used as the basis for calculating capacity credits.~~

~~(3) For vacant land, the last active use shall be used as the basis for calculating capacity credits, provided the activity has not been inactive for more than ten years.~~

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SECTION 3. Chapter 122 of the City Code, entitled "Concurrency Management and Mobility Fees," Article III, entitled "Mobility Fees," at Section 122-23, entitled "Imposition and collection of mobility fees," is hereby amended as follows:

ARTICLE III. MOBILITY FEES

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Sec. 122-23. Imposition and collection of mobility fees.

(a) Mobility fees shall be assessed upon the issuance of a building permit or change of use for any development within the city. Mobility fees shall be calculated in the manner set forth in section 122-26 hereof and the mobility fee study referenced in section 122-22.

(1) Mobility fees assessed in connection with the issuance of a development order shall be collected and paid prior to or concurrent with the issuance of the building permit.

(2) Mobility fees assessed in connection with a change of use shall be collected and paid prior to issuance of the certificate of use, business tax receipt, or other similar approval. The mobility fee shall be computed at the difference between the rate established in the mobility fee schedule for the proposed use and the rate established in the mobility fee schedule for the ~~current~~ legally established use as defined in section 122-2.

(b) Modifications to an existing use and changes of use which do not result in a higher assessment under the mobility fee schedule shall be exempted from payment of the mobility fee.

(c) The city shall also require a site-specific multimodal transportation analysis and mitigation plan pursuant to the applicable land use board application requirements set forth in chapter 118.

SECTION 4. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 5. CODIFICATION.

It is the intention of the City Commission, 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 as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" maybe changed to "section" or other appropriate word.

SECTION 6. SEVERABILITY.

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

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this ____ day of _____, 2022.


ATTEST:

Rafael E. Granado, City Clerk

Dan Gelber, Mayor

First Reading: March 9, 2022
Second Reading: April 6, 2022

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION



City Attorney

2-28-22
NK Date

Verified By: _____
Thomas R. Mooney, AICP
Planning Director