



AGENDA ITEM SUMMARY FORM

First Reading

File ID: #13645

Date: 03/09/2023

Requesting Department: City Manager's Office

Commission Meeting Date: 09/14/2023

Type: Ordinance

Sponsored By: Sabina Covo

District Impacted: District 1, District 2,
District 5

Subject: Amend Code - Chapter 31 -
App Based Mobile Operation Pilot to
Permanent

PURPOSE OF ITEM:

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 31/ARTICLE II/SECTION 31-51 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, TITLED "LOCAL BUSINESS TAX AND MISCELLANEOUS BUSINESS REGULATIONS/LOCAL BUSINESS TAX (BTR)/FOOD TRUCKS OPERATING ON PRIVATE LAND," TO PROVIDE FOR PERMANENT FOOD TRUCK ORDINANCE; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

BACKGROUND INFORMATION:

Food Trucks on private land are regulated through Section 31-51 of the Code of the City of Miami, Florida, as amended ("City Code").

App Based Meal Productions areas were adopted into the City Code as part of a pilot program under Ordinance 13993, adding Section 31-51(h), which passed April 22, 2021 and was extended via Resolution R-22-0118 on March 24, 2022.

Pursuant to the Charter, a pilot program may only run for one initial year and then only for one further subsequent year with City Commission approval.

The App Based Meal Production services have provided an avenue for local area brick and mortar business to expand their footprint throughout the City and reach more customers.

These services do not provide on-site food sales but rather operate as an extra kitchen to already existent restaurants and create a hub for delivery services to bring the food to residents, visitors and businesses in our community.

The City and its residents, visitors and business have already benefited greatly from this modern day restaurant expansion option and making it permanent would be in the best interests of the City of Miami.

Budget Impact Analysis

Item is NOT Related to Revenue

Item is NOT funded by Bonds

Reviewed By

City Commission	Nicole Ewan	Meeting	Completed	03/23/2023 9:00 AM
City Manager's Office	Arthur Noriega V	Department Head Review	Completed	04/03/2023 3:57 PM
Office of Management and Budget	Aniska Elliott	Budget Analyst Review	Completed	04/04/2023 7:06 AM
Office of Management and Budget	Marie Gouin	Budget Review	Completed	04/04/2023 11:38 AM
Legislative Division	Valentin J Alvarez	Legislative Division Review	Completed	04/04/2023 11:43 AM
Office of the City Attorney	Rachel Dooley	ACA Review	Completed	04/04/2023 4:17 PM
Office of the City Attorney	Victoria Méndez	Approved Form and Correctness	Completed	04/04/2023 5:56 PM
City Commission	Nicole Ewan	Meeting	Completed	04/13/2023 9:00 AM
Legislative Division	Valentin J Alvarez	Legislative Division Review	Completed	08/29/2023 3:38 PM
Office of the City Attorney	Rachel Dooley	ACA Review	Completed	09/01/2023 10:09 AM
Office of the City Attorney	Victoria Méndez	Approved Form and Correctness	Completed	09/05/2023 3:28 PM
City Commission	Todd B. Hannon	Meeting	Pending	09/14/2023 9:00 AM



**City of Miami
Legislation
Ordinance
Enactment Number**

City Hall
3500 Pan American Drive
Miami, FL 33133
www.miamigov.com

File Number: 13645

Final Action Date:

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 31/ARTICLE II/SECTION 31-51 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, TITLED "LOCAL BUSINESS TAX AND MISCELLANEOUS BUSINESS REGULATIONS/LOCAL BUSINESS TAX (BTR)/FOOD TRUCKS OPERATING ON PRIVATE LAND," TO PROVIDE FOR A PERMANENT FOOD TRUCK ORDINANCE; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Food Trucks on private land are regulated through Section 31-51 of the Code of the City of Miami, Florida, as amended ("City Code"); and

WHEREAS, App Based Meal Productions areas were adopted into the City Code as part of a pilot program under Ordinance 13993, adding Section 31-51(h), which passed April 22, 2021 and was extended via Resolution R-22-0118 on March 24, 2022; and

WHEREAS, pursuant to the Charter, a pilot program may only run for one initial year and then only for one further subsequent year with City Commission approval; and

WHEREAS, the App Based Meal Production services have provided an avenue for local area brick and mortar business to expand their footprint throughout the City and reach more customers; and

WHEREAS, these services do not provide on-site food sales but rather operate as an extra kitchen to already existent restaurants and creates a hub for delivery services to bring the food to residents, visitors and businesses in our community; and

WHEREAS, the City and its residents, visitors and business have already benefited greatly from this modern day restaurant expansion option and making it permanent would be in the best interests of the City of Miami;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. Chapter 31, Article II of the City Code is amended in the following particulars:¹

"CHAPTER 31

¹ Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

LOCAL BUSINESS TAX AND MISCELLANEOUS BUSINESS REGULATIONS

* * *

ARTICLE II. LOCAL BUSINESS TAX (BTR)

* * *

Sec. 31-51. - Food trucks operating on private land.

* * *

(h) ~~Pilot Program for a~~App-based mobile operations.

(1) *Definitions in addition to those provided in subsection 31-51(b).*

Delivery food vehicle means any vehicle used as or in conjunction with a mobile operation unit operating with app-based meal production for delivery only to be consumed off-premises.

Mobile operation unit means the movable stand, cart, vehicle, truck, van, or trailer through which mobile operations are performed on a parking lot site or on vacant land. Shipping containers do not qualify as a Mobile Operations Unit and require necessary Building Permits in order to be securely left in any space.

Mobile operations mean the operation of food trucks and delivery food vehicles and fulfillment operations performed from a movable stand, cart, vehicle, truck, van, or trailer.

(2) *Requirements for operation.*

- a. The mobile operation will be allowed to operate on private property in Districts 1, 2 (excluding the Central Business District ("CBD") as described in herein), and 5 only.
- b. No mobile operation shall be located within the CBD, generally identified as the area bound by Biscayne Boulevard to the East, the Miami River to the South, Northeast 9th Street to the North, and Interstate 95 ("I-95") to the West, as illustrated by the map provided in Exhibit "A", attached and incorporated.
- c. Mobile operations are permissible only on private properties ~~with an active certificate of use~~ within T5, T6, CS, CI, D1, D2, and D3 transect zones where the use category of food service establishment is allowed.
- d. Mobile operations, mobile operation units, or food delivery vehicles shall not be located on public right-of-way, required parking spaces, driveway aisles, no-parking zones, unpaved areas, loading areas, or parking lanes and may not impede the on-site circulation of pedestrians or traffic flow.
- e. The utilization of an off-street parking space for mobile operations shall not cause the abutting site to become deficient in required off-street parking.
- f. Mobile operations shall not be located on private properties that houses gas stations, natural gas distributors, or other combustible energy sources.
- g. Mobile operations shall be located a minimum of 25 feet from the property line of an existing residential use, except that mobile operations may be located at a minimum of ten feet from the property line if the residential use is separated by a six foot high masonry wall but may not abut a T3 transect zone.
- h. Electric service connection of mobile operations to an on-site electrical outlet is permitted; however, all approved electrical services, panels, and outlet

connections to a permanent enclosure or outlet box shall require an electrical permit from the building department prior to installation. Installation of electrical wiring and equipment must meet the provisions of the most recently adopted edition of the National Electrical Code. No wiring or cables may run beyond the vending area or pose any danger to the patrons or operators, either from being exposed or not properly installed to avoid a tripping hazard or life safety issues. For purposes of this requirement, the vending area includes the space taken up by a mobile operation unit; equipment; products; and any tents, tarpaulins, canopies, or awnings; and

- i. All mobile operations must provide to the city their contract for servicing all grease-traps, as applicable, and said contract must remain valid or the BTR holder will be in violation of this section.
 - j. All mobile operations shall acquire any and all necessary permits required by the building, planning and zoning and any other departments or regulatory agencies prior to starting any business operations as allowed by this section.
- (3) *Application and requirements to obtain a ~~pilot program~~ business tax receipt ("BTR").*
- a. All mobile operations must comply with subsections 31-51(c)(1)—(3);
 - b. All applications shall be approved by the city manager or designee;
 - c. All applications will be reviewed by the city manager or designee and a determination provided within 15 days of receipt;
 - d. All applications shall be required to provide a site map, abutting zoning designations, the active and valid certificate of use of the private property to be used, and proof of compliance with subsection 31-51(h)(2); and
 - e. A notarized letter from the owner of the private property that the applicant has the authority to seek a BTR to occupy the property.

(4) *Enforcement; penalties.*

(a) Any violation of this section is punishable by a fine of \$250.00 for a first offense and \$500.00 for each offense thereafter or as a notice of violation under the provisions of chapter 2, article X of the City Code and any other remedies as provided by law, jointly and severally, including, but not limited to, suspension or revocation of the relevant BTR or any other legal remedy as deemed appropriate by the city. The use of one remedy shall not preclude the use of another.

(b) If the App-Based Mobile Operations site converts from a Mobile Operation Unit(s) to a permanent structure(s), compliance with the Florida Building Code and local amendments as well as Miami 21, including but not limited to, issuance of a Certificate of Use, shall be required.

~~(5) *Review; sunset provision.*~~

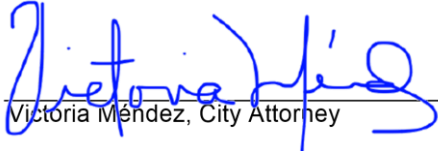
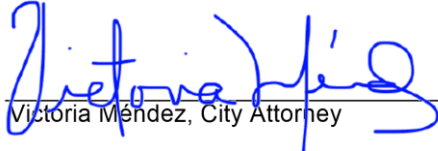
- ~~a. The city manager shall compile statistics including, but not limited to, number of participants, sales, number of people employed through the program, and number of City Code violations at mobile operation sites and present the report to the city commission no less than 90 days prior to the expiration of the pilot program unless the pilot program is repealed earlier.~~
- ~~b. This section will automatically sunset on March 10, 2022 unless it is earlier repealed by the city commission or the city commission extends the pilot program for an additional period of not more than one year.~~

* * *

Section 3. If any section, part of section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. This Ordinance shall become effective immediately upon adoption by the City Commission.²

APPROVED AS TO FORM AND CORRECTNESS:

	
Victoria Méndez, City Attorney	Victoria Méndez, City Attorney
4/4/2023	9/5/2023

² This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.