

Tab 15



AGENDA ITEM INFORMATION

Meeting:	<input type="text" value="Council Meeting"/>	Meeting Date:	<input type="text" value="12/18/2024"/>
Department:	<input type="text" value="City Manager"/>	Department Head:	<input type="text" value="Zerry Ihekwaba, PhD, PE"/>
Item Type:	<input type="text" value="Ordinance First Reading"/>	Author:	<input type="text" value="Josh A. Rios"/>
Title:	<input type="text" value="Municipal Certificate of Use"/>		
Requested Action:	<input type="text" value="Approve Ordinance on First Reading"/>		
Recommendation:	<p>Staff recommends Mayor and Council approve the attached Ordinance on first reading to establish a municipal certificate of use.</p> <p><i>msf</i></p> <p>Fiscal Impact: Increase in City Revenue Funding Source: N/A City Impact: Citywide</p>		

BACKGROUND AND SUPPORTING DOCUMENTATION

Background Information:	<p>The attached Ordinance aims to establish a municipal Certificate of Use ("CU") requirement to ensure that all commercial and industrial businesses in Homestead operate in a manner consistent with community safety and zoning standards. To receive a Local Business Tax Receipt, business owners must first apply for and be issued a CU for their specific establishment, per City Code. The CU certifies that the intended business use is permitted and complies with the requirements of the Miami-Dade County Code, Florida Building Code, City of Homestead Zoning Code, and Fire Marshal's Office. This requirement is particularly essential for any new tenant or change in occupancy in commercial or industrial properties, as it ensures proper legal and safety compliance. The CU process thus serves the objective of safeguarding public health, safety, and welfare while maintaining uniform land use standards. This Ordinance will provide a clear legal framework and oversight for business operations in Homestead.</p>
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Exhibit Attachment(s):

Exhibit Description(s)	1	<input type="text" value="Proposed Ordinance"/>	6	<input type="text"/>
	2	<input type="text"/>	7	<input type="text"/>
	3	<input type="text"/>	8	<input type="text"/>
	4	<input type="text"/>	9	<input type="text"/>
	5	<input type="text"/>	10	<input type="text"/>



FUNDING INFORMATION

Finance Approval:	<input type="text" value="Approved-Carlos M. Perez 12/11/24"/>	Total Approved Amount:	<input type="text"/>
1 - Account Name:	<input type="text" value="Revenues-Certificate of Use"/>	Account Number:	<input type="text" value="001-0000-324-00-00"/>
Amount:	<input type="text"/>	Current Balance:	<input type="text"/>
2 - Account Name:	<input type="text"/>	Account Number:	<input type="text"/>
Amount:	<input type="text"/>	Current Balance:	<input type="text"/>
3 - Account Name:	<input type="text"/>	Account Number:	<input type="text"/>
Amount:	<input type="text"/>	Current Balance:	<input type="text"/>

PROCUREMENT SECTION

Received Date:	<input type="text" value="12/11/2024"/>	Reference Number:	<input type="text"/>
Transaction Type:	<input type="text"/>	Bids Solicited / Received:	<input type="text"/>
Vendor Name and Information:	<input type="text"/>		
Procurement Amount:	<input type="text"/>	Details:	<input type="text"/>
Procurement Notes:	<input type="text" value="The procurement process is not applicable to this item."/>		
Review Committee Members:	<input type="text"/>		
Completed Date:	<input type="text" value="12/11/2024"/>	Completed By:	<input type="text" value="Xintia Rubio-Rojas, CPPB"/>

REVIEW - APPROVALS

Fleet:	<input type="text" value="Not Applicable"/>	Initials:	<input type="text" value="LL"/>	Additional Approvals: Finance: This will be revenue to the City. Upon Council approval, Finance will set up the new account.
HR / Risk:	<input type="text" value="Not Applicable"/>	Initials:	<input type="text" value="NA"/>	
ITD:	<input type="text" value="Not Applicable"/>	Initials:	<input type="text" value="YC"/>	

Legal Review:	<input type="text" value="James White, Esq."/>	Legal Date:	<input type="text" value="12/13/2024"/>
Director Authorization:	<input type="text"/>	Director Date:	<input type="text"/>
City Manager Authorization	<input type="text" value="MJ"/>	Item Status:	<input type="text"/>

ORDINANCE NO. 2024 -

AN ORDINANCE OF THE CITY OF HOMESTEAD, FLORIDA, AMENDING THE CITY CODE OF ORDINANCES BY AMENDING CHAPTER 16 “LOCAL BUSINESS TAXES AND BUSINESS REGULATIONS,” CREATING ARTICLE VIII, “CERTIFICATE OF USE” PROVIDING FOR DEFINITIONS, APPLICATION PROCEDURES, FEES, REGULATION, DENIAL REVOCATION AND SUSPENSION OF CERTIFICATE OF USE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Homestead (the “City”), pursuant to Chapter 16 entitled “LOCAL BUSINESS TAXES AND BUSINESS REGULATIONS” of the City Code of Ordinances (the “City Code”), currently provides for the regulation of business enterprises and the levy and collection of local business tax receipts by the City; and

WHEREAS, the City Council of the City (the “City Council”) desires to provide for issuance of Certificates of Use for businesses located within the boundaries of the City; and

WHEREAS, the City Council wishes to establish the process for application, set forth the qualifications and regulations related to the granting of Certificates of Use; and

WHEREAS, the City Council has reviewed the Ordinance at a duly noticed public hearing in accordance with law and determined that it is consistent with the City Code; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA:

Section 1. Findings. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. City Code Amended¹. That Chapter 16, “LOCAL BUSINESS TAXES AND BUSINESS REGULATIONS,” creating a new Article VIII, “Certificate of Use” of the City Code of Ordinances is hereby amended to read as follows:

CHAPTER 16 – LOCAL BUSINESS TAXES AND BUSINESS REGULATIONS

ARTICLE VIII CERTIFICATE OF USE

Sec. 16-156. Definitions.

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

Business.

(1) ~~—~~Includes all vocations, occupations, professions, enterprises establishments, and all activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on or from any premises in the city.

(2) “Business” does not include the customary activities of religious, charitable, nonprofit service clubs and organizations, or educational nonprofit institutions as those terms are defined in Chapter 205, Florida Statutes, as may be amended or any home-based business as provided for in Section 559.955, Florida Statutes, as may be amended.

City Building Official. means any of those employees of the City, or any person contracted by the City, with building construction regulation responsibilities who are charged with the responsibility for direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or ordinance. This term is synonymous with “building official” as used in the Florida Building Code.

Certificate of Occupancy. A document issued by the City Building Official certifying that he/she reasonably believes a building, or part thereof, and its occupancy to be in compliance with the minimum standards of safety, as set forth in the Florida Building Code, prior to the building's occupancy and after its inspection and that said building is in conformity with all other applicable laws and regulations.

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted** ~~double-strikethrough~~ and double underline.

Certificate of Use. A document issued by the Director after verifying that the zoning use classification of any business, within any approved structure or building or unit therein, is allowed, prior to its occupancy and after inspection of the premises and proof of compliance with all the requirements of the City Code of Ordinances and all other applicable laws and regulations; provided, however, that no Certificate of Use shall be issued until it has been reviewed and approved by both the Director and Code Compliance Director.

Code Compliance. The Code Compliance Department of the City.

Code Compliance Director. The Director of the Code Compliance Department or his/her designee.

Department. The Development Services Department of the City.

Director. The Director of the Development Services Department or his/her designee.

Person. Any individual, firm, partnership, joint venture, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator receiver or other fiduciary.

Place of Business. Any Structure used for the purpose of exercising the privilege of engaging in Business within the city limits.

Shall. Shall is always mandatory and not merely directory.

Structure. Anything constructed or erected the use of which requires rigid location on the ground, or attachment to something having a permanent location on the ground, including but not limited to buildings, individual units within a building, and trailers/construction trailers.

Sec.16-157. Certificate of use required.

- (a) It is hereby deemed unlawful for any Person to open or operate any Business and/or occupy any structure within the city limits for the privilege of engaging in any Business prior to obtaining the required Certificate of Use.
- (b) No Structure used for the purpose of exercising the privilege of doing Business within the city limits shall be used or occupied or any existing use enlarged, or any new use made of any land, body of water, or structure, without first obtaining a Certificate of Use therefor from the Department as may be required herein, as well as Section 11.2 of the Florida Building Code.
- (c) The Certificate of Use shall be renewable annually for all existing, new, and future business use classifications on any land, body of water, and or in any Structure including the individual units within said Structure (not including residential units for within the city limits.
- (d) Separate Certificates of Use shall be obtained for each place of business and for each corporation and/or legal entity within each place of business.

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(e) It shall be the duty of every person owning, operating, or purchasing any business within the city limits to comply with the requirements of this Article prior to opening any business and/or occupying structure.

Sec. 16-158. Term of Certificate of Use and Transfer.

- (a) No Certificate of Use shall be issued for more than one year, and all Certificates of Use shall expire on September 30 of each year.
- (b) Certificates of Use may be issued for a fractional portion of a year, but no Certificate of Use shall be issued for a fractional portion of a month.
- (c) When there is a new Business, change of Business ownership or change of Business name a Certificate of Use shall be treated as new application.

Sec. 16-159. Due date for payment of Certificate of Use.

- (a) Certificates of Use shall be available for issuance by the City, commencing on June 1 of each year. Both the renewal application and renewal fee shall be due on October 1 of each year. If October 1 falls on a weekend or holiday, the fee shall be due and payable on or before the first working day following October 1. Those Certificates of Use not renewed by October 1 shall be considered delinquent and subject to a delinquency penalty of ten percent per month not to exceed three-month period. A Certificate of Use not obtained within the three-month grace period stated above, shall comply with section 16-159 (c) of this Article.
- (b) Any Person exercising the privilege of engaging in or managing any Business without first obtaining a Certificate of Use, if required under this Article, shall be subject to a penalty of 30 percent of the fee determined to be due, in addition to any other penalty provided by law or ordinance.
- (c) Any Person who engages in any business, occupation, or profession covered by this Article who fails to renew the Certificate of Use before December 31, the existing Certificate of Use shall be null, and void and a new Certificate of Use application shall be submitted. The business owner may be subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts.

Sec. 16-160. Fees.

Fees to be charged for the purpose of administering this Article are hereby imposed as follows:

- (a) The Department shall collect a residential Certificate of Use fee for multi-family residential Structures as follows:
 - 1. 2—10 units: [\$200.00]
 - 2. 11—100 units: [\$500.00]
 - 3. 101 units or greater: [\$10.00] per unit

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- (b) The Department shall collect for non-residential Certificate of Use minimum fee of [\$300.00] consisting of (i) a non-refundable origination fee of [\$150.00] and (ii) a base application fee of [\$150.00], plus a flat fee of \$350.00 fee for building, electrical, mechanical, plumbing and zoning inspections. For projects larger than 2,000 square feet, an additional \$0.04 per interior square foot above 2,000 square feet.
- (c) No Certificate of Use fees shall be charged to any Business within the City limits that has a current and appropriate Certificate of Use, but the annual renewal fee shall be charged accordingly.
- (d) The Department shall collect an annual renewal fee of \$50.00 for projects less than 2,000 square feet and for projects 2,000 square feet or greater an annual renewal fee of \$75.00 shall be charged. The renewal fee is for renewal of existing Certificates of Use as issued herein.
- (e) An application fee of \$50.00 shall be assessed for the processing of a renewal application for Certificate of Use, in addition to the renewal fee.
- (f) Inspections of the applicant's Business premises shall be scheduled during normal business hours within 10 business days of receipt of a completed application for a Certificate of Use by a Code Compliance officer or City Building Official. If the business owner fails to be present at the time of the scheduled inspection or if the Code Compliance officer/City Building Official is denied and/or unable to gain access to the business premises to conduct the requisite inspection, the business owner shall be subject to a reinspection fee of \$75.00 per re-inspection. Additionally, after two such attempts and/or denials of access to the business premises the Director may pursue the revocation of any existing Certificate(s) of Use issued to the subject business premises.

Sec. 16-161. Application Procedure for Certificate of Use.

- (a) Procedures for issuance. No Certificate of Use shall be issued or granted to any Person or location to engage in any Business type use named, identified or encompassed by this Article unless:
 - (1) An application is filed with the Director on forms or on-line platform provided for that purpose, disclosing the following:
 - a. The applicant's name and address.
 - b. The name of the Business for which a certificate is sought.
 - c. Copy of lease between lessor (owner) and lessee (tenant), if applicable or proof of ownership of premises.
 - d. The type or classification of the Business and the relationship of the applicant to the Business.
 - e. The location in the City where the Business will be operated. A site plan or floor plan may be required by the Department.

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- f. If the applicant is a corporation or partnership, the full name of the corporation or partnership and the state of incorporation. Applicant must submit a copy of the articles of incorporation or partnership agreement, as applicable.
 - g. If the Business is a corporation and is to be conducted under another name, the business name and county of registration under F.S. § 865.09. Applicant must submit a copy of the fictitious name registration.
 - h. If the Business is sharing a space with another Business, the Applicant for the Business needs to provide copy of the sublease.
 - 1. Any Business sharing a space and having a sublease with the lessor or lessee is subject to the conditions under sub-section 16-161(a)(2), herein.
 - 2. In the event the lessor or lessee fails to renew or obtain the Certificate of Use for the entire premises and said Certificate of Use is null and void, any sublessee's Certificate of Use in the premises shall also be null and void.
- (2) There has been a site inspection of the applicant's Business premises subject to the following.
- a. The applicant has 30 days from the date the completed application for Certificate of Use was submitted to request the required inspections. In the event the 30-day period lapses without requesting the required inspections, the application will be null and void and a new application and fees are required. All application fees paid are not refundable or transferable.
 - b. If as a result of an inspection, there are violations of the City, Miami-Dade County or State codes found in the premises, said violations are to be addressed within 30 days of notice of violation or citation prior to the issuance of the Certificate of Use. If no action is taken by the applicant to address the violation or citation within the time allowed under this section, then the application will be null and void and a new application and fees are required. All application fees paid are not refundable or transferable.
- (3) The Director has approved and assigned the zoning use classification.
- (4) The Director has verified compliance with all applicable laws and regulations and has collected all applicable fees due to the City.
- (b) Legality of use. In the event there is a question as to the legality of a use of the premises, the Director may require affidavits and such other information s/he may deem appropriate or necessary to establish the legality of the use of the premises, before a Certificate of Use will be issued.
- (c) Emergency locator. The application shall contain a section designated "emergency locator." The applicant shall fill out as part of the Certificate of Use application the names, business and residence addresses and residence and business phone numbers of the owner, and the manager or other persons to be notified in case of fire or other emergencies. Any changes in

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such information during the period for which the Certificate of Use is issued shall be made to the Director in writing.

(d) Certificate number. All applications and Certificates of Use shall be assigned a number, or such other uniform method of numbering selected by the Director.

(e) Statement of accuracy. The application form shall contain the following language:

"Signature of the applicant verifies the above information is true and correct. Signee understands the conditions under which the Certificate of Use is being approved and accepted that no charges or refunds can be made once issued. I am authorized to sign for the business and understand that any misrepresentation of information on this may result in the revocation of the Certificate of Use and/or possible enforcement action being initiated against the business and/or is authorized representative. I further understand that a business must also apply for a Business Tax Receipt.

(f) Name; signature. The applicant shall print and sign his name to the application or provide an authorized digital signature immediately after the statement required in subsection (e) above. In the case of a corporation, an officer shall be required to sign the application in his individual capacity and not solely as a corporate agent.

(g) Obtaining a Certificate of Occupancy prior to issuance of Certificate of Use. Business requiring to obtain a Certificate of Occupancy from the Department pursuant to Section 111.2 of the Florida Building Code, must do so prior to the issuance of a Certificate of Use. Any Certificate of Occupancy issued by Miami-Dade County shall be honored by the City, provided that the occupancy for which the certificate was issued remains the same.

(h) State license, certification, registration required. All businesses and professions regulated by the state must submit a copy of their current state license, certification, and/or registration prior to the issuance of their certificate of use thereafter each year at time of renewal. Only the state license itself, or in the case of the state hotel and restaurant commission, the receipt issued by the state, shall constitute proof of current state license, or the same as may be submitted along with the occupational license application requirements.

(i) Grease trap registration required. All restaurants are required to obtain a grease trap permit from the Miami-Dade County Department of environmental resources management and shall provide a copy of said permit to the Code Compliance and Business Licensing Division of the Department prior to the issuance of any Certificate of Use.

(j) Fire inspection required. All Businesses that require an annual inspection from the Miami-Dade County Fire Department shall submit a copy of the county fire inspection report or any such form indicating that said business was inspected and passed the requisite inspection; prior to the issuance of any Certificate of Use.

(k) Department environmental resource management (DERM) review. Any Certificate of Use application that is change of use (ie commercial retail to medical) requires DERM approval.

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Sec. 16-162. Grounds for denial.

- (a) The Director shall have the authority to deny an application for a Certificate of Use on the following grounds:
- (1) That the applicant has failed to disclose or has misrepresented a material fact or any information required by this Article in the application.
 - (2) That the applicant has failed to obtain a Certificate of Occupancy as required by Section 111.2 of the Florida Building Code.
 - (4) The Certificate of Occupancy for the proposed business location has been denied, suspended or revoked for any reason.
 - (5) The issuance of a Certificate of Use is based on the applicant's compliance with specific provisions of federal, state, city or county law, with respect to the specific zoning use, and the applicant has violated such specific provisions.
 - (6) The applicant has violated any provision of this Article and has failed or refused to cease or correct the violation within 30 days after notification thereof.
 - (7) The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy.
 - (8) The applicant is delinquent in the payment of any certification fee imposed under this Article; Code Compliance lien; special assessment lien and/or any other debt or obligation due to the City under state or local law.
 - (9) The applicant has been denied a City occupational license, business tax receipt or the applicant's occupational license has been revoked within the last 12 months.
 - (10) The applicant fails to permit inspection by the City as required and prescribed herein.
 - (11) The applicant's proposed business activity or portion thereof consists of conduct that is an actual threat to the public health, welfare, safety or nuisance.
- (b) Any Person, whose application has been denied as provided herein in this Article shall have the right to apply for a variance and/or public hearing. Such application shall be governed in accordance with any City ordinance or law.
- (c) Notwithstanding any provisions of this Code, no city officer, agent, employee shall approve, grant or issue any operating permit, city license, Certificate of Use, building permit, platting action or zoning action to any named violator with (i) unpaid civil penalties; (ii) unpaid administrative costs of hearing; (iii) unpaid liens, any or all of which are owed to the City pursuant to the provisions of this Code.

Sec.16-163. Renewal of Certificate of Use.

- (a) Renewed Certificates of Use will not be issued until all delinquent payments for any fee imposed under this Article, Code Compliance lien, special assessment lien and/or any other debt or obligation due to the City under state or local law has been paid in full.

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- (b) The City shall endeavor to notify all certificate holders that their Certificates of Use are due for renewal. However, if such certificate holder does not receive a renewal notification, it is his/her responsibility to renew the Certificate of Use prior to October 1, to avoid delinquent charges.
- (c) Any current Certificate of Use may, at the discretion of the Director, be renewed for each new certificate year without the need for a new application, provided the applicant signs the following certification:
"I the undersigned hereby certifies that the certificate of use for which I am now applying is one for a renewal of a current certificate of use which is now in full force and effect. I have not changed the authorized use of the premises nor have I made any physical or structural changes to the premises and do not plan to make any physical or structural changes to the premises."
- (d) Any renewal application in which the applicant changes the authorized use of the premises or makes or proposes any physical or structural changes in the premises shall be reprocessed as if it were a new application for a Certificate of Use.
- (e) Any person who fails to renew the Certificate of Use within the deadline as required in this Article may be subject civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts.
- (f) renewal of a Certificate of Use shall be subject to requirements under Section 16-161(a)(2) of this Article.

Sec. 16-164. Display of Certificate of Use.

Each Certificate of Use issued by the City shall be displayed conspicuously at the place of business and in such a manner as to be open to the view of the public and subject to the inspection of all duly authorized officers of the City. Failure to display the Certificate of Use in the manner provided for in this section shall subject the owner/operator to the applicable civil penalties in accordance with Chapter 7, Code Compliance, of the Code of the City and/or as permitted by law.

Sec. 16-165. Duties of Director.

- (a) The Director, among other duties, shall collect all fees and shall issue Certificates of Use in the name of the City to all Persons or Businesses qualified under the provisions of this Article and shall:
 - (1) Verify that the applicant is in compliance with all applicable laws and regulations of the City as prescribed herein.
 - (2) Investigate and determine the eligibility of any applicant for a Certificate of Use and/or the current status of any other certificate as prescribed in this chapter.
 - (3) Accept applications for Certificates of Use and review for completeness.

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- (4) Inspect the applicants' premises for compliance with the applicable building codes identifying any necessary building permits and/or any building code violations.
- (5) Coordinate with Miami-Dade County Fire Department and DERM to obtain copies of respective approvals as necessary.

(b) The Director shall among other duties:

- (1) Approve and assign the zoning use classification for each business premises.
- (2) Examine the books and records of any applicant or certificate holder when reasonably necessary for the administration and enforcement of this Article.
- (3) Notify any applicant of the acceptance or rejection of his/her application and shall, upon denial of issuance of any Certificate of Use, at the applicant's request, state in writing the reasons therefor and deliver such reasons to the applicant.

Sec. 16-166. Examination of records.

It shall be unlawful for any person and/or business to refuse to allow the Director to investigate and examine relevant records for the purpose of determining whether such person and/or business has a Certificate of Use and/or whether such Person and/or Business shall be issued a Certificate of Use.

Sec. 16-167. Approval of business location required.

No Certificate of Use shall be issued for any Business until the zoning use classification of the business premises is first approved by the Director and verifies that the applicant is in compliance with all applicable laws, and other regulatory ordinances of the City.

Sec. 16-168. Lost or stolen certificates; issuance of duplicate.

A duplicate Certificate of Use shall be issued by the Director to replace any Certificate of Use previously issued which has been lost, stolen, defaced or destroyed without any willful conduct on the part of the holder of the Certificate of Use upon the filing by the certificate holder of an affidavit sworn to before a notary public of this state attesting to that fact. A duplication fee of \$10.00 shall be charged for each duplicate Certificate of Use.

Sec. 16-169. Revocation of Certificate of Use.

The Director is granted the authority and charged with the duty to revoke, refuse to renew or suspend any Certificate of Use as follows:

- (1) A Certificate of Use issued under this Article may be revoked, suspended, or renewal of said Certificate of Use refused on the following grounds.
 - a. The certificate holder has failed to disclose or has misrepresented a material fact or information required by this Article in the application. If an intentional misrepresentation of a material fact is discovered, the certificate holder shall be

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subject to enforcement action for doing same without a Certificate of Use with the same effect and degree as though no such certificate had ever been issued.

- b. The certificate holder does not engage in the Business as described in the application or has changed the use without authorization.
- c. The certificate holder allows the premises to be utilized for solicitation for prostitution, pandering, lewd and lascivious behavior, sale, distribution or display of obscene materials or conduct; sale or possession of any controlled substances or narcotics.
- d. The Certificate of Occupancy for the proposed business location has been denied, suspended or revoked for any reason.
- e. The issuance of a Certificate of Use is based on the applicant's compliance with specific provisions of federal, state, city or county law and the applicant has violated such specific provisions including but not limited to violations of federal, state, or county criminal statutes, and/or violations of county and/or city zoning, occupational licensing, and related ordinances.
- f. The certificate holder has violated any provision of this Article and has failed or refused to cease or correct the violation after notification thereof.
- g. The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy.
- h. The certificate holder is delinquent in the payment of any certification fee imposed under this Article, Business Tax Receipt, Code Compliance lien, special assessment lien and/or any other debt or obligation due to the City under state or local law.

(2) Procedure.

- a. The Director may revoke, refuse to renew or suspend any Certificate of Use on any grounds set forth in section 16-162 hereinabove. The Director shall issue a written notice of intent to revoke and/or suspend that shall set forth the grounds upon which the notice is issued, the corrections necessary for compliance, and the certificate holder's right to request an administrative hearing in front of the local planning agency [City Council] by filing said request in writing or via email with the City Manager within 15 calendar days of the receipt said notice.
- b. The 15 calendar days may be considered a warning period during which the noticed certificate holder may come into compliance as required herein at the discretion of the Director. If compliance is achieved within said warning period the Director shall void the revocation and the certificate holder shall dismiss any pending appeal.
- c. The notice shall be sent by the Code Compliance Director by certified mail, return receipt requested, to the address provided in the application or the last known

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address of the applicant. Alternate service may be made by delivery of the notice of hearing to the place of business and/or posting such notice thereon. If there is no appeal taken by the certificate holder as provided herein, the Certificate of Use shall be automatically revoked or suspended, as applicable. Upon revocation or suspension of the Certificate of Use, the certificate holder shall immediately cease doing business in any location listed therein.

- d. The request for hearing before the local planning agency [City Council] to appeal the revocation or suspension shall not stay any enforcement action, and the revocation or suspension shall remain in effect unless otherwise determined at the sole discretion of the Director.

(3) *Scheduling and conduct of hearing.*

- a. At any time prior to the expiration of 15 days following the receipt of the notice of intent to revoke and/or suspend the Certificate of Use, the certificate holder may request in writing or via email with the City Manager an administrative hearing on such matter. The City Manager shall set the matter down for the local planning agency [City Council] on the next available regularly scheduled hearing date or as soon thereafter as practical, provided that the hearing date is not more than 60 calendar days from the date of the City Manager's receipt of the timely request for appeal. The certificate holder shall receive a minimum of 15 days written notice of the hearing which shall set forth the time and place for the administrative hearing.
- b. The hearing shall be conducted by the local planning agency [City Council]. The city attorney may represent the Director at the hearing.
- c. The proceedings at the hearing shall be recorded by the City Clerk.
- d. The hearing shall be conducted in an informal manner and the formal rules relating to evidence and witnesses shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence shall be admitted if the local planning agency [City Council] finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.
- e. Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witnesses regardless of which party first called that witness to testify; and to offer rebuttal to the evidence.
- f. Requests for continuances will not be considered if not received by the City Manager at least three calendar days prior to the date set for the hearing.
- g. The proceedings at the hearing shall be conducted as follows:

¹ Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted** ~~double-strikethrough~~ and double underline.

1. The Director shall present testimony in evidence and shall carry both the burden of production and the burden of proof, the latter of which shall by a preponderance of the evidence.
 2. The certificate holder shall then present testimony in evidence.
 3. Each side shall have the right of cross-examination at the conclusion of the other's presentation.
 4. The local planning agency [City Council] shall have the right of inquiry.
 5. Each party shall have the right to present rebuttal evidence.
 6. Upon completion of the presentations, the hearing shall be closed, and the local planning agency [City Council] shall analyze the testimony and evidence of record and shall render a decision either affirming or denying the determination of the Director.
- h. The decision of the local planning agency [City Council] shall be reduced to writing and copies thereof shall be furnished to the Director and certificate holder within five business days of the hearing.
1. This decision may be appealed as provided by law.
 2. Upon the time period for such appeal having expired, and no such appeal having been filed, or upon the expiration of such appeal procedures resulting in the affirmation of the decision of the local planning agency [City Council], the certificate shall stand automatically and immediately revoked and no new certificate shall be issued. Upon revocation, the certificate holder shall immediately cease doing Business in any location listed therein.
- i. No application for a Certificate of Use shall be considered for the same property by the same applicant until one year after the date of any revocation or nonrenewal or until a suspension has expired.

Sec. 16-170. Right of inspection.

- (a) Any person applying for or obtaining a Certificate of Use shall be subject to an annual inspection of the place of business.
- (b) For the purpose of enforcing the provisions of this Article, Code Compliance officials, City Building Officials, inspectors, and enforcement officers shall have the right of inspection provided that said inspection shall be reasonable and scheduled during normal business hours. The office of the city attorney is hereby authorized to seek inspection warrants as necessary.

Sec. 16-171. Penalties for offenses.

Any person who violates any section of this Article shall be subject to the issuance of a civil penalty in the amount of \$500.00 to be issued in accordance with Chapter 7, Code Enforcement of the Code of the City.

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Section 3. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the City Code. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the City of Homestead; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____ 2024.

PASSED AND ADOPTED on second reading this ____ day of _____, 2024.

Mayor Steven D. Losner

Attest:

ELIZABETH SEWELL, MPA, MMC
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

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FOR THE USE AND BENEFIT OF THE CITY ONLY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
City Attorney

Motion to adopt by _____ seconded by _____.

FINAL VOTE AT ADOPTION

<i>Mayor Steven D. Losner</i>	_____
<i>Vice Mayor Sean L. Fletcher</i>	_____
<i>Councilwoman Erica G. Ávila</i>	_____
<i>Councilwoman Jenifer N. Bailey</i>	_____
<i>Councilwoman Clemente Canabal</i>	_____
<i>Councilman Tom Davis</i>	_____
<i>Councilman Larry Roth</i>	_____

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