

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 82 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE V, ENTITLED "BEACHES," BY AMENDING DIVISION 1, ENTITLED "GENERALLY," BY AMENDING SECTION 82-443 THEREOF, ENTITLED "HIGH IMPACT EVENTS ON BEACH PROPERTY," IN ORDER TO EXPAND THE AUTHORITY OF THE CITY MANAGER TO IMPOSE ADDITIONAL IMMEDIATE MEASURES FOR HIGH IMPACT EVENTS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach is an internationally renowned tourist destination that is famous for its beaches, shopping, and entertainment, which are among the best in the world; and

WHEREAS, due to its domestic and international popularity as a resort destination, many large-scale events, both authorized by City permits and otherwise, occur on City property and/or on the City's public beaches; and

WHEREAS, the City has seen an increasingly large number of visitors during these events, and the sizeable number of individuals attending these events has posed numerous challenges for the City; and

WHEREAS, authorized and unauthorized uses of the beaches and City property during such events have, from time to time, caused extensive damage, personal injury, property degradation, and have dramatically affected the quality of life of the City's residents; and

WHEREAS, a significant portion of these events occur on the City's public beaches, and within the City's "Entertainment District," which is generally described as the area of Ocean Drive, from 5th to 15th Streets; Collins Avenue, from 5th to 16th Streets; and Washington Avenue, from 5th to 16th Streets; and

WHEREAS, these events on the beaches and within the Entertainment District cause severe congestion and overcrowding upon the City's streets, and result in excessive litter, empty cups and straws, liquor bottles, and other debris left strewn about on public and private property; and

WHEREAS, such events also create excessive noise, and disturb the surrounding neighborhoods and negatively affect nearby businesses and residents; and

WHEREAS, those areas of the City located outside the Entertainment District and the beaches typically have a greatly reduced incidence of such events occurring; and

WHEREAS, Section 82-443 of the City Code was adopted (pursuant to Ordinance No. 2016-4019), in part, to mitigate the deleterious effects caused by high impact events on public property (the "High Impact Ordinance"); and

WHEREAS, in order to mitigate such effects, Section 82-443 gives the City Manager independent authority, upon the City Manager's determination that a high impact event will occur (or is in progress), to impose certain immediate measures "to protect public property from damage, property degradation, and/or unauthorized uses;" and

WHEREAS, at the April 10, 2019 City Commission meeting, Mayor Dan Gelber sponsored an amendment to the City's High Impact Ordinance which was intended to give the City Manager authority to impose additional measures during high impact events; and

WHEREAS, the Ordinance amendment was presented by the Mayor, in conjunction with other proposed ordinances intended to provide the City Administration with a more effective set of "tools" to mitigate the negative effects, strain on the City's resources, and negative impact to the City's residents and businesses, resulting from intense, heavily attended events during high impact periods (including, without limitation, Spring Break and Memorial Day weekend); and

WHEREAS, after extensive discussion and public comments, the City Commission adopted the proposed amendments to the High Impact Ordinance on first reading; however, the Ordinance was referred to the Neighborhoods and Community Affairs Committee between first and second reading with the direction that the Committee review the definition and criteria for declaring a "high impact event;" review the City Manager's prescribed authority with regard to the measures he could impose without City Commission approval during such periods; and that the City Attorney's Office work with the Administration in "streamlining" the Ordinance, so that it could be more effective for its intended purpose; and

WHEREAS, the Neighborhoods and Community Affairs Committee (NCAC) heard the item at its April 24, 2019 meeting and, at that time, accepted recommendations proffered by Commissioner (and NCAC Chairperson) Michael Góngora and the City Attorney's Office, which resulted in the following amendments for second reading:

- limiting application of the Ordinance to a "High Impact Zone" within the City, which would include the City's public beaches, and the Entertainment District;
- changing the term "High Impact Event" to "High Impact Period," and refining the definition of what constitutes a High Impact Period (within a High Impact Zone);
- refining the measures that the City Manager can take once he has provided written notice to the Mayor and City Commissioners and declared that a High Impact Period exists (within the High Impact Zone); and
- providing for a duration to the City Manager's measures of 72 consecutive hours (after which, the City Manager must seek the City Commission's approval to extend); and

WHEREAS, it is recommended that the Mayor and City Commission adopt such measures, as set forth herein, to further protect the public beaches and City property during high impact periods, and to mitigate the adverse and deleterious effects that certain activities during high impact periods can have upon the City's resources, residents and businesses.

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

SECTION 1. That Division 1 of Article V of Chapter 82 of the Code of the City Miami Beach is hereby amended as follows:

CHAPTER 82
PUBLIC PROPERTY

* * *

ARTICLE V. BEACHES

* * *

DIVISION 1. GENERALLY

* * *

Sec. 82-443. High impact events on beach property.

(a) *Definitions.*

~~Beach property "High Impact Zone" means any City property within the municipal boundaries of the City of Miami Beach that may be impacted by a high impact event (as defined herein) including, but not limited to, any~~

- (i) ~~the public beach property between the Mean High Water Mark and the Erosion Control Line within the municipal boundaries of the City of Miami Beach, which is the subject of the Management Agreement for Certain Lands No. 750-006 between the City of Miami Beach and the Trustees of the Internal Improvement Trust Fund of the State of Florida, as such Agreement may be amended from time to time; and/or~~
- (ii) ~~the MXE mixed use entertainment district, excluding that portion of the MXE District located between 73rd and 75th Streets; and/or~~
- (iii) ~~that portion of the CD-2 commercial, medium intensity district between Pennsylvania Avenue and Collins Court, from 5th Street to 16th Street and extended.~~

~~High impact event period means an event, or gathering on beach property in the City of Miami Beach during which one or more of the following occurs:~~

- (1) ~~An event, activity or period of time within a High Impact Zone that generates a significant spike in social media conversations, increasing audience impressions, and attention on the City, which for which no City issued special event permit has been granted, and either (i) in the prior calendar year, generated attendance of more than 10,000 people; or (ii) if it is the first occurrence of an event, activity or period of time, it is expected to generate attendance by more than 5,000 people for an area of beach property that extends less than 15 City blocks from south to north of more than 10,000 people, as determined by the City Manager, in his reasonable discretion; or~~
- (2) ~~City parking lots and garages in an area within a 15 block radius of an event that is held on beach property pursuant to a special event permit, or otherwise, are at full capacity;~~

- ~~(3) An event that is held pursuant to a City-issued special event permit², which is expected to result in attendance by more than 25,000 people within a High Impact Zone on beach property, as determined by the City Manager, in his reasonable discretion.~~
 - ~~(4) There is a designated major event period (as set forth and identified within the special event regulations and guidelines, as may be amended from time to time);~~
 - ~~(5) A maintenance of traffic plan would be required, or is required (e.g., including, but not limited to, street closures, lane closures, shuttle service) based upon the high impact event, or pursuant to a special event permit;~~
 - ~~(6) Hotel occupancy levels are anticipated to be greater than 75 percent in the City;~~
 - ~~(7) Law Enforcement Mutual Aid or other assistance from outside law enforcement agencies is required to provide for the safety and well being of residents and visitors to the beach property; or~~
 - ~~(8) An event on beach property, which may impact public property, which is anticipated to result in more than 25,000 visitors to the City.~~
- (b) *City Manager's authority to impose immediate measure(s) ~~for during high impact periods events~~.* Whenever the City Manager determines that a high impact ~~event period in a High Impact Zone on beach property~~ will occur, or is in progress, one or more of the following immediate measures may be imposed ~~on beach property~~ to protect ~~the the public health, safety and welfare including, without limitation, the protection of public and private beach property (and including therein, any City property whether real or personal)~~ from damage, ~~property~~ degradation, and/or unauthorized uses:
- ~~(1) The prohibition of any direct or indirect consumption of alcohol on public beach property. The prohibition of coolers.~~
 - ~~(2) The limitation of live or amplified music, including those exemptions set forth in Section 46-157 of this Code. The prohibition of any inflatable devices.~~
 - ~~(3) The limitation of traffic routes to prohibit vehicular access to non-residents, and permit access only for residents and those patrons and employees of businesses located in the specific area where traffic routes have been limited. The prohibition of tents, tables, and similar structures.~~
 - ~~(4) The establishment of occupancy limits for different segments of public beach property, and prohibiting access to those areas that have reached those occupancy limits. The limitation of live or amplified music, including those exemptions set forth in Section 46-157 of this Code.~~
 - ~~(5) The prohibition of coolers and inflatable devices on public beach property. The limitation of traffic routes to prohibit vehicular access to non-residents, and permit access only for residents and those patrons and employees of businesses located in the specific area where traffic routes have been limited (e.g., south of Fifth Street).~~
 - ~~(6) The prohibition of tents, tables, and similar structures. The establishment of occupancy limits for different segments of beach property, and prohibiting access to those areas that have reached those occupancy limits, in order to protect the health, safety, and welfare of the general public.~~
 - ~~(7) The implementation of a license plate reader police detail, which may be utilized on eastbound traffic lanes of the MacArthur Causeway, Julia Tuttle Causeway, and on any other access points into the City. The prohibition of any direct or indirect consumption of alcohol on the beach property.~~

- (8) ~~The suspension, or the issuance, of a business tax receipt to promoters pursuant to Section 102-360(2), (3), and (4) of this Code. The implementation of a license plate reader police detail, which may be utilized on eastbound traffic lanes of the MacArthur Causeway, Julia Tuttle Causeway, and on any other access points into the eCity.~~
- (9) ~~The prohibition of non-City residents from utilizing or parking at those designated City surface parking lots.~~
- ~~(10) The suspension and closure of all or part of sidewalk café operations (including, without limitation, the removal of all or any sidewalk café furniture), pursuant to Section 82-381(e)(i) of the Code.~~
- (c) *Notification of high impact event measures.* When one or more immediate measures are implemented by the City Manager pursuant to subsection (b) above, the City Manager shall provide written notice to the Mayor and City Commissioners of the measures he intends to take, including their intended duration; provided, however, that the City Manager shall not implement such measures for a consecutive period of more than 72 hours without calling an emergency meeting of the City Commission and getting the City Commission's approval to extend. Notice shall also be such measures, and their duration, shall be filed with the city clerk and delivered provided to appropriate news media for publication and to local radio and television stations for broadcast, as well as posted on the City's website. If practicable, signs may be posted in the impacted area(s) advising of the measures during the duration of such measures.
- (d) *Enforcement; penalty.* Any violation of the measures imposed pursuant to subsection 82-443(b) above shall be punished as provided in ~~§~~Section 1-14 of this Code.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

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

SECTION 4. 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 5. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____, 2019.

PASSED AND ADOPTED this _____ day of _____, 2019.

ATTEST:

Rafael E. Granado, City Clerk

Dan Gelber, Mayor

Underline denotes additions; ~~Strikethrough~~ denotes deletions

Double underline denotes additions after First Reading

~~Double-strikethrough~~ denotes deletions after First Reading

(Sponsored by Mayor Dan Gelber)

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

22 Oct 5/1/19
City Attorney Date