

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 IV, "USES IN PUBLIC RIGHTS-OF-WAY," BY AMENDING DIVISION 5, "SIDEWALK CAFES," BY AMENDING SUBDIVISION II, "PERMIT," BY AMENDING SECTION 82-382, ENTITLED "APPLICATION," AND SECTION 82-383, ENTITLED "PERMIT FEE; PENALTIES FOR LATE PAYMENT; REVIEW OF FEE; EXCEPTION," TO EXTEND ABATEMENT OF SIDEWALK CAFE PERMIT FEES, INCLUDING ANNUAL PERMIT APPLICATION FEES AND SQUARE FOOTAGE FEES, FOR BUSINESSES PARTICIPATING IN THE CITY'S WASHINGTON AVENUE PILOT PARKLET PROGRAM, WHICH PROGRAM SHALL TERMINATE ON MARCH 31, 2021; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, a parklet is a small park, plaza, or creative public space that is physically installed or constructed in an on-street parking space; and

WHEREAS, Mayor's Blue Ribbon Panel for Washington Avenue issued their recommendation on this matter, and the Mayor and City Commission seek to encourage the establishment of parklets along Washington Avenue, in order to stimulate economic development and further activate the Washington Avenue corridor; and

WHEREAS, the Mayor and City Commission approved the creation of the Washington Avenue Pilot Parklet Program on December 9, 2015, and therefore; will allow businesses located along Washington Avenue to install parklets for utilization by sidewalk cafes in those public rights-of-way on a temporary basis, subject to certain requirements and criteria; and

WHEREAS, Chapter 82 of the Miami Beach City Code authorizes the City to charge restaurants with sidewalk cafes an annual permit fee of \$150.00, plus \$20.00 per square foot for the sidewalk cafe permit area; and

WHEREAS, the Mayor and City Commission desire to abate the sidewalk cafe permit application fees and sidewalk cafe permit fees for the Washington Avenue Pilot Parklet Program, and further encourage those businesses to participate in the Program; and

WHEREAS, the Washington Avenue Pilot Parklet Program, with the fee abatement waiver, has been authorized by an Ordinance that has a duration of three years; and

WHEREAS, the Program terminated on March 31, 2019, and the Ordinance must be amended to reflect the extended termination date.

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

SECTION 1. That Section 82-382 of Chapter 82 of the Miami Beach City Code is hereby amended as follows:

**CHAPTER 82
PUBLIC PROPERTY**

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Article IV. Uses In Public Rights-Of-Way

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Division 5. Sidewalk Cafes

* * *

Subdivision II. Permit

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Sec. 82-382. Application.

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(b) Application for a permit to operate a sidewalk cafe shall include, but not be limited to, the following information:

* * *

(9) The annual application shall be accompanied by a non-refundable base application fee as set forth in Appendix A. However, the non-refundable base application fee shall not be required for sidewalk cafe permit applications submitted to the City in conjunction with the Washington Avenue Pilot Parklet Program, which program shall terminate on March 31, ~~2019~~2021.

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SECTION 2. That Section 82-383 of Chapter 82 of the Miami Beach City Code is hereby amended as follows:

Sec. 82-383. Permit fee; penalties for late payments; review of fee; exception.

(a) The annual permit fee for operation of a sidewalk café shall be as set forth in appendix A, and shall be based on a per square foot calculation of permitted sidewalk area (including the area between the tables and chairs).

(1) Notwithstanding any other paragraphs or provisions of this article, no square footage fee as required by this section shall be required for the operation of sidewalk cafes north of 63rd Street through and including September 30, 2017. The abatement of sidewalk café square footage fees for businesses north of 63rd Street shall be the subject of a budget analysis and review by the City Administration by September 30, 2017. However, a permit must be obtained, and the annual base application fee required by subsection 82-382(b)(9) shall be paid for the operation of sidewalk cafes north of 63rd Street.

(2) No square footage fee as required by this section shall be required for the operation of sidewalk cafés in conjunction with the Washington Avenue Pilot Parklet Program, which program shall terminate on March 31, ~~2019~~2021.

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SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. 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 a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. EFFECTIVE DATE.

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

PASSED and **ADOPTED** this ____ day of _____, 2019.

ATTEST:

Rafael E. Granado
City Clerk

Dan Gelber
Mayor

(Sponsored by Commissioner Ricky Arriola)

Underline denotes additions

~~Strike through~~ denotes deletions

Double underline denotes additions made after First Reading

~~Double strike through~~ denotes deletions made after First Reading

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

Date

5/31/19