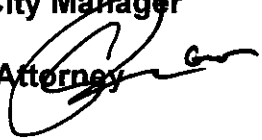


# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMISSION MEMORANDUM

**TO:** Mayor Dan Gelber  
Members of the City Commission  
Jimmy L. Morales, City Manager **First Reading**

**FROM:** Raul J. Aguila, City Attorney 

**DATE:** September 25, 2019

**SUBJECT:** 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, FLORIDA, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE IV, ENTITLED "USES IN PUBLIC RIGHTS-OF-WAY," BY AMENDING DIVISION 5, ENTITLED "SIDEWALK CAFES," BY AMENDING SUBDIVISION II, ENTITLED "PERMIT," BY AMENDING SECTION 82-389 THEREOF, ENTITLED "SIDEWALK CAFÉ CODE OF CONDUCT," TO EXTEND THOSE PROHIBITIONS PERTAINING TO THE SOLICITATION OF PEDESTRIANS ON THE PUBLIC RIGHT OF WAY, AS SET FORTH IN SECTION 82-389(j) HEREIN, TO LINCOLN ROAD AND ESPAÑOLA WAY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

---

The proposed Ordinance, which is sponsored by Commissioners Joy Malakoff, John Elizabeth Alemán and Micky Steinberg, is submitted for first reading at the September 25, 2019 meeting of the City Commission.

On September 11, 2019, the City Commission adopted Ordinance No. 2019-4294 which, in pertinent part, creates a Sidewalk Café Code of Conduct (as set forth in Section 82-389) governing various critical aspects of those permitted sidewalk café operations in the City, and provides enhanced penalties for violation(s) of such provisions.

However, in conjunction with the passage of Ordinance No. 2019-4294, the City Commission identified the need to further address the fraudulent behavior, improper solicitation of pedestrians and deceptive business practices occurring, in particular on Lincoln Road and Española Way, and, as such, directed that the proposed Ordinance be prepared for first reading before the City Commission on September 25, 2019, and concomitantly referred to the Neighborhoods and Community Affairs Committee

("NCAC") to be heard at the NCAC meeting scheduled for the same date.

Pursuant to the direction of the Mayor and City Commission on September 11, 2019, the proposed Ordinance seeks to amend a portion of the Sidewalk Café Code of Conduct by extending those prohibitions pertaining to the solicitation of pedestrians on the public right of way (as specified in subsection 82-389(j)) to include those portions of Lincoln Road (between Washington Avenue and Alton Road) and Española Way (between Washington Avenue and Drexel Avenue).

Upon reviewing an abundance of objective evidence including, but not limited to: written declarations from Lincoln Road and Española Way stakeholders and other interested persons; feedback from City of Miami Beach residents on the City's social media platforms; and a plethora of online reviews concerning diners' experience(s) after patronizing various sidewalk cafés on Lincoln Road and Española Way, the Administration recommends extending the solicitation prohibitions, as set forth in subsection 82-389(j), to those sidewalk café operators located on Lincoln Road, between Washington Avenue and Alton Road, and on Española Way, between Washington Avenue and Drexel Avenue.

Therefore, upon consideration at first reading, it is recommended that the Mayor and City Commission pass the Ordinance to aid in ensuring that the City's sidewalk café program is advanced, and is not diminished, by those sidewalk café operators engaged in the improper conduct of solicitation on the City's property.