




# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Alina T. Hudak, City Manager 

DATE: July 28, 2021

**10:05 a.m. Second Reading Public Hearing**

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," ARTICLE IV, ENTITLED "USES IN PUBLIC RIGHTS-OF-WAY," DIVISION 5, ENTITLED "SIDEWALK CAFES," SUBDIVISION II, ENTITLED "PERMIT," BY AMENDING SECTION 82-382, ENTITLED "APPLICATION," AND SECTION 82-383, ENTITLED "PERMIT FEE; PENALTIES FOR LATE PAYMENT; REVIEW OF FEE; EXCEPTION," TO REPEAL OUTDATED PROVISIONS; AND BY CREATING SECTION 82-390 THEREOF, ENTITLED "PARKLET PROGRAM," TO CREATE A SIDEWALK CAFE PARKLET PROGRAM, ESTABLISH THE SCOPE OF THE PROGRAM, PROVIDE FOR DESIGN GUIDELINES, IDENTIFY PERMITTED PARKLET AREAS, PROVIDE FOR AN APPLICATION, SITE PLAN, AND FEES, INCORPORATE THE PROVISIONS OF THE SIDEWALK CAFE ORDINANCE, AND PROVIDE FOR REMOVAL; AND AMENDING APPENDIX "A" TO THE CITY CODE, ENTITLED "FEE SCHEDULE," TO ESTABLISH A BASE PARKLET APPLICATION FEE AND AN ANNUAL ~~PER-SQUARE FOOT~~ PER-PARKING SPACE PARKLET FEE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

### RECOMMENDATION

The Administration recommends that the City Commission (1) accept the recommendation of the Land Use and Sustainability Committee ("LUSC") to continue to permit expanded outdoor seating along Washington Avenue on a more permanent

basis, and to include the Sunset Harbour neighborhood; (2) approve the attached Ordinance on Second Reading Public Hearing, which Ordinance codifies the sidewalk cafe parklet program, incorporates existing requirements for sidewalk cafes, and creates additional requirements specific to parklets.

### **BACKGROUND/HISTORY**

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

In 2015, the Mayor's Blue Ribbon Panel for Washington Avenue recommended that the City Commission encourage the establishment of parklets along Washington Avenue, in order to stimulate economic development and further activate the Washington Avenue corridor.

The Mayor and City Commission approved the creation of the Washington Avenue Pilot Parklet Program ("Pilot Program") on December 9, 2015, allowing businesses located along Washington Avenue to install parklets for utilization by sidewalk cafes in on-street parking spaces on a temporary basis, subject to certain requirements and criteria. In order to encourage restaurants to participate in the Pilot Program, the Mayor and City Commission amended the City Code to abate sidewalk cafe permit application fees and per-square-foot permit fees for sidewalk cafe operators that participated in the Pilot Program.

The abatement was extended for a total duration of three (3) years. The Pilot Program was originally scheduled to terminate on March 31, 2019. On July 17, 2019, the City Commission adopted Ordinance No. 2019-4281, extending the duration of the Pilot Program through March 31, 2021.

On January 20, 2021, the LUSC held a discussion regarding sidewalk cafes and parklets in the Sunset Harbour neighborhood. The LUSC members recommended that parklets for sidewalk cafe seating continue to be permitted, and recommended that staff draft an Ordinance to make the program permanent.

On June 23, 2021, a First Reading to the Ordinance was read into the record and approved by the City Commission. A Second Reading Public Hearing was scheduled on July 28, 2021, along with a request from the Commission members to the Administration to present a proposed Parklet Design Guideline to the scheduled City Commission for final approval.

During a preliminary virtual outreach with representatives from the Sunset Harbour Neighborhood Association (SHNA), SHNA members requested that hours of operation for all outdoor seating conclude at 12 midnight. At a preliminary virtual outreach with the Washington Avenue BID (WAVE), WAVE representatives were supportive of the program as a whole.

Staff held a virtual public meeting on Monday, July 19, 2021, at 5:30PM. During the meeting, the proposed parklet program overview was presented. There were approximately 32 signed on/call-in attendees. At the meeting, a Sunset Harbour business owner requested that hours of operation remain past midnight as is today.

The Administration will present a proposed Parklet Design Guideline to the Commission for adoption by resolution concurrently at second reading of this ordinance. In addition, there is a recommendation to establish a base parklet application fee and an annual per-parking space parklet fee. Language has also been amended to clarify that the applicant will not be required to hold an existing sidewalk café permit in order to apply or be eligible for a parklet permit.

### **ANALYSIS**

Following the World Health Organization declaration of the COVID-19 pandemic on March 11, 2020, Miami-Dade County and the City of Miami Beach issued a number of Emergency Orders that temporarily closed and/or imposed restrictions on public and private facilities, including temporary closures, occupancy limits, and other restrictions applicable to restaurants.

The foregoing restrictions greatly limited economic activity in the City of Miami Beach, and adversely impacted City businesses, including restaurants. On May 13, 2020, the City Commission adopted Resolution No. 2020-31276, creating the Restaurant Recovery Outdoor Seating Program ("Outdoor Seating Program"), in an effort to encourage businesses to reopen and promote economic recovery, while safeguarding the public's health and safety.

The Outdoor Seating Program, which has been extended through September 30, 2021 (pursuant to Resolution No. 2021- 31632), permits restaurants to expand their footprint to promote social distancing and activate the public realm. The attached Ordinance has been drafted to implement the LUSC's recommendation to continue to permit parklets along Washington Avenue, between 6th Street and Lincoln Road, and include Sunset Harbour on a more permanent basis.

The Ordinance creates a Parklet Program, establishes the scope of the Program, provides for Parklet Design Guidelines, identifies permitted parklet areas, provides for an application, site plan, and fees, incorporates provisions of the Sidewalk Cafe Ordinance, and provides for removal.

### **SUPPORTING SURVEY DATA**

Results from the 2019 Resident Survey regarding Satisfaction with Perceptions of the City show that 73% of residents rated the overall image of the City as very satisfied/satisfied. In order to continue maintaining excellent standards in this area, the City recommends that the City Commission approve the Ordinance on Second Reading Public Hearing.

**CONCLUSION**

The Administration recommends that the City Commission (1) accept the recommendation of the Land Use and Sustainability Committee ("LUSC") to continue to permit expanded outdoor seating along Washington Avenue on a more permanent basis, and to include the Sunset Harbour neighborhood; (2) approve the attached Ordinance on Second Reading Public Hearing, which Ordinance codifies the sidewalk cafe parklet program, incorporates existing requirements for sidewalk cafes, and creates additional requirements specific to parklets.

**Applicable Area**

South Beach

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?**

Yes

**Does this item utilize G.O. Bond Funds?**

No

**Strategic Connection**

Prosperity - Market and promote Miami Beach as a world class arts, culture, and quality entertainment destination.

**Legislative Tracking**

Public Works

**Sponsor**

Vice-Mayor Ricky Arriola

**ATTACHMENTS:**

**Description**

- ▢ Ordinance

ORDINANCE NO. 2021-\_\_\_\_\_

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," ARTICLE IV, ENTITLED "USES IN PUBLIC RIGHTS-OF-WAY," DIVISION 5, ENTITLED "SIDEWALK CAFES," SUBDIVISION II, ENTITLED "PERMIT," BY AMENDING SECTION 82-382, ENTITLED "APPLICATION," AND SECTION 82-383, ENTITLED "PERMIT FEE; PENALTIES FOR LATE PAYMENT; REVIEW OF FEE; EXCEPTION," TO REPEAL OUTDATED PROVISIONS; AND BY CREATING SECTION 82-390 THEREOF, ENTITLED "PARKLET PROGRAM," TO CREATE A SIDEWALK CAFÉ PARKLET PROGRAM, ESTABLISH THE SCOPE OF THE PROGRAM, PROVIDE FOR DESIGN GUIDELINES, IDENTIFY PERMITTED PARKLET AREAS, PROVIDE FOR AN APPLICATION, SITE PLAN, AND FEES, INCORPORATE THE PROVISIONS OF THE SIDEWALK CAFÉ ORDINANCE, AND PROVIDE FOR REMOVAL; AND AMENDING APPENDIX "A" TO THE CITY CODE, ENTITLED "FEE SCHEDULE," TO ESTABLISH A BASE PARKLET APPLICATION FEE AND AN ANNUAL ~~PER-SQUARE FOOT~~ PER-PARKING SPACE PARKLET FEE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, 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**, the Mayor and City Commission desire to amend the Sidewalk Café Ordinance, set forth in Chapter 82, Article IV, Division 5 of the City Code, to permit sidewalk cafés to operate in parklets on City rights-of-way along Washington Avenue, between 6th Street and Lincoln Road, and in the Sunset Harbour neighborhood (generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south).

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

**SECTION 1.** Chapter 82 of the City Code is hereby amended as follows:

**CHAPTER 82  
PUBLIC PROPERTY**

\* \* \*  
**ARTICLE IV, USES IN PUBLIC RIGHT OF WAY**

\* \* \*  
**DIVISION 5. SIDEWALK CAFES**

\* \* \*  
**Subdivision II. Permit**

**Sec. 82-382. Application.**

- \* \* \*
- (9) The annual application shall be accompanied by a nonrefundable base application fee as set forth in appendix A hereof. ~~The nonrefundable base application fee shall not be required for sidewalk café permit applications submitted to the city in conjunction with the Washington Avenue Pilot Parklet Program, which program shall terminate on March 31, 2021. Additionally, Notwithstanding the foregoing,~~ the nonrefundable base application fee shall not be required for sidewalk café permit applications submitted to the city for businesses on Washington Avenue from 6th Street to Lincoln Road, for the period ending on September 30, 2021.
- \* \* \*

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

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

- \* \* \*
- (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, 2021. Additionally, no~~ No square footage fee as required by this section shall be required for the operation of sidewalk cafés on Washington Avenue, from 5th Street to Lincoln Road, for the period ending on September 30, 2021.
- \* \* \*

**Sec. 82-390. Parklet Program.**

- (a) Definition. The term *parklet* shall mean a sidewalk café (as defined in this division) that is physically installed in an on-street parking space or, as may be approved by the public works director within the director's sole discretion, in a portion of a street.
- (b) Scope of program. Eligibility to apply for and obtain a parklet permit shall be limited to restaurants located (i) along Washington Avenue, between 6th Street and Lincoln Road, and (ii) in the Sunset Harbour neighborhood (generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south). An applicant is not required to hold an existing sidewalk café permit under this division in order to apply or be eligible for a parklet permit.
- (c) Design guidelines. The operation of a parklet shall at all times be consistent with the City's Parklet Design Guidelines, as may be adopted or amended by resolution of the City Commission.
- (d) Permitted parklet area. The area of each parklet shall be limited to a maximum of two on-street parking spaces fronting the permittee's restaurant business, as depicted on the permit application, subject to the requirements set forth in the Parklet Design Guidelines. Parklets shall be restricted to restaurant frontages where on-street parking spaces exist

along the curb line; and any other portion of a street, as may be approved by the public works director. Applications for parklets in angled parking spaces shall be evaluated by the public works director on a case-by-case basis.

- (e) Application and site plan. In addition to the sidewalk café permit application requirements set forth in section 82-382, each parklet permit application shall include a site plan signed and sealed by a duly licensed architect or engineer which accurately depicts the layout and dimensions of the parklet area including buffers and barriers; the proposed location, size, and number of tables, chairs, umbrellas, and any other furniture; the location of doorways, steps, trees, and/or landscaped areas, fountains, parking meters, fire hydrants, utility infrastructure, bus shelters, directory/kiosks, public benches, trash receptacles, and any other existing public fixtures, furnishings and/or other obstruction(s) within the proposed parklet area. The site plan shall be approved by the city manager prior to the issuance of a parklet permit and shall be consistent with the Parklet Design Guidelines, and the permit shall be specifically limited to the area shown on the approved site plan. Each parklet shall be installed on a raised platform, flush with the adjacent sidewalk.
- (f) Fees.
- (1) Application fee. Each parklet application, which must be submitted each year, shall be accompanied by a nonrefundable base application fee as set forth in appendix A to this Code.
  - (2) Annual permit fee. The annual permit fee for operation of a parklet shall be as set forth in appendix A and shall be based on a ~~per square foot~~ per-parking space calculation for each ~~parking space~~ parklet.
- (g) Applicability of Sidewalk Café Ordinance. Except as otherwise provided in this section, each parklet permittee shall at all times abide by the provisions of this division, including without limitation, the sidewalk café code of conduct (set forth in section 82-389), all enforcement and penalty provisions, and the criteria for permit renewal, all of which shall be incorporated by reference in each parklet permit.
- (h) Hurricanes and major weather events. In addition to the provisions of section 82-381, upon written and/or verbal notification by the city manager of a hurricane or other major weather event, or the issuance of a hurricane warning by Miami-Dade County, whichever occurs first, the permittee shall, within no more than four hours, promptly secure each parklet platform pursuant to the permittee's Hurricane Preparedness Plan submitted as part of the parklet application, as approved by the public works director, unless such platform was designed, constructed, and installed to withstand hurricane-force winds (as approved by the public works director).
- (i) Removal. As a condition of obtaining a parklet permit, each permittee shall agree in writing that the city manager may cause the immediate termination, suspension, closure, removal, relocation and/or storage of all or part of a parklet operation and/or parklet furniture in those circumstances where the city manager determines it reasonably necessary for the protection of the public health, safety, or welfare.

Secs. 82-390 — 82-410. Reserved.

**SECTION 2.**

Appendix A to the City Code, entitled "Fee Schedule," is hereby amended as set forth in "Exhibit A" to this Ordinance.

**SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same 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 \_\_\_ 2021.

**PASSED** and **ADOPTED** this \_\_\_ day of \_\_\_, 2021.

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Dan Gelber, Mayor

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

  
\_\_\_\_\_  
City Attorney NK Date 7-12-21

Underline denotes additions  
~~Strikethrough denotes deletions~~  
Double underline denotes additions after First Reading  
~~Double strikethrough~~ denotes deletions after First Reading

(Sponsored by: Commissioner Ricky Arriola)



**EXHIBIT "A"**  
**AMENDMENTS TO FEE SCHEDULE**

* * *			
<b>Chapter 82. Public Property</b>			
* * *			
<i>Article III. Use of Public Property</i>			
* * *			
<i>Division 5. Sidewalk Cafes</i>			
* * *			
<u>82-390</u>	<u>Base parklet application fee</u>	<del>750</del> <u>865.00</u>	[A]
<u>82-390</u>	<u>Annual parklet fee, per square foot of total number of parking spaces, per day</u>	<del>27.00</del> <u>34.00</u>	[A]
* * *			