

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 82-390, ENTITLED "PARKLET PROGRAM," TO AMEND THE SCOPE OF THE PARKLET PROGRAM, INCLUDING THE AREAS OF THE CITY WHERE PARKLETS ARE PERMITTED; 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, on July 28, 2021, the Mayor and City Commission adopted Ordinance No. 2021-4427, amending 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) (altogether, the "Parklet Program"); and

WHEREAS, the Mayor and City Commission now wish to amend the scope of the Parklet Program to modify the areas of the City where parklets are permitted.

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. 82-390. 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).~~ Restaurants located at the ground level of a building shall be eligible to apply for and obtain a parklet permit, except for restaurants in the South of Fifth neighborhood, which shall be defined as the area of the City south of 5th Street, excluding Washington Avenue between 4th and 5th Streets. 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. Notwithstanding the foregoing, applicants for parklet permits on Ocean Drive shall be encouraged to apply for and obtain a sidewalk café 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. Any application for a parklet permit on a county or state right-of-way shall require the review and approval of the county or state, respectively. 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-parking space calculation for each 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.

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, 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 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 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 5. 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

 12-6-21

City Attorney Date
NK

Underline denotes additions
~~Strikethrough denotes deletions~~

(Sponsored by: Commissioner Ricky Arriola)