



Ordinances - R5 J

MIAMI BEACH

**COMMISSION
MEMORANDUM**

TO: Honorable Mayor and Members of the City
Commission
FROM: Raul J. Aguila, Interim City Manager
DATE: February 10, 2021

DocuSigned by:

Raul Aguila

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First Reading

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 82-382 THEREOF, ENTITLED "APPLICATION," BY ESTABLISHING CRITERIA TO BE UTILIZED IN THE DETERMINATION OF WHETHER AN APPLICATION, SEEKING ISSUANCE OR RENEWAL OF A SIDEWALK CAFÉ PERMIT, SHOULD BE APPROVED OR DENIED; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

BACKGROUND/HISTORY

The City of Miami Beach (the "City") has authorized the establishment of sidewalk cafés in order to provide a unique environment for its residents and visitors, which allows such individuals to relax and enjoy the consumption of food and/or beverage(s) amongst the City's tropical and vibrant scenery.

In order to ensure that sidewalk cafés in the City are operated and maintained at the highest levels of quality and service, befitting an internationally renowned resort destination like the City of Miami Beach, the permitting, operation and maintenance of sidewalk cafes on public property are governed by the City's Sidewalk Café Ordinance, which is codified in Sections 82-366 through 82-389 of the City Code.

Those business establishments seeking to operate, or continue operating, sidewalk cafés on the City's property are subject to certain identifiable standards, criteria and conditions.

The City Commission has previously found that the highest possible standards, criteria and conditions governing the operation of sidewalk cafés are critical, not only toward maintaining excellent levels of quality and service, but (among other things) to: (i) preserve the aesthetic character of the City's right-of-ways by helping to diminish the proliferation of unsightly food displays, street furniture, signage, and other visual and physical clutter; (ii) reduce potential nuisances including, without limitation, excessively loud music, hawking from sidewalk café operators and their employees to passing pedestrians, and overcrowding of the right-of-way; and (iii) aid in the prevention of deceptive, misleading, or bait and switch tactics by sidewalk café operators.

Despite merely seeking compliance with those standards, criteria and conditions required (and expected) of sidewalk café operators, the City continues to expend significant resources (in terms of both staff time and monetary expenditures) struggling to gain compliance with, and enforcement of, those regulations pertaining to sidewalk cafés.

It is imperative to remain cognizant of the fact that a sidewalk café permit is a privilege and not a right, and the approval, issuance and continued operation of a sidewalk café is conditional at all times; and

Even though the City continually grapples with all too many sidewalk café operators that fail to abide by the standards, criteria and conditions governing sidewalk cafés, the City has routinely and perfunctorily permitted virtually all business establishments that submit a new application, or seek renewal thereof, to make use of its governmental property (at a rate far below market value) for their sidewalk café operations and private gain.

As part of its periodic, continuous review of the Sidewalk Café Ordinance, the City Administration has determined that the addition of identifiable criteria to those provisions pertaining to the application and renewal of sidewalk café permits, as delineated in Section 82-382 of the City Code, are necessary to more thoroughly review and evaluate both initial sidewalk café applications and sidewalk café permit renewals.

At its September 15, 2020 meeting, the Police/Citizens Relations Committee approved a motion that:

- i.) expressed its concern regarding the alarming findings of the Sidewalk Café Index Pilot Phase I (as presented in LTC 170-2020), which reported recurring instances of overcharging, menu items offered with no price, and aggressive hawking; and
- ii.) urged the City Commission to enhance the review process surrounding sidewalk café permit applications (and renewals) to ensure that the routine issuance of such permits ceases; and
- iii.) request that sidewalk café permits and renewals are issued only to those business establishments operating consistent with the City Code and all other applicable regulations and standards of conduct.

After discussion at its meeting on December 16, 2020, the Neighborhood and Quality of Life Committee (the "NQLC") and City Administration directed the establishment of certain criteria, which shall be utilized in considering whether an application (or renewal) of a

sidewalk café permit should be issued.

At its January 28, 2021, the NQLC unanimously approved the Ordinance, which sets forth identifiable criteria which shall be considered by the city manager, or designee, prior to making the determination to approve or deny the issuance of a sidewalk café permit (or renewal thereof).

The amendments set forth (attached) are necessary to accomplish the objectives identified above.

SUPPORTING SURVEY DATA

Results from the 2019 Resident Survey show that 69% of resident's perception of the City with regards to overall quality of City services rated as very satisfied, satisfied. In order to continue maintaining excellent standards in this area, the Administration is considering amending its Sidewalk Cafe Ordinance.

Applicable Area

Citywide

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

Commissioner Mark Samuelian and Vice-Mayor Steven Meiner