

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, DIRECTING THE CITY ADMINISTRATION AND THE CITY ATTORNEY'S OFFICE TO STUDY AND ANALYZE NEW AMENDMENTS TO THE CODE OF THE CITY OF MIAMI BEACH IN ORDER TO ALLOW THE CITY TO BETTER CONTROL QUALITY AND BEHAVIOR OF SIDEWALK CAFES ON CITY OWNED PROPERTY TO ENHANCE TOURISM AND PROMOTE QUALITY SERVICE; AND TO PREPARE THE NECESSARY CITY CODE AMENDMENTS AS EXPEDITIOUSLY AS POSSIBLE FOR CONSIDERATION BY THE MAYOR AND CITY COMMISSION.**

**WHEREAS**, 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; and

**WHEREAS**, the permitting, operation and maintenance of sidewalk cafes on public property are currently governed by the City's Sidewalk Café Ordinance, which is codified in Sections 82-366 through 82-389 of the City Code; and

**WHEREAS**, 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 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; and

**WHEREAS**, the City's Sidewalk Café Ordinance is periodically reviewed and updated to ensure that the City's sidewalk cafés continue to operate at the highest possible standards (again, commensurate with those standards expected by residents and visitors to a world class destination like Miami Beach); and

**WHEREAS**, a sidewalk café permit is a privilege and not a right, and the approval, issuance and continued operation of a permitted sidewalk café is conditional at all times; and

**WHEREAS**, because the City has found that aesthetically pleasing and properly operated and maintained sidewalk cafés can serve to enhance and complement residents and visitors' experience and enjoyment of the City's historic (and other recognized commercial and entertainment) districts/neighborhoods, the City subsidizes a large percentage of each sidewalk café's operating expenses by imposing sidewalk café fees per square foot (that is, the fee charged to private business establishments/restaurants for the privilege of operating and maintaining a sidewalk café on the City's property) at a rate exponentially less than fair market value for such space; and

**WHEREAS**, the City Commission has also found that the highest possible

standards, criteria, and conditions pertaining to the operation of sidewalk cafés are critical, not only in order to maintain excellent levels of quality and service, but (among other things) to: (i) preserve the aesthetic character of the City's right of ways; (ii) reduce potential nuisances; and (iii) aid in the prevention of deceptive, misleading, or bait and switch tactics by sidewalk café operators; and

**WHEREAS**, 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; and

**WHEREAS**, as part of its periodic, continuous review of the Sidewalk Café Ordinance and, specifically, in continuing to find new and innovative ways to maintain the level of excellence that the City expects from sidewalk cafes on public property, the Mayor and City Commission hereby direct the Administration and the City Attorney's Office to study and analyze new amendments to the Code of the City of Miami Beach in order to allow the City to better control quality and behavior of sidewalk cafes, including but not limited to, possible regulation and/or prohibition on the same or consumption of oversized alcoholic beverages and hookahs at City sidewalk cafes.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA** that the Mayor and City Commission hereby authorize and direct the City Administration and the City Attorney's Office to study and analyze new amendments to the Code of the City of Miami Beach in order to allow the city to better control quality and behavior of sidewalk cafes on City owned property to enhance tourism and promote quality service, and to prepare the necessary city code amendments as expeditiously as possible for consideration by the Mayor and City Commission.

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

**ATTEST:**

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

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

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

4-14-21  
\_\_\_\_\_  
Date

RJR