

ORDINANCE NO. _____

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, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE IV, "USES IN PUBLIC RIGHTS-OF-WAY," BY AMENDING DIVISION 5, "SIDEWALK CAFES," BY AMENDING SUBDIVISION II, "PERMIT," BY AMENDING SECTION 82-385, ENTITLED "MINIMUM STANDARDS, CRITERIA, AND CONDITIONS FOR OPERATION OF SIDEWALK CAFES" TO AMEND SIDEWALK CAFE STANDARDS AND CONDITIONS OF OPERATION FOR BUSINESSES LOCATED ON OCEAN DRIVE BETWEEN 5TH STREET AND 15TH STREET; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, on September 27, 2016, the Mayor and City Commission adopted Resolution No. 2016-29590, approving a 10-Point Plan for Ocean Drive; and

WHEREAS, the 10-Point Plan specified that sidewalk café umbrellas should be allowed to be bolted or similarly attached to the sidewalk, that umbrellas be allowed to be zipped together with gutters and that umbrellas be allowed to have roll-down, transparent tarps to be utilized during rain or wind events; and

WHEREAS, Ocean Drive is a unique, historic and highly significant promenade containing hotels, restaurants and retail establishments, which serve tourists and residents alike; and

WHEREAS, the Ocean Drive Sidewalk Cafe Design Guidelines offer design standards that will create a more balanced approach that will accommodate sidewalk café seating, pedestrian circulation and services; and

WHEREAS, the need to maintain a careful balance between the operational needs of businesses and the architectural character and integrity of the streetscape is critical for the long term success of Ocean Drive; and

WHEREAS, the design standards contained within the Ocean Drive Sidewalk Café Design Guidelines will improve pedestrian safety, security and ADA access serving the health, safety, and welfare of the City's residents and visitors.

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

SECTION 1. That Section 82-385 of Chapter 82 of the Miami Beach City Code is hereby amended as follows:

CHAPTER 82 - PUBLIC PROPERTY

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Article IV. Uses In Public Rights-Of-Way

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Division 5. Sidewalk Cafes

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Subdivision II. Permit

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Sec. 82-385. Minimum standards, criteria, and conditions for operation of sidewalk cafes.

* * *

- (k) (1) All tables, chairs, umbrellas, and any other sidewalk cafe furniture shall be readily removable, and shall not be physically attached, chained, or in any other manner affixed to any public structure, street furniture, signage, and/or other public fixture, or to a curb and/or public right-of-way.

(2) Notwithstanding the provisions of subsection (k)(1), on the west sidewalk on Ocean Drive between 5th Street and 15th Street, umbrellas may be affixed to the sidewalk with an in-ground mount system that is flush with the sidewalk or with a bolted metal plate not to exceed nine inches (9") by nine inches (9") in size. A detailed engineering design, and a structural analysis of either the mount system or metal plate, shall be submitted to the department of public works for review and approval. If permitted, such mount system or metal plate must be easily removable (as determined by the city) to provide a smooth ADA-compatible surface when the mount system or metal plate is removed. In the event that a particular sidewalk café is no longer a permitted use, the umbrellas and entire mount system or metal plates shall be removed and standard concrete sidewalk shall be re-installed, subject to the approval of the department of public works.

* * *

- (r) (1) Umbrellas shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. No portion of an umbrella shall be less than six feet eight inches above the right-of-way. Two or more umbrellas may not be clipped, zipped or otherwise fastened together in order to form a tentlike structure. Clear plastics or other materials may not be fastened, rolled or otherwise be attached to umbrella edges in order to create an enclosure.

(2) Notwithstanding the provisions of subsection (r)(1), and subject to planning department review and approval, the following provisions shall apply to sidewalk cafes located on the west sidewalk on Ocean Drive between 5th Street and 15th Street:

- a. A maximum of three (3) umbrellas may be zipped together;
- b. Rain gutters may be installed between zipped umbrellas;
- c. Colorless and transparent roll-down tarps may be permitted to be attached to umbrellas, provided that the tarps are only utilized during periods of strong wind or rainfall. Within one hour of the cessation of such wind and/or rainfall, the roll-down tarp shall be removed from the umbrella/awning system and stored on private property.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith 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 of _____, 2017.

PASSED and **ADOPTED** this _____ day of _____, 2017.

ATTEST:


Philip Levine, Mayor

Rafael E. Granado, City Clerk

Underline denotes added language
~~Strike-through~~ denotes deleted language

(Sponsored by Commissioner Ricky Arriola)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

11/18/16

Date

NK