

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 82, ENTITLED "PUBLIC PROPERTY", AT DIVISION V, ENTITLED "SIDEWALK CAFES," AT SECTION 82-383, RELATING TO PERMIT FEES AND PENALTIES; TO REQUIRE PRE-PAYMENT, PRIOR PAYMENT OF THE ANNUAL SIDEWALK CAFÉ PERMIT FEE; AND ELIMINATING THE ABILITY TO PAY IN TWO ANNUAL INSTALLMENTS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, at Chapter 82, relating to the regulation of public property, at Division V, entitled "Sidewalk Cafés," the City regulates the ability of certain restaurants to utilize abutting public sidewalk areas for sidewalk cafes; and

**WHEREAS**, Section 82-383, entitled "Permit fee; penalties for late payment; review of fee; exception," which establishes the annual permit fee, penalties, enforcement, and process for payment; and

**WHEREAS**, the Code previously allowed for the annual fee to be paid in two installments during the year; and

**WHEREAS**, the City has transferred to a new permitting system that is unable to process "partial" or "installment" payments; and

**WHEREAS**, the administration recommends removing the installment payment of the permit fee from the Code; and

**WHEREAS**, the amendments set forth below are necessary to accomplish all of the above objectives.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.**

**SECTION 1.** Chapter 82, "Public Property," Division V "Sidewalk Cafes," at Section 82-383, entitled "Permit fee; penalties for late payment; review of fee; exception," is amended as follows:

\* \* \*

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

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

(1) Notwithstanding any other paragraphs or provisions of this article, no square footage fee as required by this section shall be required for the operation of sidewalk cafes north of 63rd Street through and including September 30, 2017. The abatement of sidewalk cafe square footage fees for businesses north of 63rd Street shall be the subject of a budget analysis and review by the City Administration by September 30, 2017. However, a permit must be obtained and the annual base application fee required by subsection 82-382(b)(9) shall be paid for the operation of sidewalk cafes north of 63rd Street.

(2) No square footage fee as required by this section shall be required for the operation of sidewalk cafes in conjunction with the Washington Avenue Pilot Parklet Program, which program shall terminate on March 31, 2019. Additionally, no square footage fee as required by this section shall be required for the operation of sidewalk cafes on Washington Avenue from 5th Street to Lincoln Road, for the period ending on September 30 2019.

(b) The city manager, in his reasonable discretion and judgment, may suspend or prorate the annual permit fee in cases of public construction or public emergency situations.

(c) The permit fee shall be paid on or before October 1, and shall cover the time period from October 1 through September 30 of the following calendar year (permit year). ~~If the permit fee exceeds \$2,000.00, the fee may be paid in two semiannual installments, with the first installment due on October 1, and the second due on April 1.~~ No permit shall be issued for any portion of a year, but any person/entity operating a sidewalk cafe for a period beginning after the commencement date of the full permit year (October 1) may obtain a permit for the remaining portion of that permit year upon payment of a pro-rated portion of the permit fee calculated from the first day of the month of issuance of the permit to the end of the permit year. Except as expressly provided in this division, no refund of the permit fee shall be granted.

(d) Late payments for permit fees shall accrue at the rate of ten percent per annum for the first 30 days. If the permit fee is not paid within 60 days after it is due, the permit shall terminate automatically. Any continued operation of a sidewalk cafe after termination of a permit shall be construed as operating a sidewalk cafe without a valid permit, and the city manager shall have the right to remove, upon 24 hours' written and/or verbal notice to the permittee, any and all sidewalk cafe furniture used in connection with the sidewalk cafe.

(e) As provided in Resolution No. 2003-25299, a review of the annual permit fee will be required whenever the change in the Consumer Price Index (CPI), between the latest CPI and the date of the CPI used for the last fee adjustment, is five percent or greater.

\* \* \*

## **SECTION 2. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

## **SECTION 3. CODIFICATION.**

It is the intention of the City Commission, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, as

amended; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 4. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

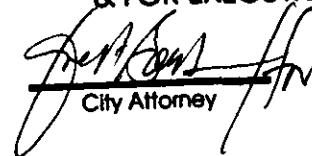
\_\_\_\_\_  
Philip Levine  
Mayor

ATTEST:

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

First Reading: \_\_\_\_\_, 2017  
Second Reading: \_\_\_\_\_, 2017

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

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

12/20/16  
\_\_\_\_\_  
Date