

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, FLORIDA, ENTITLED "PUBLIC PROPERTY," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY CREATING SECTION 82-10 THEREOF, ENTITLED "LYING DOWN PROHIBITED ON LINCOLN ROAD," TO PROHIBIT ANY PERSON FROM LYING DOWN ON LINCOLN ROAD AND SURROUNDING AREAS; ESTABLISHING EXCEPTIONS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City is an international tourist destination that attracts visitors from around the globe, yet only has a population of approximately 90,000 residents and, therefore, its economy is highly tourist dependent; and

WHEREAS, Lincoln Road is a popular shopping and dining promenade comprised of a myriad of shops, sidewalk cafes, businesses and entertainment venues, making it one of the City's most frequented attractions for residents and visitors alike; and

WHEREAS, Lincoln Road was constructed and maintained for the purpose of enabling pedestrians, and in certain portions vehicles, to move about safely and efficiently from place to place and to provide the public with convenient access to the many business establishments on Lincoln Road; and

WHEREAS, due to its heavy usage by pedestrians and vehicles, and the significant presence of business establishments throughout Lincoln Road, it is incompatible with the normal and safe movement of pedestrian and vehicle traffic for individuals to be lying down or obstructing the walkways thereon; and

WHEREAS, lying down and obstructing the walkways on Lincoln Road interferes with the primary purpose of allowing the public to safely and efficiently travel from place to place, thus deterring people from frequenting the area, and discouraging others from patronizing the shops, sidewalk cafes, businesses and entertainment venues, thereby undermining the economic viability of Lincoln Road; and

WHEREAS, the City Commission finds it necessary to prohibit the interference and any obstruction of Lincoln Road in a manner which inhibits pedestrians from safely and expeditiously utilizing those public ways, sidewalks, walkways and installations, or detracts from the businesses or the economic vitality and social vibrancy of Lincoln Road; and

WHEREAS, the Mayor and City Commission desire to adopt the following regulations in the City Code of Laws and Ordinances in order to ensure unobstructed passage, promote the public health, safety and welfare, preserve the economic vitality (upon which the City is dependent) and maintain the accessible urban environment that is Lincoln Road.

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

SECTION 1. That Section 82-10 of the City Code shall be created as follows:

CHAPTER 82
PUBLIC PROPERTY

* * *

ARTICLE I. IN GENERAL

* * *

Sec. 82-10. Lying down prohibited on Lincoln Road.

(a) Legislative Intent. Regulating the use of public spaces in the City of Miami Beach, specifically Lincoln Road (a world-renowned shopping and dining promenade and economic engine in the City), is essential in order to promote pedestrian safety, ensure unobstructed passage, and maintain its economic vitality, vibrancy and accessibility for residents, visitors and businesses.

(b) Definitions. The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Lincoln Road" means all public rights-of-way in that area between Biscayne Bay on the west and the erosion control line on the east, from the northern boundary of Lincoln Lane North to the southern boundary of Lincoln Lane South, inclusive of intersecting side streets.

(2) "Lie down" means reclining, resting or sleeping in a supine or prone position, or on one's side.

(c) Prohibition. It shall be unlawful for any person to lie down on any portion of Lincoln Road including, but not limited to, sidewalks, benches, planters, furniture or any other installation, material or object located or placed thereon.

(d) Exception. The prohibition set forth in this section shall not apply to any person experiencing a medical emergency requiring medical assistance.

(e) Enforcement and Penalties.

(1) Any person who is observed lying down on Lincoln Road, unless excepted pursuant to subsection (d) herein, shall be warned as to the prohibition set forth in this section by a law enforcement officer. The willful refusal to comply with any such warning from a law enforcement officer shall be punished in accordance with section 1-14 of the City Code.

(2) Notwithstanding the foregoing, any person who has been previously warned by a law enforcement officer, within the prior 12 months as to the prohibition set forth in this section, need not be warned again and shall be subject to immediate arrest. However, if a law enforcement officer encounters a person lying down on Lincoln Road who volunteers that he or she has no home or other permanent shelter, he or she must be given an opportunity to enter a homeless shelter or similar facility, if available. If no such shelter or similar facility is available, an arrest may not be made.

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 on _____.

PASSED and **ADOPTED** this _____ day of _____, 2023.

ATTEST:

Dan Gelber
Mayor

Rafael E. Granado
City Clerk

(Sponsored by Mayor Dan Gelber, Commissioner Alex J. Fernandez, and Commissioner Steven Meiner)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

7-20-23
Date