

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: April 23, 2025

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE MADE AT ITS APRIL 9, 2025, MEETING AND APPROVING THE SIXTH AMENDED AND RESTATED RULES AND REGULATIONS FOR BEACHFRONT CONCESSION OPERATIONS, WITH AN EFFECTIVE DATE OF APRIL 23, 2025; AND FURTHER AUTHORIZING THE ADMINISTRATION TO SUBMIT THE PROPOSED RULES AND REGULATIONS TO THE STATE OF FLORIDA FOR APPROVAL.

RECOMMENDATION

The Administration recommends the Mayor and City Commission adopt the Resolution accepting the Public Safety and Neighborhood Quality of Life Committee's recommendation and approve the Sixth Amended and Restated Rules and Regulations for the Beachfront Concession Operations.

BACKGROUND/HISTORY

The City's Rules and Regulations for Beachfront Concession Operations ("Rules and Regulations") have been amended five (5) times with material modifications addressing issues and/or updates.

On January 31, 2001, the Mayor and City Commission adopted and approved the First Amendment to the Rules and Regulations, which prohibited cooking or heating food on the Beachfront. On June 27, 2001, the Mayor and City Commission directed the Administration to revisit the issue of cooking and heating on the Beachfront, the minimum size requirements for facilities to accommodate the same, and to provide for a description of waterside equipment that may be used in non-watersport channel areas and swim zones.

Subsequently, on July 25, 2001, the Mayor and City Commission directed the Administration to address new issues, which included among others, beach chair density and layout. Consequently, the Second Amended and Restated Rules and Regulations was adopted via Resolution No. 2001-24571, which addressed and resolved the issues requested by the Mayor and City Commission by: (1) requiring that only upland owners may apply for Beachfront Concession Operations; (2) providing for a new fee schedule based on number of upland units; (3) providing a definition for waterside equipment that may be used in swim areas; and (4) providing for cooking and/or heating of food.

Thereafter, the Third Amended and Restated Rules and Regulations was adopted pursuant to Resolution No. 2016-29403. A Fourth Amended and Restated Rules and Regulations was later adopted via Resolution No. 2018-30498, which allowed the operations of food trailers by upland owner concessionaires as part of the concession facilities. Subsequently, on October 16, 2019, the Mayor and City Commission adopted Resolution No. 2019-31017, approving the Fifth Amended and Restated Rules and Regulations. Material changes to this Amendment included requiring all upland beachfront concession operations and their third-party concession operators,

including delivery services to utilize 100% reusable wares in connection with the consumption of food and beverages.

On November 16, 2022, the Mayor and City Commission approved, the referral of item C4 F, sponsored by Commissioner Alex Fernandez, to the Public Safety and Neighborhood Quality of Life Committee ("PSNQLC" or the "Committee") to discuss the Beachfront concessions, regulations and layouts to ensure sufficient beach area remains vacant for use by members of the public at all times.

ANALYSIS

City staff has gathered input from upland property owners and concessionaires, hotel and condominium management operators, City-contracted concessionaires, the City Attorney's Office, the Environment and Sustainability Department, and Ocean Rescue Division to provide updates to the Rules and Regulations. The Administration also sought engagement from key stakeholders, including neighborhood associations, and Miami-Dade County to gather relevant feedback to incorporate into the Sixth Amendment to the Beachfront Concession Rules and Regulations (attached hereto as Exhibit A).

As a result of gathering information from multiple sources and a close review of the Fifth Amendment to the Rules and Regulations, great consideration was given to each of the concerns raised by Commissioner Alex Fernandez in his referral of this item and from all stakeholders. The following are a few revisions that have been contemplated in the proposed Amendment which address the concerns referenced in the referral memorandum.

Concession Area

Considerable edits to the "Workable Concession Area" section which dictates beach area available for use and enjoyment. The parameters defining the Workable Concession Area is depicted in page 34 of Exhibit A and is required to be submitted by each Concessionaire during the application of the upland beachfront permit to operate a concession.

In addition to these measures, it should be noted that the approximate acreage of beachfront in Miami Beach is 167.99 acres. The total number of acres under private and City concession agreements is 57.74 acres. The number of acres fully available for use by the public is 110.25 acres. This is inclusive of all properties which: i) do not operate a concession, ii) all properties which are currently closed for construction, iii) the clearance in front and between each concession operation, and iv) street ends where there is no lifeguard tower. Hence, there is greater and sufficient area available for the public to enjoy the beach at all times.

Chairs and Umbrellas Placement

The placement of chairs and umbrellas is also confined to the Workable Concession Area. Concession applicants request an appropriate number of furnishing items to accommodate their residents and guests. This request is reviewed prior to approval. Furthermore, as provided in the proposed Amendment, Concessionaires shall generally keep the number of unoccupied beach chairs within their Workable Area to a minimum and set out additional chairs, incrementally as mandated by patron volumes, throughout the day.

Additionally, the proposed Sixth Amendment includes updates to the following items:

- Centralizing rules and regulations for food truck concessionaires

- Providing guidance for creating “Children’s Play Areas” (proper security, parental supervision, etc.)
- Providing guidance for use of private watercrafts (specifically jet-skis and wave runners)
- Providing clear guidance for placement of chairs (with reference to mean water line)
- Required language for the Beach Safety Rules
- Requiring Upland Properties with Food and Beverage Concessionaires to sift beachfront sand twice a week to maintain Beach clean
- Required language for the Concessionaire Acknowledgment and Authorization
- Updates to Rate and fee schedules

Collectively, the information gathered from all stakeholders provided a holistic road map to address the revisions needed for the Sixth Amendment to the Rules and Regulations. On July 10, 2023, an informational workshop was held to review the proposed changes. A copy of the draft amended Rules and Regulations was distributed to over 140 stakeholders prior to the session. The workshop clarified material terms and provided a productive discussion with positive feedback on the proposed modifications. The workshop clarified material terms and provided a productive discussion with positive feedback on the proposed modifications.

On April 9, 2025, the PSNQLC discussed the proposed Sixth Amended and Restated Rules and Regulations for Beachfront Concession Operations. The Committee made a favorable recommendation by acclamation to move the item to City Commission for adoption.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate?

(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

Based on the foregoing, the Administration recommends the Mayor and City Commission, accept the PSNQLC’s recommendation and adopt the proposed Sixth Amended and Restated Rules and Regulations for Beachfront Concession Operations, with an effective date of April 23, 2025, and further authorize the Administration to submit to the State of Florida for approval.

Applicable Area

Citywide

Is this a “Residents Right to Know” item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?

If so, specify the name of lobbyist(s) and principal(s):

Department

Facilities and Fleet Management

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Condensed Title

Accept PSNQLC Recommendation / Adopt 6th Amended Rules and Regulations for Beachfront Concessions

Previous Action (For City Clerk Use Only)