

# MIAMI BEACH

## COMMITTEE MEMORANDUM

TO: Public Safety and Neighborhood Quality of Life Committee Members

FROM: Eric Carpenter, City Manager

DATE: September 18, 2024

TITLE: DISCUSSION REGARDING BEACH CONCESSIONS, REGULATIONS, AND LAYOUT TO ENSURE THAT SUFFICIENT AREA REMAINS AVAILABLE AT ALL TIMES FOR PUBLIC ENJOYMENT OF BEACHES.

### **RECOMMENDATION**

The Administration recommends transmitting the proposed Sixth Amendment to the City's Rules and Regulations for Beachfront Concession Operations to the full City Commission for review and approval.

### **BACKGROUND/HISTORY**

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") 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. This item was included on the July 10, 2024, PSNQLC agenda but was deferred at the request of the item sponsor.

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.

## **ANALYSIS**

For several months City staff has been gathering input from upland property owners and concessionaires, hotel and condominium management, 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.

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.

- Considerable edits to the "Workable Concession Area" section which dictates beach area available for use and enjoyment. The proposed amendment will require Concessionaires expand areas available for the public. Currently there is a distance or clearance of five (5) feet between their Concession workable area and the neighboring Concession workable area. The proposed amendment for two neighboring concessions would provide a ten (10) foot wide area between concessions in addition to a ten (10) foot clearance east or in front of their first row of chairs and the previous high waterline for public use.
- A clause regarding clarifying naming additional properties has been provided. Additional properties which utilize the beachfront and amenities behind any given upland property is limited only to those located within the city limits of Miami Beach. Requests to become additional properties of some Beachfront hotels have been received from City of Miami establishments.
- In addition to these measures, 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 10-foot clearance in front of Concession and 10-foot clearance between each concession operation, iv) street ends where there is no lifeguard tower, and v) city beachfront upland properties without a city concession agreement.

Additionally, the following items have also been updated in the proposed Sixth Amendment:

- 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
- 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.

### **FISCAL IMPACT STATEMENT**

N/A

### **Does this Ordinance require a Business Impact Estimate?** (FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on .

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

### **FINANCIAL INFORMATION**

### **CONCLUSION**

The proposed Sixth Amendment to the City's Rules and Regulations for Beachfront Concession Operations (Exhibit A), is presented here for the Public Safety and Neighborhood Quality of Life Committee's consideration. Based on the foregoing and the policy discussion by the Committee, the Administration recommends transmitting this item to the City Commission for review and 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?**

No

### **Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** No

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**

Discussion Regarding Beach Concession, Regulations, and Layout to Ensure that Sufficient Area Remains Available at all Times for Public Enjoyment of Beaches.