

MIAMI BEACH

COMMITTEE MEMORANDUM

TO: Public Safety and Neighborhood Quality of Life Committee Members

FROM: Eric Carpenter, City Manager

DATE: December 2, 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 September 18, 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 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.

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, iv) street ends where there is no lifeguard tower, and v) city beachfront upland properties without a city concession agreement. 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.

Mobile Cooking Concessions Facilities (Food trucks)

Only one (1) Mobile Cooking Concession Facility (or food truck) may be permitted per upland property. In accordance with Rules and Regulations, the following among other requirements, shall apply:

- 1) Mobile Cooking Concession Facilities will only be permitted at those locations operating pursuant to a valid, City-issued Business Tax Receipt and a Beachfront Concession permit which specifically authorizes a Mobile Cooking Concession Facility.

- 2) A Mobile Cooking Concession Facility must be applied for by the Upland Property owner to the City immediately upon serious consideration and well prior to any purchase of such a Concession Facility, or its appliances and/or facilities. The application must contain full detail on the size, dimensions, electric power source and capacity, fuel source and capacity, intended appliances

and their power consumption, and a certified acknowledgement from the original equipment manufacturer, confirming that the original equipment, as manufactured, is capable of accepting, handling, and properly and safely functioning with the addition of all additional equipment, amenities, modifications and alterations proposed by the Upland Property owner. If the Upland Owner Concessionaire is authorized to use a Mobile Cooking Concession Facility, the Upland Owner Concessionaire shall also pay a Mobile Cooking Fee, in the fixed annual amount of \$120,000.00, payable on a monthly basis, in the amount of \$10,000.00. The monthly Mobile Cooking Fee shall be paid, in advance, on the first day of each month.

3) Only City-approved Concession Facilities will be Authorized. All mobile cooking and /or heating Concession Facilities must be approved by the Planning Department, Design Review Board or their designated authority as to color, size, style, power source, additional equipment, alterations to OEM specifications, and modifications for any given location. Any and all mobile cooking and /or heating Concession Facilities must receive prior approval by the City Manager, in accordance with the City Planning Department's current Beachfront Concession Design Guidelines or any other such design as may be approved by the City Manager and the City's Planning Department or designated staff.

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 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.

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-notice/>

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 review. 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.