

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Interim City Manager Rickelle Williams
DATE: July 24, 2024 5:01 p.m. Second Reading Public Hearing

TITLE: ALCOHOL HOURS OF SALE – RM3 OCEANFRONT PROPERTIES
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 7 OF THE MIAMI BEACH RESILIENCY CODE, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 6, "RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY," SECTION 7.2.6.2, "USES (RM-3)", TO ADOPT AND/OR AMEND HOURS FOR THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES ON PREMISES AT ALCOHOLIC BEVERAGES ESTABLISHMENTS IN THE AREA GENERALLY BOUNDED BY COLLINS AVENUE ON THE WEST, 72ND STREET ON THE NORTH, 53RD STREET ON THE SOUTH, AND THE EASTERN BOUNDARY LINE OF PROPERTIES FRONTING THE EAST SIDE OF COLLINS AVENUE ON THE EAST; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission (City Commission) adopt the ordinance.

BACKGROUND/HISTORY

On December 13, 2023, at the request of Commissioner Alex Fernandez, the City Commission referred a proposal regarding the outdoor sale of alcohol on oceanfront properties in the RM3 zoning district (Item C4 V) to the Public Safety and Neighborhood Quality of Life Committee (PSNQLC) and the Planning Board. Commissioner Tanya K. Bhatt was the co-sponsor of the proposal.

On February 14, 2024, the PSNQLC recommended that the Planning Board transmit an ordinance to the City Commission with a favorable recommendation.

ANALYSIS

The City Code permits accessory alcoholic beverage establishments within the RM-3 zoning district. Absent appropriate regulations, these uses could be incompatible with adjacent residential uses along the Collins Avenue corridor. Such establishments include restaurants, stand-alone bars, outdoor food and beverage services, entertainment establishments, and dance halls, where alcoholic beverages are sold and consumed.

The sale and consumption of alcoholic beverages during the early morning hours, particularly in outdoor areas, can be disruptive to residents, as related impacts could include excessive noise, as well as increased calls for service to the Police, Fire and Code Compliance Departments. These impacts principally burden residents in neighborhoods that are adjacent to such establishments.

To address these concerns, the attached draft ordinance would limit the outdoor sale of alcohol to 12:00 a.m. for properties located in the RM-3 zoning district, on the east side of Collins Avenue from 53rd to 72nd Street, identified as “Upper Collins Avenue”. This 12:00 a.m. cutoff would apply to both new and existing establishments, and the ordinance contains a provision for the determination of any vested rights for existing establishments. The proposal does not impact indoor alcohol sales.

Florida law grants municipalities broad authority to regulate the sale of alcoholic beverages. In the exercise of that authority, municipalities may prohibit the sale of alcohol within certain hours and/or within certain zoning districts. Specifically, Section 562.14, Florida Statutes, authorizes municipalities, by ordinance, to establish hours of sale for alcoholic beverages. Florida courts have consistently held that alcoholic beverage establishments are not entitled to “grandfather” status as to hours of sale for alcoholic beverages.¹ Accordingly, the City has the authority to adopt the proposed legislation.

¹See Village of North Palm Beach v. S & H Foster’s, Inc. (Fla. 4th DCA 2012); Other Place of Miami, Inc. v. City of Hialeah Gardens (Fla. 3d DCA 1978).S

PLANNING BOARD REVIEW

On March 26, 2024, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (6-0).

UPDATE

On May 15, 2024, the subject ordinance was approved at First Reading with no changes. Additionally, the City Commission waived the applicable fees based on circumstances unique to the proposed amendment.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? No
(FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on 7/5/2024. See BIE at:
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

N/A

CONCLUSION

The Administration recommends that the City Commission adopt the ordinance.

Applicable Area

Citywide

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

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

Yes

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

Planning

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Commissioner Tanya K. Bhatt