

C4 C REFERRAL TO THE PLANNING BOARD – RO DISTRICT REGULATIONS FOR  
NONCONFORMING USES AND ALCOHOL SALES  
Applicable Area:

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Eric Carpenter, City Manager  
DATE: February 26, 2025  
TITLE: REFERRAL TO THE PLANNING BOARD – RO DISTRICT REGULATIONS FOR NONCONFORMING USES AND ALCOHOL SALES.

### **RECOMMENDATION**

The Administration recommends that the Mayor and City Commission (City Commission) refer the attached draft ordinances to the Planning Board.

### **BACKGROUND/HISTORY**

On December 11, 2024, at the request of Commissioner Laura Dominguez, the City Commission referred a proposal pertaining to alcohol sales in the Residential Office (RO) district (C4 J) to the Land Use and Sustainability Committee (LUSC). On January 16, 2025, the LUSC recommended that the City Commission refer applicable amendments to the Planning Board, in accordance with the recommendations in the LUSC memorandum, and the following:

1. The number of seats shall not exceed ten (10).
2. A vesting provision shall be included.

### **ANALYSIS**

Currently, properties along the east side of Alton Road, between 12th Street and 14th Street, are designated Residential Office (RO) on the City's zoning map. This area was rezoned from commercial (CD-2) to RO in 1998. Alcoholic beverage establishments (including restaurants that serve beer and wine) are currently prohibited in the RO district.

The owner of an existing plant and garden nursery, with an accessory café and bakery, at 1239 Alton Road has proposed adding the sale of alcoholic beverages (beer and wine only) to the café use. The subject nursery, and accessory café, are non-conforming uses that existed prior to the change in zoning in 1998; as such, these existing uses are permitted to remain but cannot be expanded. The allowance for the sale of alcohol at the premises would be considered an expansion of a non-conforming use.

To accommodate the sale of alcohol at the subject premises, the attached amendments to the Land Development Regulations of the City Code (LDRs) and the Comprehensive Plan are proposed. The following is a generally summary of the proposed ordinances:

1. Chapter 2, Article VII of the LDRs, pertaining to nonconformances, will be amended to permit the expansion of a non-conforming café in the RO district and allow the limited sale of beer and wine, in accordance with specified requirements and criteria.
2. Chapter 7, Article II of the LDRs, regarding the development regulations in the RO district, will be amended to permit, on a limited basis, the sale of alcoholic beverages within existing cafes

in the RO district, in accordance with the specified requirements and criteria in Chapter 2.

3. Policy RLU 1.1.1 of the Comprehensive Plan, pertaining to the RO future land use classification, will be amended to include a provision for nonconforming cafés to include the sale of beer and wine, as an accessory use to the cafe, in accordance with the requirements more specifically described in the LDRs.

The east side of Alton Road, from 12<sup>th</sup> to 14<sup>th</sup> Streets, was re-zoned to RO primarily due to its proximity to an established single family zoning district to the immediate east. An alley (Lenox Court) separates the RO zoned properties fronting Alton Road from the residential homes on Lenox Avenue. As such, particular care has been exercised in the drafting of the proposed amendment to allow alcohol sales in this area. Given that a café use currently exists, and the allowance for the sale of alcohol is limited to existing cafes, the overall impact of the proposed amendments is expected to be limited.

### **APPLICATION FEE WAIVER**

The subject amendment is proposed on a comprehensive basis, and not on behalf of a private applicant or third party. Pursuant to section 2.4.1.c of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 2.2.3.5, 2.2.3.6, and appendix A to the City Code. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

1. The City Commission determines that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning, or based on circumstances unique to the proposed amendment.
2. Upon the written recommendation of the City Manager acknowledging a documented financial hardship of a property owner(s) or developer(s).
3. If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

Should this proposal be referred to the Planning Board, the Administration recommends that the City Commission determine that the proposed amendment is necessary based on circumstances unique to the proposed amendment and waive the applicable fees.

### **FISCAL IMPACT STATEMENT**

No Fiscal Impact

### **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**

Not Applicable

### **CONCLUSION**

The Administration recommends the following:

1. The City Commission refer the attached draft ordinances to the Planning Board.

2. In accordance with section 2.4.1.c.1 of the Land Development Regulations of the City Code, the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

**Applicable Area**

South Beach

**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?** Yes

If so, specify the name of lobbyist(s) and principal(s): Gus Gutierrez, Alton Road Nursery

**Department**

Planning

**Sponsor(s)**

Commissioner Laura Dominguez

**Co-sponsor(s)**

**Condensed Title**

Ref: PB - RO District Regulations for Nonconforming Uses and Alcohol Sales. (Dominguez) PL

**Previous Action (For City Clerk Use Only)**

d. Notwithstanding the provisions of this article, a nonconforming café located in a Residential Office (RO) district on Alton Road, existing as of January 1, 2025, may include the sale of beer and wine, subject to the following:

1. Alcoholic beverages shall be limited to beer and wine for consumption on premises only. The retail sale of beer or wine, for off premises consumption, shall be prohibited.
2. The sale of beer and wine shall not commence prior to 11:30 a.m. and shall conclude no later than 10:00 p.m. for existing indoor seating and no later than 8:00 p.m. for existing outdoor seating, seven days a week, including holidays.
3. There shall be no increase in the patron occupancy within the interior or exterior of the café establishment, nor shall the area of the café be permitted to expand.
4. There shall be no more than 10 seats permitted within the interior and/or exterior of the café establishment.
5. As applicable to any non-conforming café authorized to serve beer and wine under this subsection (d), the permitted hours of sale for alcoholic beverages shall be subject to future modifications by the City Commission, pursuant to the City's express statutory authority to regulate hours of sale for alcoholic beverages as set forth in Sec. 562.14, Florida Statutes.

**SECTION 2.** Chapter 7, “Zoning Districts and Regulations”, Article II. “District Regulations”, is hereby amended as follows:

## **CHAPTER 7 - ZONING DISTRICTS AND REGULATIONS**

\* \* \*

### **ARTICLE II - DISTRICT REGULATIONS**

\* \* \*

#### **7.2.9 RO RESIDENTIAL/OFFICE DISTRICT**

\* \* \*

##### **7.2.9.2 Uses (RO)**

\* \* \*

d. Supplemental Prohibited Uses Regulations (FO)

The Supplemental Prohibited Uses Regulations are as follows:

1. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 in General Ordinances, are a prohibited use. Notwithstanding, alcohol sales may be permitted for existing cafes meeting the criteria set forth in section 2.12.5.d.
2. All uses not listed as a main permitted or conditional use are also prohibited, unless otherwise specified.

**SECTION 3. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

**SECTION 4. CODIFICATION.**

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 5. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall take effect ten (10) days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of 2025

\_\_\_\_\_  
Steven Meiner, Mayor

ATTEST:

\_\_\_\_\_  
Rafael E. Granado, City Clerk,

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

\_\_\_\_\_  
City Attorney Date

First Reading: \_\_\_\_\_, 2025

Second Reading: \_\_\_\_\_, 2025

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

**RO District Regulations for Nonconforming Uses and Alcohol Sales – Comprehensive Plan Amendment**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY OF MIAMI BEACH YEAR 2040 COMPREHENSIVE PLAN, BY AMENDING GOAL RLU 1: LAND USE; OBJECTIVE RLU 1.1: ESTABLISHMENT OF FUTURE LAND USE CATEGORIES; POLICY RLU 1.1.11: RESIDENTIAL / OFFICE (RO), TO ESTABLISH REQUIREMENTS FOR NONCONFORMING CAFES SERVING ALCOHOL AND LOCATED ON ALTON ROAD; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; TRANSMITTAL; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Miami Beach (the “City”) has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

**WHEREAS**, certain nonconforming café uses located on Alton Road in the Residential Office (RO) zoning district are uniquely valuable neighborhood amenities; and

**WHEREAS**, nonconforming café uses located on Alton Road in the RO district provide residents with food and beverage uses within walkable distances, which promotes pedestrianism, reduces traffic, and improves quality of life of residents; and

**WHEREAS**, the proposed amendment affects less than 10 acres and is a small scale amendment, pursuant to section 163.3187(1), Florida Statutes.

**WHEREAS**, the amendments set forth below are necessary to accomplish all of the above objectives.

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

**SECTION 1.** The following amendments to the City’s 2040 Comprehensive Plan Future Land Use Element are hereby adopted:

**RESILIENT LAND USE AND DEVELOPMENT ELEMENT**

\* \* \*

**GOAL RLU 1: LAND USE**

\* \* \*

**POLICY RLU 1.1. 11 RESIDENTIAL / OFFICE (RO)**

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new office residential areas which are compatible with single family and other residential development.

Uses which may be permitted: Offices and certain residential uses including single family detached dwellings, single family attached dwellings, townhouse dwellings and multiple family dwellings.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional use: specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Nonconforming cafés located on Alton Road, existing as of January 1, 2025, may include the sale of beer and wine, as an accessory use to the café, in accordance with the requirements more specifically described in the Land Development Regulations.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

**SECTION 3. CODIFICATION.**

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 4. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect 31 days after adoption pursuant to Section 163.3187(1), Florida Statutes.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of 2025

\_\_\_\_\_  
Steven Meiner, Mayor

ATTEST:

\_\_\_\_\_  
Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: \_\_\_\_\_, 2025

Second Reading: \_\_\_\_\_, 2025

Verified by: \_\_\_\_\_

Thomas R. Mooney, AICP  
Planning Director