

R5 L RO DISTRICT REGULATIONS FOR ALCOHOL SALES IN NONCONFORMING USES – LDR AMENDMENT

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED, "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 2 ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES", ARTICLE XII, ENTITLED "NONCONFORMITIES," BY AMENDING SECTION 2.12.5, ENTITLED "NONCONFORMING USE OF BUILDINGS," TO ESTABLISH REQUIREMENTS FOR NONCONFORMING CAFES SERVING ALCOHOL AND LOCATED ON ALTON ROAD; BY AMENDING CHAPTER 7 ENTITLED, "ZONING DISTRICTS AND REGULATIONS", ARTICLE II, ENTITLED, "GENERAL TO ALL ZONING DISTRICTS", DIVISION 7.2.9 ENTITLED, "RO RESIDENTIAL/OFFICE DISTRICT," BY AMENDING SECTION 7.2.9.2, ENTITLED "USES (RO)," TO ALLOW ALCOHOL SALES IN EXISTING CAFES; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.
Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: May 21, 2025 10:06 a.m. First Reading Public Hearing

TITLE: RO DISTRICT REGULATIONS FOR ALCOHOL SALES IN NONCONFORMING USES – LDR AMENDMENT
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED, "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 2 ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES", ARTICLE XII, ENTITLED "NONCONFORMITIES," BY AMENDING SECTION 2.12.5, ENTITLED "NONCONFORMING USE OF BUILDINGS," TO ESTABLISH REQUIREMENTS FOR NONCONFORMING CAFES SERVING ALCOHOL AND LOCATED ON ALTON ROAD; BY AMENDING CHAPTER 7 ENTITLED, "ZONING DISTRICTS AND REGULATIONS", ARTICLE II, ENTITLED, "GENERAL TO ALL ZONING DISTRICTS", DIVISION 7.2.9 ENTITLED, "RO RESIDENTIAL/OFFICE DISTRICT," BY AMENDING SECTION 7.2.9.2, ENTITLED " USES (RO)," TO ALLOW ALCOHOL SALES IN EXISTING CAFES; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission (City Commission) approve the subject ordinance at First Reading and schedule a Second Reading public hearing for July 23, 2025.

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.

On February 26, 2025, at the request of Commissioner Laura Dominguez, the City Commission referred the subject ordinances to the Planning Board (C4 D).

ANALYSIS

Properties along the east side of Alton Road, between 12th and 14th Streets, are currently zoned Residential Office (RO) on the City's zoning map. This area was rezoned from commercial (CD-2) to RO in 1998. At present, alcoholic beverage establishments, including restaurants serving beer and wine, are not permitted in the RO district.

The owner of a plant and garden nursery, located at 1239 Alton Road, which also operates an accessory café and bakery, has proposed adding the sale of alcoholic beverages (beer and wine only) to the café. The nursery and café are considered non-conforming uses, as they predate the 1998 zoning change. Although these uses are allowed to continue, they cannot be expanded. Therefore, permitting alcohol sales at the premises would constitute an expansion of a non-conforming use.

To facilitate the sale of alcohol at this location, the attached ordinance amending the Land Development Regulations of the City Code (LDRs) is proposed. The following is a summary of the proposed amendments:

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

In addition to the proposed LDR amendments, a separate, companion amendment to Policy RLU 1.1.1 of the Comprehensive Plan, pertaining to the RO future land use classification is also proposed. Specifically, the Comprehensive Plan is proposed to be amended to include the sale of beer and wine, as an accessory use to existing cafés, in accordance with the requirements more specifically described in the LDRs.

The area along the east side of Alton Road, between 12th and 14th Streets, was re-zoned to RO primarily due to its proximity to an established single-family zoning district to the east. The alley (Lenox Court) separates the properties in the RO district from the residential homes on Lenox Avenue. Given this context, careful consideration has been given in drafting the proposed amendments to regulate alcohol sales in this area. Since the proposal is limited to existing cafés and the sale of alcohol would only be allowed under specific conditions, the overall impact of these changes is anticipated to be minimal.

PLANNING BOARD REVIEW

On April 8, 2025, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (7-0).

FISCAL IMPACT STATEMENT

No Fiscal Impact Expected

Does this Ordinance require a Business Impact Estimate? Yes
(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-notice/>

FINANCIAL INFORMATION

Not Applicable

CONCLUSION

The Administration recommends that the City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for July 23, 2025.

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

10:06 a.m. 1st Rdg PH, RO District Regs for Alcohol Sales in Nonconforming Uses-LDR Amendment. (LD) PL

Previous Action (For City Clerk Use Only)

RO District Regulations for Alcohol Sales in Nonconforming Uses – LDR Amendment

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED, "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 2 OF THE MIAMI BEACH RESILIENCY CODE, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE XII, ENTITLED "NONCONFORMITIES," BY AMENDING SECTION 2.12.5, ENTITLED "NONCONFORMING USE OF BUILDINGS," TO ESTABLISH REQUIREMENTS FOR NONCONFORMING CAFES SERVING ALCOHOL AND LOCATED ON ALTON ROAD; BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED, "DISTRICT REGULATIONS," DIVISION 7.2.9, ENTITLED "RO RESIDENTIAL/OFFICE DISTRICT," BY AMENDING SECTION 7.2.9.2, ENTITLED "USES (RO)," TO ALLOW ALCOHOL SALES IN EXISTING CAFES SUBJECT TO SPECIFIED CONDITIONS; PROVIDING FOR CODIFICATION; 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 cafés located on Alton Road in the RO district provide residents with access to food and beverage establishments within walkable distances, which promotes pedestrianism, reduces traffic, and improves quality of life of residents; and

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. Chapter 2, "Administration and Review Procedures", Article XII "Nonconformities," is hereby amended as follows:

CHAPTER 2. ADMINISTRATION AND REVIEW PROCEDURES

* * *

ARTICLE XII. NONCONFORMITIES

* * *

2.12.5 NONCONFORMING USE OF BUILDINGS

* * *

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 be authorized to sell beer and wine, subject to compliance with the following conditions:

1. Alcoholic beverages shall be limited to beer and wine for consumption on premises only. The retail or package 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 (RO)

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 the foregoing, 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.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK Date 5/18/2025

First Reading: May 21, 2025
Second Reading: July 23, 2025

Verified by: _____
Thomas R. Mooney, AICP
Planning Director