

1. ENTERTAINMENT AND SUPPER CLUB REGULATIONS

Applicable Area:



COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: September 11, 2024

10:35 a.m. First Reading Public Hearing

TITLE: ENTERTAINMENT AND SUPPER CLUB REGULATIONS

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 "MIAMI BEACH RESILIENCY CODE," CHAPTER 1, ENTITLED "GENERAL PROVISIONS," ARTICLE II, ENTITLED "DEFINITIONS," SECTION 1.2.2, ENTITLED "USE DEFINITIONS," AT SUBSECTION 1.2.2.4, ENTITLED "COMMERCIAL," BY CREATING A DEFINITION FOR RESTAURANT SUPPER CLUB; AND BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," SECTION 7.2.5, ENTITLED "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY" AT SUBSECTION 7.2.5.2, ENTITLED "USES (RM-2)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.6, ENTITLED "RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY," AT SUBSECTION 7.2.6.2, ENTITLED "USES (RM-3)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.11, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY," AT SUBSECTION 7.2.11.2, ENTITLED "USES (CD-2)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4, AND BY AMENDING THE SUPPLEMENTAL CONDITIONAL USE REGULATIONS FOR THE DISTRICT; BY AMENDING SECTION 7.2.12, ENTITLED "CD-3 COMMERCIAL, HIGH INTENSITY," AT SUBSECTION 7.1.12.2, ENTITLED "USES (CD-3)," BY AMENDING THE SUPPLEMENTAL MAIN PERMITTED USES TO AMEND THE REQUIREMENTS FOR DANCE HALLS TO PROVIDE THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.14, ENTITLED "NORTH BEACH TOWN CENTER-CORE DISTRICT (TC)," AT SUBSECTION 7.2.14.2, ENTITLED "USES (TC-1, TC-2)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.14.6, ENTITLED "TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT," BY AMENDING THE REQUIREMENTS FOR ENTERTAINMENT ESTABLISHMENTS AND BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.13, ENTITLED "MXE MIXED USE ENTERTAINMENT DISTRICT," AT SUBSECTION 7.2.13.2, ENTITLED "USES (MXE)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; AND BY AMENDING ARTICLE V, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," SECTION 7.5.5, ENTITLED "SPECIALIZED USE REGULATIONS," BY AMENDING AND EXPANDING SECTION 7.5.5.4, ENTITLED "ENTERTAINMENT ESTABLISHMENTS," BY REORGANIZING THE SECTION, ESTABLISHING DETAILED REQUIREMENTS FOR EACH ZONING DISTRICT INCLUDING LOCATION, OCCUPATIONAL CONTENT, HOURS OF OPERATION, SPECIFIC REQUIREMENTS FOR

ENTERTAINMENT USES AS MAIN PERMITTED AND ACCESSORY USES, STANDARDS FOR NON-CONFORMING USES, MINIMUM DISTANCE SEPARATION, AND THE DELETION OF SECTION 7.5.5.7, ENTITLED "DANCE HALLS"; AND 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 October 30, 2024.

BACKGROUND/HISTORY

On April 3, 2024, at the request of Commissioner David Suarez, the City Commission referred two discussion items (C4 C and C4 D) regarding entertainment uses and supper clubs, to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On May 1, 2024, the LUSC discussed and continued both items to the June 10, 2024, LUSC meeting.

Subsequent to the May 1, 2024 LUSC meeting, at the request of the item sponsor, both items were combined into a single ordinance. On June 10, 2024, the LUSC moved the proposed ordinance to the Planning Board with a recommendation to allow stand-alone entertainment establishments within fully enclosed hotels.

At present, entertainment and dance halls (which include nightclubs) are listed as a permitted or conditional use, either as a stand-alone use or as part of a restaurant, in the following zoning districts:

- CD-2 (Except for Sunset Harbor)
- CD-3 (Restaurants only on Lincoln Road)
- MXE
- RM-2 and RM-3 (Accessory Use Only)
- RM-1 (Site Specific – the International Inn in North Beach and the Woman's Club in South Beach)
- TC-1, TC-2 and TC-C (North Beach)

The following areas that are eligible for entertainment and dance halls have a 2:00 a.m. alcohol sale termination time:

- Alton Road from 5th Street to Dade Boulevard.
- 41st Street.

Additionally, entertainment and dance halls are permitted in a venue serving alcohol, in accordance with the following:

- Fully enclosed, indoor venues, including bars, nightclubs and restaurants, are permitted as of right, if the occupational content is less than 200 persons.
- Fully enclosed, indoor venues, including bars, nightclubs and restaurants, require conditional use approval from the Planning Board, if the occupational content exceeds 200 persons.
- Outdoor or open-air venues, regardless of occupational content, require conditional use approval from the Planning Board.

The minimum distance separation between dance halls and entertainment establishments not also operating as restaurants with full kitchens and serving full meals is 300 feet; requests for a distance separation variance are permitted. However, for dance halls and entertainment establishments also operating as a restaurant, there is no distance separation requirement between such uses. Additionally, the Code has the following minimum standards for a restaurant associated with a dance hall or entertainment establishment:

For purposes of this section, "full kitchens" shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchens must contain grease trap interceptors, and meet all applicable city, county and state codes.

ANALYSIS

The following is a summary of the attached LDR amendment:

Definitions

A definition for a "Restaurant Supper Club" has been added to section 1.2.2.4 as follows:

Restaurant Supper Club means a commercial establishment where food and drinks may be purchased by the public and which conducts the business of serving of food to be consumed on the premises, whose principal business is the preparation, serving, and selling of food, to the customer for consumed [consuming] on the premises. Food shall be continuously ready to be prepared, served, and sold during all business operational hours for a restaurant supper club use. Additionally, the following shall apply:

- a. The establishment shall be licensed as a restaurant and shall obtain all required restaurant licenses from the State and meet all requirements of the health department specific to restaurants.*
- b. The restaurant shall include a full kitchen, including the following minimum equipment requirements:*
 - 1. Cook top and oven.*
 - 2. A hood exhaust system along with a fire system connected to the hood.*
 - 3. Dish washing apparatus, including a 3-compartment sink.*
 - 4. A walk-in refrigerator.*
 - 5. Grease trap interceptor (if required).*
- c. The establishment shall have minimum annual food sales of 40%.*

This new definition significantly increases the threshold for what constitutes a supper club restaurant use. Under the current definition of restaurant, it is easy for a venue to provide little more than snacks and bar bites, yet still be considered a restaurant.

Amendments to Applicable Zoning Districts

All districts that currently permit entertainment, in some form, have been modified to be consistent with proposed, comprehensive entertainment regulations in section 7.5.5.4.

Comprehensive Regulations for Entertainment

Section 7.5.5.4 has been significantly revised to include a comprehensive, and clear set of regulations for entertainment uses in all applicable zoning districts. These regulations apply to indoor entertainment establishment, outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, dance hall and after-hours dance hall. The following is a summary of the proposed changes:

RM-1 District:

- Clarifies that entertainment is not permitted in the RM-1 district, with the exception of the

International Inn and Miami Beach Women's Club sites, which have previously approved regulations.

RM-2 District:

- Existing limited areas and sites, including hotels on Washington Avenue between 6th and 7th Streets, Temple Emmanuel, the Collins Park Arts District Overlay and the FAENA District Overlay, retain previously approved regulations.

RM-3 District:

- Outdoor and open-air entertainment, regardless of occupational content, shall continue to require conditional use approval, and shall only be permitted as part of a restaurant supper club that is an accessory to a hotel use.
- Indoor entertainment shall only be permitted as an accessory use to a hotel, if a hotel use is permitted, and only as part of a restaurant supper club or as part of an indoor venue that does not serve alcohol past 2:00 a.m.
- Indoor entertainment may also be permitted in establishments not operating as a restaurant supper club serving alcohol past 2:00 a.m. that (i) are fully enclosed and located entirely within a hotel, if a hotel use is permitted, with 200 or more rooms, and (ii) have no direct access to or from the street and are only accessed from within the confines of the hotel.
- Indoor entertainment, regardless of occupational content, shall require conditional use approval.

CD-2, CD-3, T-CC, TC-1, TC-2 and MXE Districts:

- Outdoor and open-air entertainment, regardless of occupational content, shall continue to require conditional use approval, and shall only be permitted as part of a restaurant supper club.
- Indoor entertainment shall be permitted as part of a restaurant supper club or as part of an indoor venue that does not serve alcohol past 2:00 a.m.
- Except for the TC-C district, indoor entertainment may also be permitted in establishments not operating as a restaurant supper club serving alcohol past 2:00 a.m. that (i) are an accessory use to a hotel, if a hotel use is permitted, (ii) are fully enclosed and located entirely within a hotel with 200 or more rooms, and (iii) have no direct access to or from the street and are only accessed from within the confines of the hotel.
- Indoor entertainment, located within an establishment having an occupational content exceeding 125 persons, shall require conditional use approval.
- Existing limited areas and sites, including Washington Avenue, the Collins Park Arts District Overlay and the Ocean Terrace Overlay, retain previously approved regulations.

CCC and GU districts:

All entertainment continues to be subject to the approval of the City Commission.

Nonconforming Entertainment Establishments:

Provisions pertaining to legally established entertainment venues, including those with an active conditional use permit (CUP), have been included.

Minimum Distance Separation Requirements:

All existing minimum distance separation requirements have been retained and clarified, as follows:

- The minimum distance separation between entertainment establishments, including, but not limited to, outdoor entertainment establishment, open air entertainment establishment, dance hall or after-hours dance hall, which are licensed to sell alcoholic beverages and not also operating as restaurant supper clubs, shall be 300 feet.

- The minimum distance separation between dance halls not licensed to sell alcoholic beverages shall be 300 feet.

Variances:

Variances from any of the requirements of section 7.5.5.4 would now be prohibited.

PLANNING BOARD REVIEW

On July 24, 2024, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (6-0). At the request of an affected property owner, the Planning Board also recommended that the following applicability provision be included:

Any existing business that by July 30, 2024, had a permit process number with the City of Miami Beach, for the expansion of seating or occupancy, shall be exempt from the limitations of enlargement and expansion listed in Section 7.5.5.4 hereof, and shall be permitted to enlarge or expand its occupancy and/or seating capacity consistent with all applicable regulations in place prior to July 30, 2024, as well as the permit application, and retain its legal nonconforming entertainment establishment status. If the permit is abandoned or becomes expired, for any reason, the business shall be subject to all the limitations and regulations enumerated herein.

This applicability provision has not been included in the attached ordinance for First Reading.

SUMMARY

The attached draft ordinance has been updated to clarify that in the RM-3 and applicable commercial districts outdoor and open-air entertainment shall only be permitted as part of a restaurant supper club.

APPLICATION FEE WAIVER

The subject amendment is proposed on a comprehensive, citywide 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.

The Administration recommends that the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

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: 8/14/2024.
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

N/A

CONCLUSION

The Administration recommends the following:

1. The City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for October 30, 2024.
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

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

Planning

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Condensed Title

10:35 a.m. 1st Rdg PH, Entertainment and Supper Club Regulations. (Suarez) PL 5/7

Entertainment and Supper Club Regulations

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 "MIAMI BEACH RESILIENCY CODE," CHAPTER 1, ENTITLED "GENERAL PROVISIONS," ARTICLE II, ENTITLED "DEFINITIONS," SECTION 1.2.2, ENTITLED "USE DEFINITIONS," AT SUBSECTION 1.2.2.4, ENTITLED "COMMERCIAL," BY CREATING A DEFINITION FOR RESTAURANT SUPPER CLUB; AND BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," SECTION 7.2.5, ENTITLED "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY," AT SUBSECTION 7.2.5.2, ENTITLED "USES (RM-2)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.6, ENTITLED "RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY," AT SUBSECTION 7.2.6.2, ENTITLED "USES (RM-3)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.11, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY," AT SUBSECTION 7.2.11.2, ENTITLED "USES (CD-2)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4, AND BY AMENDING THE SUPPLEMENTAL CONDITIONAL USE REGULATIONS FOR THE DISTRICT; BY AMENDING SECTION 7.2.12, ENTITLED "CD-3 COMMERCIAL, HIGH INTENSITY," AT SUBSECTION 7.1.12.2, ENTITLED "USES (CD-3)," BY AMENDING THE SUPPLEMENTAL MAIN PERMITTED USES TO AMEND THE REQUIREMENTS FOR DANCE HALLS TO PROVIDE THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.14, ENTITLED "NORTH BEACH TOWN CENTER-CORE DISTRICT (TC)," AT SUBSECTION 7.2.14.2, ENTITLED "USES (TC-1, TC-2)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.14.6, ENTITLED "TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT," BY AMENDING THE REQUIREMENTS FOR ENTERTAINMENT ESTABLISHMENTS AND BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.13, ENTITLED "MXE MIXED USE ENTERTAINMENT DISTRICT," AT SUBSECTION 7.2.13.2, ENTITLED "USES (MXE)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; AND BY AMENDING ARTICLE V, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," SECTION 7.5.5, ENTITLED "SPECIALIZED USE REGULATIONS," BY AMENDING AND EXPANDING SECTION 7.5.5.4, ENTITLED "ENTERTAINMENT ESTABLISHMENTS," BY REORGANIZING THE SECTION, ESTABLISHING DETAILED REQUIREMENTS FOR EACH ZONING DISTRICT INCLUDING LOCATION, OCCUPATIONAL CONTENT, HOURS OF OPERATION, SPECIFIC REQUIREMENTS FOR ENTERTAINMENT USES AS MAIN PERMITTED AND ACCESSORY USES, STANDARDS FOR NON-CONFORMING USES, MINIMUM DISTANCE SEPARATION, AND THE

DELETION OF SECTION 7.5.5.7, ENTITLED "DANCE HALLS"; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission desire to amend and enhance the current requirements in the City Code pertaining to entertainment venues; and

WHEREAS, establishments providing entertainment, if not properly regulated, can become a nuisance and negatively impact adjacent residential properties, the impacts of which can be difficult to control; and

WHEREAS, entertainment establishments can negatively impact the character of neighborhoods and quality of life for surrounding residents and businesses; and

WHEREAS, stronger requirements and additional Planning Board review for entertainment venues will promote the general health, safety and welfare of the residents of the City; 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 1 of the Miami Beach Resiliency Code, entitled "General Provisions," Article II, entitled "Definitions," is hereby amended as follows:

**CHAPTER 1
GENERAL PROVISIONS**

* * *

ARTICLE II. – DEFINITIONS

* * *

SECTION 1.2.2. – USE DEFINITIONS

* * *

1.2.2.4 Commercial

* * *

Restaurant Supper Club means a commercial establishment where food and drinks may be purchased by the public; and whose principal business is the preparation, serving, and selling of food to the customer for consumption on the premises. Food shall be continuously ready to be prepared, served, and sold during all hours that the establishment is open for business. Additionally, the following shall apply:

- a. The establishment shall be licensed as a restaurant and shall obtain all required restaurant licenses from the State and meet all requirements of the health department specific to restaurants.
- b. The restaurant shall include a full kitchen, including the following minimum equipment requirements:

1. Cook top and oven.
 2. A hood exhaust system along with a fire system connected to the hood.
 3. Dish washing apparatus, including a 3-compartment sink.
 4. A walk-in refrigerator.
 5. Grease trap or interceptor (if required pursuant to the Miami-Dade County Code).
- c. The establishment shall have minimum annual food sales of 40% of the establishment's gross annual revenue.

SECTION 2. Chapter 7 of the Resiliency Code, entitled "Zoning Districts and Regulations," is hereby amended as follows:

**CHAPTER 7
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. DISTRICT REGULATIONS

* * *

Section 7.2.5. RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY

* * *

Section 7.2.5.2 Uses (RM-2)

* * *

b. Supplemental Conditional Uses Regulations (RM-2)

The supplemental conditional uses are as follows:

* * *

5. *Washington Avenue.* In addition to the conditional uses specified in section 7.2.5.2, and notwithstanding the provisions of the prohibited uses in section 7.2.5.2, the following regulations shall apply to properties that front Washington Avenue between 6th Street and 7th Street, including those properties between 6th Street and 7th Street that have frontage on Pennsylvania Avenue (MAP EXHIBIT-5):

A. Restaurants, cafes and/or eating and drinking establishments, which include entertainment, as an accessory use to a hotel shall require conditional use approval. This may include establishments that qualify as a neighborhood impact establishment, subject to all applicable approvals under the neighborhood impact establishment requirements and provided that any sound associated with outdoor entertainment shall be limited to a volume that does not interfere with normal conversation (i.e. at an ambient level).

B. Outdoor bar counters shall require conditional use approval, with hours of operation to be determined by the planning board.

* * *

c. Supplemental Accessory Uses Regulations (RM-2)

The supplemental accessory uses are as follows:

1. The accessory uses in the RM-2 residential multifamily, medium intensity district are as required in section 7.5.4.13
2. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 ~~in~~ of the General Ordinances.
3. Notwithstanding the foregoing, a property that had a legal conforming use as of May 28, 2013, shall have the right to apply for and receive special event permits that contain entertainment uses.
4. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

* * *

Section 7.2.6. RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY

* * *

Section 7.2.6.2 Uses (RM-3)

* * *

c. Supplemental Accessory uses Regulations (RM-3)

The supplemental accessory uses are as follows:

1. Those uses permitted in section 7.5.4.13.
2. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 ~~in~~ of the General Ordinances.
3. Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6 ~~in~~ of the General Ordinances, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is located on a property that is abutting a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.
4. Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the above restriction on the hours of operation, provided the accessory outdoor bar counter is (i) located in the rear yard, and (ii) set back 20 percent (20%) of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.
5. RM-3 properties within the "West Avenue Corridor"_(MAP EXHIBIT-1) may not have accessory outdoor entertainment establishments. Notwithstanding the foregoing, a property that had a Legal Conforming Use as of May 28, 2013, shall have the right to apply for and receive special event permits that contain entertainment uses.
6. Kennels shall only be for animals belonging to building residents only and would not be a general boarding facility for people who do not reside in the building.
7. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

* * *

Section 7.2.11 CD-2 COMMERCIAL, MEDIUM INTENSITY

* * *

Section 7.2.11.2 Uses (CD-2)

* * *

a. Supplemental Main Permitted Uses Regulations (CD-2)

The supplemental main permitted uses are as follows:

1. Apartment hotels, hotels, hostels, and suite hotels (pursuant to section 7.5.4.5).
2. Alcoholic beverages establishments pursuant to the regulations set forth in chapter 6 of the General Ordinances.
3. Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 7.2.11.2.e:

A. Alton Road corridor. Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road. (MAP EXHIBIT-1).

B. Sunset Harbour neighborhood. The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south. (MAP EXHIBIT-2).

4. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

* * *

b. Supplemental Conditional Uses Regulations (CD-2)

The supplemental conditional uses are as follows:

1. Neighborhood impact establishment; however, for properties that front Washington Avenue from 6th Street to 16th Street (MAP EXHIBIT-3), a restaurant supper club ~~restaurant with a full kitchen that serves full meals~~ may have entertainment without obtaining conditional use approval, subject to the following additional requirements:

- A. Entertainment shall be restricted to an interior enclosed area; and
- B. Occupancy shall not exceed 299 persons

* * *

Section 7.2.12. CD-3 COMMERCIAL, HIGH INTENSITY

* * *

Section 7.2.12.2 Uses (CD-3)

* * *

a. Supplemental Main Permitted Uses Regulations (CD-3)

The supplemental main permitted uses are as follows:

1. Apartment Hotels, Hotels, Hostels and Suite hotels (Pursuant to section 7.5.4.5).
2. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 in of the General Ordinances, and
3. For those lots fronting that portion of Lincoln Road which is closed to traffic (MAP EXHIBIT-1), office uses may be located in a mezzanine or, when located on the ground floor, shall be set back at least 75 feet from the storefront.
4. In addition to the main permitted uses listed in section 7.2.12.2.a, on properties located south of 17th Street, between Lenox Avenue and Meridian Avenue, and properties with a lot line adjoining Lincoln Road, from Collins Avenue to Alton Road, (MAP EXHIBIT-2):
 - A. Dance halls (as defined in section 1.2.2) licensed as alcoholic beverage establishments shall only operate as restaurant supper clubs ~~restaurants with full kitchens and serving full meals~~. Additionally, such dance halls, shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
5. In addition to the main permitted uses listed in section 7.2.12.2.a, the following uses shall be permitted above the ground floor on properties with a lot size greater than 50,000 square feet and with a lot line adjoining Lincoln Road between Collins Avenue and Alton Road:
 - A. Artisanal retail for on-site sales only;
 - B. Production studios;
 - C. Furniture sale establishments larger than 45,000 SF; and
 - D. Major cultural institutions.
6. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

* * *

7.2.14 NORTH BEACH TOWN CENTER-CORE DISTRICT (TC)

* * *

7.2.14.2 Uses (TC-1, TC-2)

* * *

a. Supplemental Main Permitted Uses Regulation (TC-1, TC-2)

The supplemental main permitted uses are as follows:

1. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6;
2. The ground story frontage along 71st Street and Collins Avenue shall be governed by section 7.2.14.4. The provisions of chapter 6 concerning distance separation for consumption of alcoholic beverages onpremises in restaurants shall not apply to this district.
3. Kennels are only allowed in the TC-1 District.
4. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

* * *

7.2.14.6 Town Center-Central Core (TC-C) District

* * *

b. Uses (TC-C)

* * *

2. Supplemental Use Regulations (TC-C)

A. The following supplemental regulations shall apply to specific uses in the TC-C district:

* * *

VII. The following requirements shall apply to indoor entertainment establishments and outdoor and open air entertainment establishments:

1. Indoor entertainment establishments shall be required to install a double door vestibule at all access points, except for emergency exits.

2. Indoor entertainment shall cease operations no later than 5:00 a.m. and commence entertainment no earlier than 9:00 a.m.

3. Open air entertainment shall cease operations no later than 11:00 p.m. on Sunday through Thursday, and 12:00 a.m. on Friday and Saturday; operations shall commence no earlier than 9:00 a.m. on weekdays and 10:00 a.m. on weekends; however, the planning board may establish stricter requirements.

4. There shall be a maximum of ten alcoholic beverage establishments that are not also operating as a restaurant or entertainment establishment permitted within this zoning district. Credits for entertainment establishments shall be allocated on a first-come, first serve basis as part of an application for land use board approval, building permit, or business tax receipt, whichever comes first. If said approval, permit, or receipt expires and the entertainment establishment is not built or ceases operations, the credits shall become available to new applicants. Any entertainment establishment permitted in the area of the TC-C district, after November 7, 2017, shall be counted towards the maximum limit established herein.

5. Entertainment establishments shall also be restaurant supper clubs ~~restaurants with full kitchens~~. Such restaurant supper clubs ~~restaurants~~ shall be open and able to serve food at a minimum between the hours of 10:00 a.m. and 2:00 p.m. on days in which the entertainment establishment will be open and additionally during hours in which entertainment occurs and/or alcohol is sold.

6. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

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Section 7.2.13. MXE MIXED USE ENTERTAINMENT DISTRICT

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Section 7.2.13.2 Uses (MXE)

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c. Supplemental Accessory Uses Regulations (MXE)

The supplemental accessory uses are as follows:

1. Those uses permitted in section 7.5.4.13
2. Uses that serve alcoholic beverages are also subject to the regulations set forth in chapter 6 ~~in of the~~ General Ordinances.
3. Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6 ~~in of the~~ General Ordinances, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is located on a property that is abutting a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.
4. Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the restriction on the hours of operation, set forth in section ~~7.2.13.2.c.1.~~ 7.2.13.2.c.3, provided the accessory outdoor bar counter is located in the rear yard and set back 20 percent (20%) of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.
5. Accessory uses shall be subject to the supplemental accessory use regulations in section 7.2.13.2.d.
6. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

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ARTICLE V: SUPPLEMENTARY DISTRICT REGULATIONS

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7.5.5 SPECIALIZED USE REGULATIONS

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7.5.5.4 ENTERTAINMENT ESTABLISHMENTS

a. Locations and minimum requirements. Unless otherwise provided in this Code, entertainment, including, but not limited to, outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, dance hall or after-hours dance hall shall only be permitted within the following designated areas of the city and in accordance with the corresponding requirements for such areas.

1. RM-1 District:

- i. Entertainment, including, but not limited to, outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, dance hall or after-hours dance hall shall not be permitted in the RM-1 district, unless otherwise noted herein.
- ii. For properties located in the Collins Waterfront Historic District, which are individually designated as a Local Historic Site, dance halls, entertainment establishments and neighborhood impact establishments may only be permitted as a conditional use as part of a hall for hire, in accordance with section 7.2.4.2.b.1.
- iii. For properties located north of Normandy Drive having a lot area greater than 30,000 square feet, which are individually designated as a Local Historic Site, accessory indoor, outdoor and open air entertainment establishments consisting of ambient performances only, may only be permitted as a conditional use, in accordance with section 7.2.4.2.b.3.

2. RM-2 District:

- i. For properties located on Washington Avenue, from 6th to 7th Street, restaurants, cafes and/or eating and drinking establishments may include entertainment, as an accessory use to a hotel, subject to conditional use approval, and provided that any sound associated with outdoor entertainment shall be limited to a volume that does not interfere with normal conversation (i.e., at an ambient level). in accordance with section 7.2.5.2.b.5.
- ii. Existing religious institutions located on properties in the Museum Historic Preservation District, which contain a contributing structure, entertainment establishments may only be permitted as a conditional use as part of a hall for hire, in accordance with section 7.2.5.2.b.3.
- iii. For eligible properties located in the Collins Park Arts District Overlay, accessory indoor, and outdoor entertainment establishments may only be permitted as a conditional use, in accordance with section 7.3.4.
- iv. For eligible properties located in the FAENA District Overlay, a place of assembly may provide dancing associated with an event, in accordance with section 7.3.5.

3. RM-3 Districts:

- i. Outdoor and open-air entertainment, regardless of occupational content, shall require conditional use approval, and shall only be permitted as an accessory use to a hotel, if a hotel is permitted. Additionally, outdoor and open-air entertainment shall only be permitted as part of a restaurant supper club.
- ii. Indoor entertainment shall only be permitted as an accessory use to a hotel, if a hotel use is permitted, and only as part of a restaurant supper club or as part of an indoor venue that does not serve alcohol past 2:00 a.m. Notwithstanding the foregoing, indoor entertainment may also be permitted in establishments not operating as a restaurant supper club serving alcohol past 2:00 a.m. that (i) are fully enclosed and located entirely within a hotel, if a hotel use is permitted, with 200 or more rooms, and (ii) have no direct access to or from the street and are only accessed from within the confines of the hotel.
- iii. Indoor entertainment, regardless of occupational content, shall require conditional use approval.

4. CD-2, CD-3, T-CC, TC-1, TC-2 and MXE Districts:

- i. Outdoor and open-air entertainment, regardless of occupational content, shall require conditional use approval, and shall only be permitted as part of a restaurant supper club.
- ii. Indoor entertainment shall be permitted as part of a restaurant supper club or as part of an indoor venue that does not serve alcohol past 2:00 a.m. Notwithstanding the foregoing, with the exception of the TC-C district, indoor entertainment may also be permitted in establishments not operating as a restaurant supper club serving alcohol past 2:00 a.m. that (i) are an accessory use to a hotel, if a hotel use is permitted, (ii) are fully enclosed and located entirely within a hotel with 200 or more rooms, and (iii) have no direct access to or from the street and are only accessed from within the confines of the hotel.
- iii. Indoor entertainment, located within an establishment having an occupational content exceeding 125 persons, shall require conditional use approval.

- iv. For eligible properties located in the Collins Park Arts District Overlay, accessory outdoor entertainment establishments may only be permitted as a conditional use, in accordance with section 7.3.4.
- v. For eligible properties located in the Ocean Terrace Overlay, accessory outdoor entertainment establishments and open air entertainment establishments may only be permitted as a conditional use, in accordance with section 7.3.6.
- vi. For eligible properties that front Washington Avenue from 6th Street to 16th Street, a restaurant supper club may have entertainment without obtaining conditional use approval, in accordance with section 7.2.11.2.b.1.

5. CCC and GU districts.

Entertainment, including, but not limited to, indoor entertainment, outdoor entertainment establishment, open air entertainment establishment, dance hall or after-hours dance hall shall be subject to the approval of the City Commission.

6. All other districts.

Unless expressly listed herein, entertainment, including, but not limited to, indoor entertainment, outdoor entertainment establishment, open air entertainment establishment, dance hall or after-hours dance hall shall not be permitted.

7. Nonconforming entertainment establishments.

Legally established entertainment venues, which may or may not have an active conditional use permit (CUP), including, but not limited to, outdoor entertainment establishments, open air entertainment establishments, neighborhood impact establishments, dance halls and after-hours dance halls, may continue to operate in accordance with all other applicable regulations of the city code, as well as the requirements of a current CUP, if applicable. However, any such establishment that is non-conforming shall not be permitted to be enlarged, relocated or expanded, in any way (and no CUP may be modified in such a manner as to permit an enlargement or expansion), and any such establishment shall be subject to all applicable regulations set forth in chapter 2, article XII of these land development regulations, entitled "Nonconformities."

b. Planning Board Review guidelines.

1. In reviewing an application for an outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, dance hall or after-hours dance hall, the planning board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to Section 2.5.2:
 - A. An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.
 - B. A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, self-park, shared parking, after-hour metered spaces and the manner in which it is to be managed.

- C. An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises will be controlled.
- D. A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.
- E. A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.
- F. A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.
- G. A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance.
- H. Proximity of proposed establishment to residential uses.
- I. Cumulative effect of proposed establishment and adjacent pre-existing uses.

~~Note: For purposes of this section, "full kitchens" shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchens must contain grease trap interceptors, and meet all applicable city, county and state codes.~~

c. Appeal of a determination regarding outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, dance hall or an after-hours dance hall.

When it is alleged that there is an error made by an administrative official in the enforcement of these land development regulations with regard to the determination of the use of a property as an outdoor entertainment establishment, open air entertainment, neighborhood impact establishment, or after-hours dance hall, such appeal shall be to the zoning board of adjustment pursuant to chapter 2, article IX of these Land Development Regulations.

d. Patron age restriction and hours of operation for after-hours dance halls.

After-hours dance halls may not admit patrons under the age of 21 and may only operate between the hours of 10:00 p.m. Friday to 8:00 a.m. Saturday, from 10:00 p.m. Saturday to 8:00 a.m. Sunday, and from 10:00 p.m. on any day preceding a national holiday to 8:00 a.m. on the national holiday.

e. Minimum distance separation requirements.

1. Minimum distance separation.

- A. The minimum distance separation between entertainment establishments, including, but not limited to, outdoor entertainment establishment, open air entertainment establishment, dance hall or after-hours dance hall, which are licensed to sell alcoholic beverages and not also operating as restaurant supper clubs, shall be 300 feet.
- B. The minimum distance separation between dance halls not licensed to sell alcoholic beverages shall be 300 feet.

2. Determination of minimum distance separation.

- A. For purposes of determining the minimum distance separation, the requirement shall be determined by measuring a straight line between the principal means of entrance of each use.
- B. When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning director that the minimum distance separation has been met.

f. Variances. Variances from any of the requirements of this section 7.5.5.4 shall be prohibited.

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7.5.5.7 DANCE HALLS

b. Generally.

1. Minimum distance separation.

- A. As per subsection 6-4(a)(9) of the General Ordinances, the minimum distance separation between dance halls licensed to sell alcoholic beverages, and not also operating as restaurants with full kitchens and serving full meals, shall be 300 feet.
- B. The minimum distance separation between dance halls not licensed to sell alcoholic beverages shall be 300 feet.

2. Determination of minimum distance separation.

- A. For purposes of determining the minimum distance separation, the requirement shall be determined by measuring a straight line between the principal means of entrance of each use.
- B. When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning and zoning director that the minimum distance separation has been met.

3. Variances. Variances to the provisions of this section may be granted pursuant to the procedure in section 2.8.1 et seq.

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith 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 days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2024.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk

First Reading: September 11, 2024

Second Reading: October 30, 2024

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

T:\Agenda\2024\8 September 2024\Planning\Entertainment and Supper Club Regulations - First Reading ORD.docx

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

RA
City Attorney

9/21/2024
Date

NK

**CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARING
ENTERTAINMENT AND SUPPER CLUB REGULATIONS**

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE "MIAMI BEACH RESILIENCY CODE," BY CREATING A DEFINITION FOR RESTAURANT SUPPER CLUB; PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO ADDITIONAL REGULATIONS; AMENDING THE REQUIREMENTS FOR DANCE HALLS TO PROVIDE THAT ENTERTAINMENT USES SHALL BE SUBJECT TO ADDITIONAL REGULATIONS; ESTABLISHING DETAILED REQUIREMENTS FOR EACH ZONING DISTRICT INCLUDING LOCATION, OCCUPATIONAL CONTENT, HOURS OF OPERATION, SPECIFIC REQUIREMENTS FOR ENTERTAINMENT USES AS MAIN PERMITTED AND ACCESSORY USES, STANDARDS FOR NON-CONFORMING USES, MINIMUM DISTANCE SEPARATION; AND DELETING SECTION 7.5.5.7, ENTITLED "DANCE HALLS"

**SEPTEMBER 11, 2024
CITY COMMISSION MEETING**

NOTICE IS HEREBY GIVEN that on **September 11, 2024, at 10:35 a.m.**, or as soon thereafter as the matter can be heard, the Mayor and City Commissioners of the City of Miami Beach will hold a **First Reading/Public Hearing** on the following proposed Ordinance:

ENTERTAINMENT AND SUPPER CLUB REGULATIONS

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 "MIAMI BEACH RESILIENCY CODE," CHAPTER 1, ENTITLED "GENERAL PROVISIONS," ARTICLE II, ENTITLED "DEFINITIONS," SECTION 1.2.2, ENTITLED "USE DEFINITIONS," AT SUBSECTION 1.2.2.4, ENTITLED "COMMERCIAL," BY CREATING A DEFINITION FOR RESTAURANT SUPPER CLUB; AND BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," SECTION 7.2.5, ENTITLED "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY" AT SUBSECTION 7.2.5.2, ENTITLED "USES (RM-2)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.6, ENTITLED "RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY," AT SUBSECTION 7.2.6.2, ENTITLED "USES (RM-3)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.11, ENTITLED "CD-2 COMMERCIAL, MEDIUM INTENSITY," AT SUBSECTION 7.2.11.2, ENTITLED "USES (CD-2)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; AND BY AMENDING THE SUPPLEMENTAL USE REGULATIONS FOR THE DISTRICT, BY AMENDING SECTION 7.2.12, ENTITLED "CD-3 COMMERCIAL, HIGH INTENSITY," AT SUBSECTION 7.2.12.2, ENTITLED "USES (CD-3)," BY AMENDING THE SUPPLEMENTAL MAIN PERMITTED USES TO AMEND THE REQUIREMENTS FOR DANCE HALLS TO PROVIDE THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.14, ENTITLED "NORTH BEACH TOWN CENTER-CORE DISTRICT (TC)," AT SUBSECTION 7.2.14.2, ENTITLED "USES (TC-1, TC-2)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.14.6, ENTITLED "TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT," BY AMENDING THE REQUIREMENTS FOR ENTERTAINMENT ESTABLISHMENTS AND BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.13, ENTITLED "MXE MIXED USE ENTERTAINMENT DISTRICT," AT SUBSECTION 7.2.13.2, ENTITLED "USES (MXE)," BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; AND BY AMENDING ARTICLE V, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," SECTION 7.5.5, ENTITLED "SPECIALIZED USE REGULATIONS," BY AMENDING AND EXPANDING SECTION 7.5.5.4, ENTITLED "ENTERTAINMENT ESTABLISHMENTS," BY REORGANIZING THE SECTION, ESTABLISHING DETAILED REQUIREMENTS FOR EACH ZONING DISTRICT INCLUDING LOCATION, OCCUPATIONAL CONTENT, HOURS OF OPERATION, SPECIFIC REQUIREMENTS FOR ENTERTAINMENT USES AS MAIN PERMITTED AND ACCESSORY USES, STANDARDS FOR NON-CONFORMING USES, MINIMUM DISTANCE SEPARATION, AND THE DELETION OF SECTION 7.5.5.7, ENTITLED "DANCE HALLS"; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE. *This Ordinance is being heard pursuant to Chapter 2, Article IV of the Resiliency Code. Inquiries may be directed to the Planning Department at 305.673.7550.*

During the **September 11, 2024**, Commission Meeting, the City of Miami Beach will host a Hybrid Commission Meeting. During the Hybrid Commission Meeting, the City Commission will be physically present in the **Commission Chamber, located at 1700 Convention Center Drive, 3rd Floor, Miami Beach, Florida 33139**.

Members of the public who wish to attend this Commission Meeting or provide public comment in person may appear at the Commission Chamber. Applicants and members of the public who wish to participate or provide comment virtually during the Commission Meeting may join the webinar at: <https://miamibeachfl.gov/zoom-us/j/81392857671> or via telephone at: 1.305.224.1968 (U.S.) or 888.475.4499 (Toll-Free). Webinar ID: 81392857671. Members of the public wanting to speak virtually on an item during the meeting must click the "raise hand" icon if using the Zoom app or press "9" on the telephone to raise their hand.

INTERESTED PARTIES are invited to take part in this meeting or be represented by an agent. The public may submit written comments on Commission Meeting Items by either submitting an eComment through the agenda page at <https://www.miamibeachfl.gov/city-hall/city-clerk/agenda> and clicking the comment bubble icon in the "Current and Upcoming Meetings" section or by emailing CityClerk@miamibeachfl.gov with the Agenda Item Number in the subject line. Comments received, in either format, will be accepted until 5:00 p.m. the day before the meeting. All submissions will be forwarded to the Mayor and Commissioners and included in the meeting record.

Copies of Agenda Items are available for public inspection at: <https://www.miamibeachfl.gov/city-hall/city-clerk/agenda>. This meeting, or any item therein, may be continued, and under such circumstances, additional legal notice need not be provided.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that if a person decides to appeal any decision made by the City Commission concerning any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in an alternate format, a sign language interpreter (five-day notice required), information on access for persons with disabilities, and/or any accommodation to review any document or participate in any City-sponsored proceedings, call 305.604.2ADA (2232) and select 1 for English or 2 for Spanish; TTY users may call via 711 (Florida Relay Service).

The City Commission Meeting will be broadcast live on Miami Beach TV (MBTV), viewable on the City's website at <https://www.miamibeachfl.gov/government/mbtv/>, as well as on Breezeline Cable channel 660, AT&T U-verse channel 99, Hotwire Communications channel 395, and ROKU device on PEG-TV channel, and on social media at <https://www.facebook.com/cityofmiamibeach>.

To review the Business Impact Estimates for the above proposed Ordinance, please visit <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>.

Parking

Meeting attendees can park at the City Hall Garage, 1755 Meridian Avenue, Miami Beach, FL 33139.

MIAMIBEACH

AD: 09112024-08

Rafael E. Granado, City Clerk
City of Miami Beach
CityClerk@miamibeachfl.gov
305.673.7411

**Entertainment and Supper Club Regulations
(Amended – Second Reading)**

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 “MIAMI BEACH RESILIENCY CODE,” CHAPTER 1, ENTITLED “GENERAL PROVISIONS,” ARTICLE II, ENTITLED “DEFINITIONS,” SECTION 1.2.2, ENTITLED “USE DEFINITIONS,” AT SUBSECTION 1.2.2.4, ENTITLED “COMMERCIAL,” BY CREATING A DEFINITION FOR RESTAURANT SUPPER CLUB; AND BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” ARTICLE II, ENTITLED “DISTRICT REGULATIONS,” SECTION 7.2.5, ENTITLED “RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY,” AT SUBSECTION 7.2.5.2, ENTITLED “USES (RM-2),” BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.6, ENTITLED “RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY,” AT SUBSECTION 7.2.6.2, ENTITLED “USES (RM-3),” BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.11, ENTITLED “CD-2 COMMERCIAL, MEDIUM INTENSITY,” AT SUBSECTION 7.2.11.2, ENTITLED “USES (CD-2),” BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4, AND BY AMENDING THE SUPPLEMENTAL CONDITIONAL USE REGULATIONS FOR THE DISTRICT; BY AMENDING SECTION 7.2.12, ENTITLED “CD-3 COMMERCIAL, HIGH INTENSITY,” AT SUBSECTION 7.1.12.2, ENTITLED “USES (CD-3),” BY AMENDING THE SUPPLEMENTAL MAIN PERMITTED USES TO AMEND THE REQUIREMENTS FOR DANCE HALLS TO PROVIDE THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.14, ENTITLED “NORTH BEACH TOWN CENTER-CORE DISTRICT (TC),” AT SUBSECTION 7.2.14.2, ENTITLED “USES (TC-1, TC-2),” BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.14.6, ENTITLED “TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT,” BY AMENDING THE REQUIREMENTS FOR ENTERTAINMENT ESTABLISHMENTS AND BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; BY AMENDING SECTION 7.2.13, ENTITLED “MXE MIXED USE ENTERTAINMENT DISTRICT,” AT SUBSECTION 7.2.13.2, ENTITLED “USES (MXE),” BY PROVIDING THAT ENTERTAINMENT USES SHALL BE SUBJECT TO THE ADDITIONAL REGULATIONS IN SECTION 7.5.5.4; AND BY AMENDING ARTICLE V, ENTITLED “SUPPLEMENTARY DISTRICT REGULATIONS,” SECTION 7.5.5, ENTITLED “SPECIALIZED USE REGULATIONS,” BY AMENDING AND EXPANDING SECTION 7.5.5.4, ENTITLED “ENTERTAINMENT ESTABLISHMENTS,” BY REORGANIZING THE SECTION, ESTABLISHING DETAILED REQUIREMENTS FOR EACH ZONING DISTRICT INCLUDING LOCATION, OCCUPATIONAL CONTENT, HOURS OF OPERATION, SPECIFIC REQUIREMENTS FOR ENTERTAINMENT USES AS MAIN PERMITTED AND ACCESSORY USES, STANDARDS FOR NON-

CONFORMING USES, MINIMUM DISTANCE SEPARATION, AND THE DELETION OF SECTION 7.5.5.7, ENTITLED “DANCE HALLS”; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission desire to amend and enhance the current requirements in the City Code pertaining to entertainment venues; and

WHEREAS, establishments providing entertainment, if not properly regulated, can become a nuisance and negatively impact adjacent residential properties, the impacts of which can be difficult to control; and

WHEREAS, entertainment establishments can negatively impact the character of neighborhoods and quality of life for surrounding residents and businesses; and

WHEREAS, stronger requirements and additional Planning Board review for entertainment venues will promote the general health, safety and welfare of the residents of the City; 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 1 of the Miami Beach Resiliency Code, entitled “General Provisions,” Article II, entitled “Definitions,” is hereby amended as follows:

**CHAPTER 1
GENERAL PROVISIONS**

* * *

ARTICLE II. – DEFINITIONS

* * *

SECTION 1.2.2. – USE DEFINITIONS

* * *

1.2.2.4 Commercial

* * *

Restaurant Supper Club means a commercial establishment where food and drinks may be purchased by the public; and whose principal business is the preparation, serving, and selling of food to the customer for consumption on the premises. Food shall be continuously ready to be prepared, served, and sold during all hours that the establishment is open for business. Additionally, the following shall apply:

- a. The establishment shall be licensed as a restaurant and shall obtain all required restaurant licenses from the State and meet all requirements of the health department specific to restaurants.
- b. The restaurant shall include a full kitchen, including the following minimum equipment requirements:

1. Cook top and oven.
 2. A hood exhaust system along with a fire system connected to the hood.
 3. Dish washing apparatus, including a 3-compartment sink.
 4. A walk-in refrigerator.
 5. Grease trap or interceptor (if required pursuant to the Miami-Dade County Code).
- c. The establishment shall have minimum annual food sales of 40% of the establishment's gross annual revenue.

SECTION 2. Chapter 7 of the Resiliency Code, entitled "Zoning Districts and Regulations," is hereby amended as follows:

**CHAPTER 7
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. DISTRICT REGULATIONS

* * *

Section 7.2.5. RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY

* * *

Section 7.2.5.2 Uses (RM-2)

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b. Supplemental Conditional Uses Regulations (RM-2)

The supplemental conditional uses are as follows:

* * *

5. *Washington Avenue.* In addition to the conditional uses specified in section 7.2.5.2, and notwithstanding the provisions of the prohibited uses in section 7.2.5.2, the following regulations shall apply to properties that front Washington Avenue between 6th Street and 7th Street, including those properties between 6th Street and 7th Street that have frontage on Pennsylvania Avenue (MAP EXHIBIT-5):

A. Restaurants, cafes and/or eating and drinking establishments, which include entertainment, as an accessory use to a hotel shall require conditional use approval. This may include establishments that qualify as a neighborhood impact establishment, subject to all applicable approvals under the neighborhood impact establishment requirements and provided that any sound associated with ~~outdoor~~ entertainment shall be limited to a volume that does not interfere with normal conversation (i.e. at an ambient level).

B. Outdoor bar counters shall require conditional use approval, with hours of operation to be determined by the planning board.

* * *

c. Supplemental Accessory Uses Regulations (RM-2)

The supplemental accessory uses are as follows:

1. The accessory uses in the RM-2 residential multifamily, medium intensity district are as required in section 7.5.4.13
2. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 ~~in~~ of the General Ordinances.
3. Notwithstanding the foregoing, a property that had a legal conforming use as of May 28, 2013, shall have the right to apply for and receive special event permits that contain entertainment uses.
4. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

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Section 7.2.6. RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY

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Section 7.2.6.2 Uses (RM-3)

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c. Supplemental Accessory uses Regulations (RM-3)

The supplemental accessory uses are as follows:

1. Those uses permitted in section 7.5.4.13.
2. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 ~~in~~ of the General Ordinances.
3. Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6 ~~in~~ of the General Ordinances, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is located on a property that is abutting a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.
4. Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the above restriction on the hours of operation, provided the accessory outdoor bar counter is (i) located in the rear yard, and (ii) set back 20 percent (20%) of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.
5. RM-3 properties within the "West Avenue Corridor"_(MAP EXHIBIT-1) may not have accessory outdoor entertainment establishments. Notwithstanding the foregoing, a property that had a Legal Conforming Use as of May 28, 2013, shall have the right to apply for and receive special event permits that contain entertainment uses.
6. Kennels shall only be for animals belonging to building residents only and would not be a general boarding facility for people who do not reside in the building.
7. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

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Section 7.2.11 CD-2 COMMERCIAL, MEDIUM INTENSITY

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Section 7.2.11.2 Uses (CD-2)

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a. Supplemental Main Permitted Uses Regulations (CD-2)

The supplemental main permitted uses are as follows:

1. Apartment hotels, hotels, hostels, and suite hotels (pursuant to section 7.5.4.5).
2. Alcoholic beverages establishments pursuant to the regulations set forth in chapter 6 of the General Ordinances.
3. Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 7.2.11.2.e:

A. Alton Road corridor. Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road. (MAP EXHIBIT-1).

B. Sunset Harbour neighborhood. The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south. (MAP EXHIBIT-2).

4. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

* * *

b. Supplemental Conditional Uses Regulations (CD-2)

The supplemental conditional uses are as follows:

1. Neighborhood impact establishment; however, for properties that front Washington Avenue from 6th Street to 16th Street or properties containing a contributing structure and located in the Espanola Way Local Historic District (MAP EXHIBIT-3), a restaurant supper club ~~restaurant with a full kitchen that serves full meals~~ may have entertainment without obtaining conditional use approval, subject to the following additional requirements:

- A. Entertainment shall be restricted to an interior enclosed area; and
- B. Occupancy shall not exceed 299 persons

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Section 7.2.12. CD-3 COMMERCIAL, HIGH INTENSITY

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Section 7.2.12.2 Uses (CD-3)

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a. Supplemental Main Permitted Uses Regulations (CD-3)

The supplemental main permitted uses are as follows:

1. Apartment Hotels, Hotels, Hostels and Suite hotels (Pursuant to section 7.5.4.5).
2. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 ~~in~~ of the General Ordinances, ~~and~~
3. For those lots fronting that portion of Lincoln Road which is closed to traffic (MAP EXHIBIT-1), office uses may be located in a mezzanine or, when located on the ground floor, shall be set back at least 75 feet from the storefront.
4. In addition to the main permitted uses listed in section 7.2.12.2.a, on properties located south of 17th Street, between Lenox Avenue and Meridian Avenue, and properties with a lot line adjoining Lincoln Road, from Collins Avenue to Alton Road, (MAP EXHIBIT-2):
 - A. Dance halls (as defined in section 1.2.2) licensed as alcoholic beverage establishments shall only operate as ~~restaurant supper clubs restaurants with full kitchens and serving full meals~~. Additionally, such dance halls, shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
5. In addition to the main permitted uses listed in section 7.2.12.2.a, the following uses shall be permitted above the ground floor on properties with a lot size greater than 50,000 square feet and with a lot line adjoining Lincoln Road between Collins Avenue and Alton Road:
 - A. Artisanal retail for on-site sales only;
 - B. Production studios;
 - C. Furniture sale establishments larger than 45,000 SF; and
 - D. Major cultural institutions.
6. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

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7.2.14 NORTH BEACH TOWN CENTER-CORE DISTRICT (TC)

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7.2.14.2 Uses (TC-1, TC-2)

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a. Supplemental Main Permitted Uses Regulation (TC-1, TC-2)

The supplemental main permitted uses are as follows:

1. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6;
2. The ground story frontage along 71st Street and Collins Avenue shall be governed by section 7.2.14.4. The provisions of chapter 6 concerning distance separation for consumption of alcoholic beverages onpremises in restaurants shall not apply to this district.

3. Kennels are only allowed in the TC-1 District.

4. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

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7.2.14.6 Town Center-Central Core (TC-C) District

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b. Uses (TC-C)

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2. Supplemental Use Regulations (TC-C)

A. The following supplemental regulations shall apply to specific uses in the TC-C district:

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VII. The following requirements shall apply to indoor entertainment establishments and outdoor and open air entertainment establishments:

1. Indoor entertainment establishments shall be required to install a double door vestibule at all access points, except for emergency exits.

2. Indoor entertainment shall cease operations no later than 5:00 a.m. and commence entertainment no earlier than 9:00 a.m.

3. Open air entertainment shall cease operations no later than 11:00 p.m. on Sunday through Thursday, and 12:00 a.m. on Friday and Saturday; operations shall commence no earlier than 9:00 a.m. on weekdays and 10:00 a.m. on weekends; however, the planning board may establish stricter requirements.

4. There shall be a maximum of ten alcoholic beverage establishments that are not also operating as a restaurant or entertainment establishment permitted within this zoning district. Credits for entertainment establishments shall be allocated on a first-come, first serve basis as part of an application for land use board approval, building permit, or business tax receipt, whichever comes first. If said approval, permit, or receipt expires and the entertainment establishment is not built or ceases operations, the credits shall become available to new applicants. Any entertainment establishment permitted in the area of the TC-C district, after November 7, 2017, shall be counted towards the maximum limit established herein.

5. Entertainment establishments shall also be restaurant supper clubs ~~restaurants with full kitchens~~. Such restaurant supper clubs ~~restaurants~~ shall be open and able to serve food at a minimum between the hours of 10:00 a.m. and 2:00 p.m. on days in which the entertainment establishment will be open and additionally during hours in which entertainment occurs and/or alcohol is sold.

6. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

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Section 7.2.13. MXE MIXED USE ENTERTAINMENT DISTRICT

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Section 7.2.13.2 Uses (MXE)

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c. Supplemental Accessory Uses Regulations (MXE)

The supplemental accessory uses are as follows:

1. Those uses permitted in section 7.5.4.13
2. Uses that serve alcoholic beverages are also subject to the regulations set forth in chapter 6 ~~in~~ of the General Ordinances.
3. Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6 ~~in~~ of the General Ordinances, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is located on a property that is abutting a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.
4. Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the restriction on the hours of operation, set forth in section ~~7.2.13.2.c.4.~~ 7.2.13.2.c.3, provided the accessory outdoor bar counter is located in the rear yard and set back 20 percent (20%) of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.
5. Accessory uses shall be subject to the supplemental accessory use regulations in section 7.2.13.2.d.
6. Entertainment uses shall be subject to the requirements in section 7.5.5.4.

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ARTICLE V: SUPPLEMENTARY DISTRICT REGULATIONS

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7.5.5 SPECIALIZED USE REGULATIONS

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7.5.5.4 ENTERTAINMENT ESTABLISHMENTS

a. Locations and minimum requirements. Unless otherwise provided in this Code, entertainment, including, but not limited to, outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, dance hall or after-hours dance hall shall only be permitted within the following designated areas of the city and in accordance with the corresponding requirements for such areas.

1. RM-1 District:

- i. Entertainment, including, but not limited to, outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, dance hall or after-hours dance hall shall not be permitted in the RM-1 district, unless otherwise noted herein.
- ii. For properties located in the Collins Waterfront Historic District, which are individually designated as a Local Historic Site, dance halls, entertainment establishments and neighborhood impact establishments may only be permitted as a conditional use as part of a hall for hire, in accordance with section 7.2.4.2.b.1.
- iii. For properties located north of Normandy Drive having a lot area greater than 30,000 square feet, which are individually designated as a Local Historic Site, accessory indoor,

outdoor and open air entertainment establishments consisting of ambient performances only, may only be permitted as a conditional use, in accordance with section 7.2.4.2.b.3.

2. RM-2 District:

- i. For properties located on Washington Avenue, from 6th to 7th Street, restaurants, cafes and/or eating and drinking establishments may include entertainment, as an accessory use to a hotel, subject to conditional use approval, and provided that any sound associated with outdoor entertainment shall be limited to a volume that does not interfere with normal conversation (i.e., at an ambient level). in accordance with section 7.2.5.2.b.5.
- ii. Existing religious institutions located on properties in the Museum Historic Preservation District, which contain a contributing structure, entertainment establishments may only be permitted as a conditional use as part of a hall for hire, in accordance with section 7.2.5.2.b.3.
- iii. For eligible properties located in the Collins Park Arts District Overlay, accessory indoor, and outdoor entertainment establishments may only be permitted as a conditional use, in accordance with section 7.3.4.
- iv. For eligible properties located in the FAENA District Overlay, a place of assembly may provide dancing associated with an event, in accordance with section 7.3.5.

3. RM-3 Districts:

- i. Outdoor and open-air entertainment, regardless of occupational content, shall require conditional use approval, and shall only be permitted as an accessory use to a hotel, if a hotel is permitted. Additionally, outdoor and open-air entertainment shall only be permitted as part of a restaurant supper club.
- ii. Indoor entertainment shall only be permitted as an accessory use to a hotel, if a hotel use is permitted, and only as part of a restaurant supper club or as part of an indoor venue that does not serve alcohol past 2:00 a.m. Notwithstanding the foregoing, indoor entertainment may also be permitted in establishments not operating as a restaurant supper club serving alcohol past 2:00 a.m. that (i) are fully enclosed and located entirely within a hotel, if a hotel use is permitted, with 200 or more rooms, and (ii) have no direct access to or from the street and are only accessed from within the confines of the hotel.
- iii. Indoor entertainment, regardless of occupational content, shall require conditional use approval.

4. CD-2, CD-3, T-CC, TC-1, TC-2 and MXE Districts:

- i. Outdoor and open-air entertainment, regardless of occupational content, shall require conditional use approval, and shall only be permitted as part of a restaurant supper club.
- ii. Indoor entertainment shall be permitted as part of a restaurant supper club or as part of an indoor venue that does not serve alcohol past 2:00 a.m.
- iii. ~~Notwithstanding the foregoing, w~~With the exception of the TC-C district, indoor entertainment may also be permitted in establishments not operating as a restaurant supper club serving alcohol past 2:00 a.m. that (i) are an accessory use to a hotel, if a hotel use is permitted, (ii) are fully enclosed and located entirely within a hotel with 200 or

more rooms, and (iii) have no direct access to or from the street and are only accessed from within the confines of the hotel.

- iv. Indoor entertainment may be permitted in establishments not operating as a restaurant supper club serving alcohol past 2:00 a.m. that are located on the east side of Washington Avenue between the north side of 8th Street and the south side of 14th Street.
- v. Indoor entertainment, located within an establishment having an occupational content exceeding 125 persons, shall require conditional use approval.
- vi. For eligible properties located in the Collins Park Arts District Overlay, accessory outdoor entertainment establishments may only be permitted as a conditional use, in accordance with section 7.3.4.
- vii. For eligible properties located in the Ocean Terrace Overlay, accessory outdoor entertainment establishments and open air entertainment establishments may only be permitted as a conditional use, in accordance with section 7.3.6.
- viii. For eligible properties that front Washington Avenue from 6th Street to 16th Street, or properties containing a contributing structure and located in the Espanola Way Local Historic District, a restaurant supper club may have entertainment without obtaining conditional use approval, in accordance with section 7.2.11.2.b.1.
- ix. In the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, outdoor entertainment establishments, open air entertainment establishments, dance halls and entertainment establishments shall be prohibited.

5. CCC and GU districts.

Entertainment, including, but not limited to, indoor entertainment, outdoor entertainment establishment, open air entertainment establishment, dance hall or after-hours dance hall shall be subject to the approval of the City Commission.

6. All other districts.

Unless expressly listed herein, entertainment, including, but not limited to, indoor entertainment, outdoor entertainment establishment, open air entertainment establishment, dance hall or after-hours dance hall shall not be permitted.

7. Nonconforming entertainment establishments.

Legally established entertainment venues, which may or may not have an active conditional use permit (CUP), including, but not limited to, outdoor entertainment establishments, open air entertainment establishments, neighborhood impact establishments, dance halls and after-hours dance halls, may continue to operate in accordance with all other applicable regulations of the city code, as well as the requirements of a current CUP, if applicable. However, any such establishment that is non-conforming shall not be permitted to be enlarged, relocated or expanded, in any way (and no CUP may be modified in such a manner as to permit an enlargement or expansion), and any such establishment shall be subject to all applicable regulations set forth in chapter 2, article XII of these land development regulations, entitled "Nonconformities."

b. Planning Board Review guidelines.

1. In reviewing an application for an outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, dance hall or after-hours dance hall, the planning board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to Section 2.5.2:
 - A. An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.
 - B. A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, self-park, shared parking, after-hour metered spaces and the manner in which it is to be managed.
 - C. An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises will be controlled.
 - D. A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.
 - E. A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.
 - F. A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.
 - G. A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance.
 - H. Proximity of proposed establishment to residential uses.
 - I. Cumulative effect of proposed establishment and adjacent pre-existing uses.

~~Note: For purposes of this section, "full kitchens" shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchens must contain grease trap interceptors, and meet all applicable city, county and state codes.~~

c. Appeal of a determination regarding outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, dance hall or an after-hours dance hall.

When it is alleged that there is an error made by an administrative official in the enforcement of these land development regulations with regard to the determination of the use of a property as an outdoor entertainment establishment, open air entertainment, neighborhood impact establishment, or after-hours dance hall, such appeal shall be to the zoning board of adjustment pursuant to chapter 2, article IX of these Land Development Regulations.

d. Patron age restriction and hours of operation for after-hours dance halls.

After-hours dance halls may not admit patrons under the age of 21 and may only operate between the hours of 10:00 p.m. Friday to 8:00 a.m. Saturday, from 10:00 p.m. Saturday to 8:00 a.m. Sunday, and from 10:00 p.m. on any day preceding a national holiday to 8:00 a.m. on the national holiday.

e. Minimum distance separation requirements.

1. Minimum distance separation.

- A. The minimum distance separation between entertainment establishments, including, but not limited to, outdoor entertainment establishment, open air entertainment establishment, dance hall or after-hours dance hall, which are licensed to sell alcoholic beverages and not also operating as restaurant supper clubs, shall be 300 feet.**
- B. The minimum distance separation between dance halls not licensed to sell alcoholic beverages shall be 300 feet.**

2. Determination of minimum distance separation.

- A. For purposes of determining the minimum distance separation, the requirement shall be determined by measuring a straight line between the principal means of entrance of each use.**
- B. When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning director that the minimum distance separation has been met.**

f. Variances. Variances from any of the requirements of this section 7.5.5.4 shall be prohibited.

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7.5.5.7 DANCE HALLS

b. Generally.

1. Minimum distance separation.

- A. As per subsection 6-4(a)(9) of the General Ordinances, the minimum distance separation between dance halls licensed to sell alcoholic beverages, and not also operating as restaurants with full kitchens and serving full meals, shall be 300 feet.**
- B. The minimum distance separation between dance halls not licensed to sell alcoholic beverages shall be 300 feet.**

2. Determination of minimum distance separation.

- A. For purposes of determining the minimum distance separation, the requirement shall be determined by measuring a straight line between the principal means of entrance of each use.**
- B. When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the**

~~planning and zoning director that the minimum distance separation has been met.~~

~~3. Variances. Variances to the provisions of this section may be granted pursuant to the procedure in section 2.8.1 et seq.~~

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith 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. APPLICABILITY.

1. Any existing business that by July 30, 2024, had a permit process number with the City of Miami Beach, for the expansion of seating or occupancy, shall be exempt from the limitations of enlargement and expansion listed in Section 7.5.5.4 hereof, and shall be permitted to enlarge or expand its occupancy and/or seating capacity consistent with all applicable regulations in place prior to July 30, 2024, as well as the permit application, and retain its legal nonconforming entertainment establishment status. If the permit is abandoned or becomes expired, for any reason, the business shall be subject to all the limitations and regulations enumerated herein.

2. This Ordinance shall not apply to properties in the RM-3 district that have an active land use board application with a hearing file number and where a notice to proceed to public hearing has been issued by the City prior to September 1, 2024. For future revisions to any such application, or a new application at the property, the Land Development Regulations existing at the time shall apply.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2024.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk

First Reading: September 11, 2024

Second Reading: October 30, 2024

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

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