

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber
Members of the City Commission
Jimmy L. Morales, City Manager **First Reading**

FROM: Raul J. Aguila, City Attorney 

DATE: December 11, 2019

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "ALCOHOLIC BEVERAGES," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 6-3 THEREOF, ENTITLED "HOURS OF SALE/VIOLATIONS," BY REQUIRING THOSE ALCOHOLIC BEVERAGE ESTABLISHMENTS LOCATED ON OCEAN DRIVE, BETWEEN 5TH STREET AND 15TH STREET, SELLING OR SERVING ALCOHOLIC BEVERAGE(S) LATER THAN 12 A.M., TO RETAIN THE SERVICES OF AN OFF-DUTY POLICE OFFICER, FROM 12 A.M. UNTIL THE CLOSING OF THE ALCOHOLIC BEVERAGE ESTABLISHMENT (FOR ALL DAYS DURING WHICH ALCOHOLIC BEVERAGES ARE SOLD OR SERVED BEYOND 12 A.M.), ESTABLISHING EXCEPTIONS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

In response to a meeting that took place on December 5, 2019 with various Ocean Drive stakeholders and representatives, the Mayor has agreed to certain requested modifications of the Ordinance, which is being submitted for consideration upon first reading at the December 11, 2019 meeting of the City Commission.

Accordingly, the modifications made to the Ordinance are specifically outlined herein, and shall further serve to supplement the Commission Memorandum previously issued regarding this item.

Previously, the Ordinance specified in subsection (8) of Section 6-3 of the City Code that:

1. Alcoholic beverage establishments located on Ocean Drive, between 5th and 15th Streets; and

2. Possessing a 5 a.m. liquor license; and
3. Serving alcoholic beverages beyond 2 a.m. for on-premises consumption only; and
4. Shall retain the services of an off-duty police officer from 12 a.m. until 5 a.m. on all days during which alcoholic beverages are sold beyond 2 a.m.

The present version of the Ordinance has now been clarified to identify in subsection (8) of Section 6-3 that:

1. Alcoholic beverage establishments located on Ocean Drive, between 5th and 15th Streets; and
2. Permitted to sell or serve alcoholic beverages later than 12 a.m.; and
3. Selling or serving alcoholic beverages later than 12 a.m. for on-premises consumption only; and
4. Shall retain the services of an off-duty police officer from 12 a.m. until the closing of the alcoholic beverage establishment on all days during which alcoholic beverages are sold or served later than 12 a.m.

The modified Ordinance has also removed the Affidavit requirement previously set forth in subsection (8)C of Section 6-3 and, in its place, provided for an affirmative defense, which permits alcoholic beverage establishments to assert and establish such affirmative defense as to any notice(s) of violation issued pursuant to subsection (8) of Section 6-3, by demonstrating the unavailability of any qualified police officer to provide off-duty services at the alcoholic beverage establishment.

Therefore, upon consideration at first reading, it is recommended that the Mayor and City Commission pass the Ordinance to further the health, safety and welfare of all persons who visit Ocean Drive.