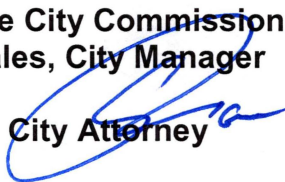




City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

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: January 15, 2020

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, POSSESSING A LICENSE TO SELL AND/OR SERVE ALCOHOLIC BEVERAGES IN THE CITY UNTIL 5 A.M. (“ALCOHOL LICENSE”), AND SELLING AND/OR SERVING ALCOHOLIC BEVERAGES LATER THAN 12 A.M., TO RETAIN THE SERVICES OF AN OFF-DUTY POLICE OFFICER, FROM 12 A.M. UNTIL THIRTY (30) MINUTES PAST THE CLOSING OF THE ALCOHOLIC BEVERAGE ESTABLISHMENT, ON SATURDAYS AND SUNDAYS AND, DURING HOLIDAY WEEKENDS OR CITY-SPONSORED EVENTS, ON SATURDAY, SUNDAY, AND MONDAY; ESTABLISHING EXCEPTIONS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

The proposed Ordinance (the “Ordinance”), which is sponsored by Mayor Dan Gelber and co-sponsored by Commissioner Ricky Arriola, is submitted for consideration on first reading at the January 15, 2020 meeting of the City Commission.

A previous version of the Ordinance was presented to, and approved by, the City Commission on first reading at its December 11, 2019 meeting. In conjunction with its approval, the Ordinance was referred to the Police Citizens Relations Committee to be heard on December 17, 2019, and also to the Finance and Economic Resiliency Committee to be heard on January 13, 2020. Following the first reading of the Ordinance, City staff met with various Ocean Drive stakeholders and representatives who, in addition

to the recommendations of the Police Citizens Relations Committee, identified certain requested modifications to facilitate the purpose of the Ordinance, which are incorporated herein.

In Chapter 6 of the City Code, entitled "Alcoholic Beverages," the City of Miami Beach (the "City") regulates the location, size, hours of operation, and minimum patron age for uses that permit the sale and consumption of alcoholic beverages. As such, the City has previously authorized certain alcoholic beverage establishments with State licensure, for on-premises consumption only, to sell alcoholic beverages between the hours of 8:00 a.m. and 5:00 a.m.

However, the prolonged consumption of liquor, and other alcoholic or intoxicating beverages, may create volatile and potentially dangerous behavior and situations which directly lead to criminal activity, disorderly conduct, undesirable noise, and/or various quality of life offenses in the City. Moreover, various alcoholic beverage establishments that sell alcoholic beverages until 5:00 a.m. are located on Ocean Drive between 5th Street and 15th Street, and calls for service to the Police Department are typically most pervasive and prevalent on Ocean Drive after midnight and into in the early morning hours during Saturdays and Sunday (and during those holiday weekends and City-sponsored events).

In that regard, the Police Department has determined that the presence of an off-duty police officer at those alcoholic beverage establishments serving alcoholic beverages later than 12 a.m. will ameliorate a portion of that behavior and conduct, exhibited by intoxicated individuals, which implicates and threatens the safety, security and welfare of the City's residents, visitors, and businesses.

The Police Department and the City Administration have requested adoption of the Ordinance which, as modified pursuant to discussions with the various Ocean Drive stakeholders, would require those alcoholic beverage establishments located on Ocean Drive, between 5th and 15th Streets, possessing a 5 a.m. Alcohol License and selling and/or serving alcoholic beverages later than 12 a.m., to retain the services of an off-duty police officer, from 12 a.m. until thirty (30) minutes past the closing of the alcoholic beverage establishment for: (i) all Saturdays and Sundays; and (ii) during holiday weekends or City-sponsored events, on Saturday, Sunday, and Monday.

Moreover, the exemption to the off-duty police officer requirement set forth in the Ordinance (as specified in Section 6-3(a)(8)) has been modified to include:

- i.) Alcoholic beverage establishments, whose alcoholic beverage dispensing areas (bars) are located, in their entirety, within the enclosed premises of a hotel, if such hotel and alcoholic beverage establishment are both owned by the same individual or entity; and
- ii.) Alcoholic beverage establishments, whose alcoholic beverage dispensing areas (bars) are located, in their entirety, within the enclosed premises of a (i) restaurant with full kitchen facilities, and

(ii) serving full meals at all times; and (iii) if such alcoholic beverage establishment closes and ceases all of its business operations by 2 a.m.

Additionally, the Ordinance has also been modified to include a provision in subsection (10)C which requires the Code Compliance Officer(s) to obtain confirmation from the Police Department's Off-Duty Office before finding or issuing a violation of the Ordinance.

The City Commission referred the proposed Ordinance to the Finance and Economic Resiliency Committee meeting on January 13, 2020 for presentation and discussion regarding the implications of this matter. After hearing from City staff and various Ocean Drive stakeholders, the Finance and Economic Resiliency Committee unanimously approved the version of the Ordinance supported by City staff and the Ocean Drive stakeholders. The Committee recommended the approval of the Ordinance, and that the Ordinance be presented to the Mayor and City Commission at its January 15, 2020 meeting for adoption at first reading. Furthermore, the Committee passed a motion that would require the effectiveness of the Ordinance to be presented to the City Commission, on a quarterly basis (every 90 days), in order to permit the City Commission to review and evaluate the viability of the Ordinance, and to explore any expansion of the geographic area identified therein.

As a result of changes between first reading on December 11, 2019, and the version of the Ordinance approved at the Finance and Economic Resiliency Committee meeting on January 13, 2020, the City Attorney's Office has determined that such changes require a new first reading of the Ordinance at the January 15, 2020 meeting of the City Commission.

Upon consideration at first reading, it is recommended that the Mayor and City Commission pass the Ordinance to aid in ensuring the health, safety and welfare of all persons who visit iconic Ocean Drive and its alcoholic beverage establishments.