

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 Second Reading
Jimmy L. Morales, City Manager

FROM: Raul J. Aguila, City Attorney



DATE: February 12, 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.

On January 15, 2020, the City Commission adopted the above-reference Ordinance (the "Ordinance"), which is sponsored by Mayor Dan Gelber and co-sponsored by Commissioner Ricky Arriola, at first reading.

Prior to first reading, the Ordinance was discussed at the Police Citizens Relations Committee meeting on December 17, 2019, and was also considered and unanimously approved by the Finance and Economic Resiliency Committee on January 13, 2020. Furthermore, City staff met with various Ocean Drive stakeholders and representatives who, in addition to the recommendations of the Police Citizens Relations Committee and the Finance and Economic Resiliency Committee, requested the inclusion of certain modifications to the Ordinance, which are incorporated herein.

In summary, 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 in Chapter 6 of the City Code, entitled "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 previously requested adoption of the Ordinance which, as modified prior to first reading pursuant to those discussions with the various Ocean Drive stakeholders, requires 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)) includes:

- 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.

The Ordinance remains primarily unchanged from first reading although, pursuant to the direction of the Mayor and City Commission, a provision has been added for second reading (as set forth in subsection 8. D.) to specify that the Police Chief, or designee, shall present, on a quarterly basis for the first year subsequent to the enactment of the Ordinance, pertinent statistical and crime data information regarding the implementation and efficacy of subsection(a)(8) in order to permit the Mayor and City Commission to review and evaluate the continued viability of these enhanced security requirements, and to explore any expansion of the geographic area identified therein.

Accordingly, the Ordinance has been submitted for second reading/public hearing at the February 12, 2020 meeting of the City Commission, and it is recommended that the Mayor and City Commission pass and adopt the Ordinance to aid in ensuring the health, safety and welfare of all persons who visit iconic Ocean Drive and its alcoholic beverage establishments.