

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," SUBSECTION 1.2.2.4, ENTITLED "COMMERCIAL," BY CREATING A DEFINITION FOR RESTAURANT SUPPER CLUB; BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," TO

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 LOCATION BY ZONING DISTRICT AND BASED UPON OCCUPATIONAL CONTENT AND HOURS OF OPERATON, REQUIREMENTS FOR TYPES OF ENTERTAINMENT USES AS MAIN PERMITTED AND ACCESSORY USES, STANDRDS FOR NON-CONFORMING USES, MINIMUM DISTANCE SEPARATION REQUIREMENTS AND THE DELETION OF SECTION 7.5.5.7; 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**

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ARTICLE II. – DEFINITIONS

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SECTION 1.2.2. – USE DEFINITIONS

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1.2.2.4 Commercial

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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 60%.

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

**CHAPTER 7
ZONING DISTRICTS AND REGULATIONS**

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ARTICLE II. DISTRICT REGULATIONS

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Section 7.2.5. RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY

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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:

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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.

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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 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 in accordance with section 7.5.5.4.

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Section 7.2.6. RM-2 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY

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Section 7.2.6.2 Uses (RM-3)

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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 General Ordinances.

3. Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6 in 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 in accordance with 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 in accordance with section 7.5.5.4.

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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 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 in accordance with 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 in accordance with 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 in accordance with section 7.5.5.4.

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Section 7.2.13. MXE MIXED USE ENTERTAINMENT

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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 General Ordinances.
3. Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6 in 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., 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 in accordance with 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, 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 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 an 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. Outdoor and open-air entertainment, regardless of occupational content, shall require conditional use approval and may only be permitted as an accessory use to a hotel, if a hotel use is permitted.
- 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, unless otherwise noted herein.
- iii. Indoor entertainment, regardless of occupational content, shall require conditional use approval.

- iv. The occupational content for a venue with entertainment shall not exceed 300 persons, unless otherwise noted herein.
- v. 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.
- vi. 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.
- vii. 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.
- 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.
- 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.
- 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. 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.

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 establishment, open air entertainment establishment, neighborhood impact establishment, dance hall or after-hours dance hall, 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 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 VII of these land development regulations.

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 and zoning 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.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

First Reading: September 11, 2024

Second Reading: October 30, 2024

Verified By: _____

Thomas R. Mooney, AICP
Planning Director