


MIAMIBEACH

OFFICE OF THE CITY ATTORNEY
RAUL J. AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

To: Mayor Dan Gelber
Members of the City Commission
Jimmy L. Morales, City Manager

cc: Rafael Granado, City Clerk

From: Raul J. Aguilá, City Attorney 

Date: January 16, 2019

Subject: REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE REGARDING AMENDMENTS TO THE CITY'S LAND DEVELOPMENT REGULATIONS PERTAINING TO ENTERTAINMENT ESTABLISHMENTS, IN ORDER TO CREATE AN EXEMPTION FOR PERFORMANCES CONDUCTED AT A VOLUME THAT DOES NOT INTERFERE WITH NORMAL CONVERSATION.

Pursuant to the request of Commissioner John Elizabeth Alemán, the above-referenced discussion item has been placed on the January 16, 2019 City Commission meeting agenda as a referral to the Land Use and Development Committee (the "Committee").

A draft Ordinance is attached for the Committee's consideration.

Please do not hesitate to contact me if you have any questions.

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, BY AMENDING SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 114, ENTITLED "GENERAL PROVISIONS," BY AMENDING SECTION 114-1 THEREOF, ENTITLED "DEFINITIONS," TO CREATE AN EXEMPTION FROM THE DEFINITION OF "ENTERTAINMENT ESTABLISHMENT" FOR PERFORMANCES CONDUCTED AT A VOLUME THAT DOES NOT INTERFERE WITH NORMAL CONVERSATION; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City Code defines "entertainment establishment" as a "commercial establishment with any live or recorded, amplified or nonamplified performance, (excepting television, radio and/or recorded background music, played at a volume that does not interfere with normal conversation, and indoor movie theater operations)"; and

WHEREAS, the Mayor and City Commission desire to amend the definition of "entertainment establishment" to create an exemption for performances that are conducted at a volume that does not interfere with normal conversation.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. Chapter 114, entitled "General Provisions," is amended as follows:

**CHAPTER 114
GENERAL PROVISIONS**

Sec. 114-1. Definitions.

* * *

Entertainment establishment means a commercial establishment with any live or recorded, amplified or nonamplified performance, (excepting television, radio and/or recorded background music, and any other performance played or conducted at a volume that does not interfere with normal conversation, and indoor movie theater operations). Entertainment establishments may not operate between the hours between the hours of 5:00 a.m. and 10:00 a.m., except as provided for under subsection 6-3(3)(b).

* * *

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 2018.

ATTEST:

Rafael E. Granado
City Clerk

Dan Gelber
Mayor

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

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

(Sponsored by Commissioner John Elizabeth Alemán)

Underline denotes new language
~~Strikethrough~~ denotes removed language