



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

Second Reading

FROM: Raul J. Aguila, City Attorney

DATE: February 26, 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," TO PROHIBIT THE SALE AND/OR SERVING OF ANY ALCOHOLIC BEVERAGE(S) BEYOND 2 A.M., FOR A DEFINED PERIOD OF TIME IN THE MONTH OF MARCH, BY ANY ALCOHOLIC BEVERAGE ESTABLISHMENT LOCATED IN THE MXE MIXED USE ENTERTAINMENT DISTRICT (EXCLUDING THAT PORTION OF THE MXE DISTRICT LOCATED BETWEEN 73RD AND 75TH STREETS), OR THAT PORTION OF THE CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT LOCATED BETWEEN PENNSYLVANIA AVENUE AND COLLINS COURT, FROM 5TH STREET TO 16TH STREET; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

On February 12, 2020, the City Commission passed the proposed Ordinance (the "Ordinance"), which is sponsored by Mayor Dan Gelber, at first reading.

However, pursuant to the direction of the Mayor and City Commission, the Ordinance has been modified for second reading/public hearing, as follows:

1. The alcoholic beverage hours of sale have been amended from 2 a.m. to 3 a.m., thereby only prohibiting the sale of alcoholic beverages (by those impacted alcoholic beverage establishments) between the hours of 3:00 a.m. and 8:00 a.m. during that period of time specified below and set forth within the Ordinance.
2. The defined period of time in the month of March (in which such prohibition on the sale of alcoholic beverages shall be applicable) has been altered and

reduced from the first Friday in March and continuing for a period of seventeen (17) days therefrom, to the second Wednesday in the month of March and continuing for a period of twelve (12) days therefrom.

3. The provisions of the proposed Ordinance, as described herein and fully set forth in Section 6-3(10) of the City Code, shall automatically sunset, and will be deemed repealed on March 24, 2020.

Therefore, the Ordinance, if passed and adopted (as modified) by the Mayor and City Commission, would prohibit the sale and/or serving of any alcoholic beverage(s) beyond 3 a.m., commencing the second Wednesday in March and continuing for a period of twelve (12) days therefrom, by those alcoholic beverage establishments located in the MXE mixed use entertainment district (excluding that portion of the MXE district located between 73rd and 75th Streets), or located in that portion of the CD-2 commercial, medium intensity district between Pennsylvania Avenue and Collins Court, from 5th Street to 16th Street, during the year 2020.

As previously set forth in the Commission Memorandum surrounding this Ordinance (remitted prior to first reading), the City of Miami Beach (the "City") is legally permitted to establish appropriate hours for the sale of alcoholic beverages, pursuant to Section 562.14 of the Florida Statutes, which expressly grants the City the legal authority to establish its own regulations for the setting of times for the sale of alcoholic or intoxicating beverages. Accordingly, in Chapter 6 of the City Code, entitled "Alcoholic Beverages," the City has regulated the location, size, hours of operation, and minimum patron age for those business activities that permit the sale and consumption of alcoholic beverages throughout the City.

The City Administration has determined that during the month of March, there is a substantial influx of visitors and tourists that descend upon the City to partake in a plethora of Spring Break festivities. Moreover, due to the celebratory nature of Spring Break, these visitors and tourists (many of whom are college students or other college-aged individuals) engage in the prolonged consumption of alcohol and other alcoholic or intoxicating beverages at those alcoholic beverage establishments primarily located in the MXE mixed use entertainment district or that portion of the CD-2 commercial, medium intensity district between Pennsylvania Avenue and Collins Court, from 5th Street to 16th Street.

The celebratory and party-like atmosphere of Spring Break results in the excessive consumption of alcohol by those individuals involved, and creates volatile and dangerous situation(s) throughout the City, which directly leads to criminal activity, disorderly conduct, undesirable noise, and/or other quality of life offenses.

The City Administration and the Police Department, which is dedicated to the protection of the City and all of its residents, visitors and businesses, has determined that it is in the best interests of the City, and serves to protect the health, safety and welfare of the City's residents and visitors, to limit alcohol sales and/or serving of alcohol at those alcoholic

beverage establishments located in the MXE mixed use entertainment district (excluding that portion of the MXE district located between 73rd and 75th Streets) or those alcoholic beverage establishments located in that portion of the CD-2 commercial, medium intensity district located between Pennsylvania Avenue and Collins Court, from 5th Street to 16th Street, during the primary Spring Break period in March of each year.

The Police Department and the City Administration desire to restrict the sale and/or serving of alcoholic beverages during Spring Break, which prohibition shall be in effect between the hours of 3:00 a.m. and 8:00 a.m., commencing the second Wednesday in the month of March and continuing for a period of twelve (12) days therefrom, in the aforementioned MXE and CD-2 areas of the City.

Furthermore, the Police Department and City Administration believe that the Ordinance directly addresses, and appropriately balances, those public safety concerns associated with the sale and excessive consumption of alcoholic beverages, and the convenience of the City's residents and visitors who desire to purchase alcoholic beverages. Equally important, the Police Department has determined that the implementation of such Ordinance will ameliorate a portion of that behavior and conduct, that is traditionally exhibited by intoxicated individuals, which implicates and threatens the safety, security and welfare of the City's residents, visitors and businesses.

As such, the Police Department and the City Administration have requested that the Mayor and City Commission adopt this amendment to Section 6-3 of the City Code to require those alcoholic beverage establishments located in the MXE mixed use entertainment district (excluding that portion of the MXE district located between 73rd and 75th Streets) or that portion of the CD-2 commercial, medium intensity district located between Pennsylvania Avenue and Collins Court, from 5th Street to 16th Street, to cease the sale and/or serving of all alcoholic beverages at 3 a.m., commencing the second Wednesday in the month of March and continuing for a period of twelve (12) days therefrom.

Therefore, upon consideration at second reading/public hearing, the City Administration recommends that the Mayor and City Commission adopt the Ordinance in order to aid and ensure the health, safety and welfare of all persons who visit the City and its alcoholic beverage establishments during this Spring Break period in 2020.