



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

COMMISSION MEMORANDUM

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

cc: Rafael Granado, City Clerk

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.

DRAFT AMENDMENT PROPOSED BY COMMISSIONER DAVID RICHARDSON

The below draft amendment to the above-titled Ordinance has been prepared at the request of Commissioner David Richardson.

The current draft of the Ordinance, as approved by the City Commission at First Reading on February 12, 2020, provides that the hours of sale for alcoholic beverages in specified portions of the MXE and CD-2 districts shall be restricted for a period of thirteen days, commencing on the second Wednesday in March. The provisions of the Ordinance shall automatically sunset on March 24, 2020.

I hereby propose that the City Commission amend the draft Ordinance, as more particularly set forth below, to provide that the Ordinance may instead sunset on March 19, 2020, upon a finding by the City Manager that, during the thirteen-day period in the month of March, there have been no significant public safety incidents in the affected districts, including without limitation criminal incidents, public nuisances, or other public disturbances.

Section 6-3. Hours of sale/violations

(a) The hours of sale of alcoholic beverages, whether as a permitted main or accessory use, shall require a state license, and shall be according to the following schedule:

* * *

(10) Notwithstanding the foregoing subsections (a)(1) – (a)(9), the sale and/or serving of any alcoholic beverage(s) shall be prohibited from 23 a.m. until 8 a.m., commencing the ~~first Friday~~ second Wednesday in the month of March and continuing for a period of ~~seventeen (17)~~ twelve (12) days therefrom, by any alcoholic beverage establishment located in the following districts:

- A. The MXE mixed use entertainment district, excluding that portion of the MXE district located between 73rd and 75th Streets; or
- B. That portion of the CD-2 commercial, medium intensity district located between Pennsylvania Avenue and Collins Court, from 5th Street to 16th Street.

The provisions in this subsection (10) shall automatically sunset, and will be deemed repealed on March 24, 2020. **Notwithstanding the preceding sentence, should the city manager (i) determine, in the manager's reasonable discretion, that during the period of time defined above, there have been no significant public safety incidents in the affected districts, including without limitation criminal incidents, public nuisances, or other public disturbances, and (ii) report such determination to the city commission at a regularly scheduled city commission meeting or, in the event there is no regularly scheduled meeting during the defined period of time, transmit such determination to the city commission via letter to commission ("LTC"), then the provisions in this subsection (10) shall automatically sunset and will be deemed repealed on March 19, 2020.**