

SURVEY OF REGULATORY REQUIREMENTS FOR OPERATION OF EXTENDED HOURS

| | <u>St. Petersburg</u> (Sec. 3-8) | <u>W. Palm Beach</u> (Secs. 6-7, 6-8, 54-401 <i>et seq</i>) | <u>Sunrise</u> (Sec. 3-9 to -12) | <u>Hialeah</u> (Ch. 6, Secs. 18-210, 86-56, and 86-57) | <u>Miami</u> (Ch. 4 Secs. 4-2 thru 4-10 & Miami Zoning Code Sec. 7.1.1.4) | <u>Coral Gables</u> (Secs, 6-4, 6-5,6-12, 6-13 & Law of Fl. Ch. 25753 (1947)) |
|------------------------------|---|--|---|---|--|--|
| APPLICABILITY | | | | | | |
| Hour Restrictions | <ul style="list-style-type: none"> Past midnight prohibited unless permit compliance with standards. But never later than 3 a.m. | <ul style="list-style-type: none"> No later than 3 a.m. Mon-Fri, and 4 a.m. Sat. and Sun. | <ul style="list-style-type: none"> Operating past 1 am requires special extended hours permit. Outside Entertainment District, permit authorizes extension until 2 a.m. on weekdays, and until 3 a.m. weekends In Entertainment District, it authorizes 1 extra hour. For establishments with occupancy of 50 or less, Commission may require a permit if the police chief finds operation past 1 a.m. "diverts the police or fire departments from their missions" "Last Call" required 15 minutes before end of sales. | <ul style="list-style-type: none"> Nightclubs authorized until 4:50 a.m. and subject permitting requirements Restaurants and bars of a certain size may establish a "lounge" and then serve alcohol between 1 a.m. and 3 a.m. on weekends | <ul style="list-style-type: none"> General hours 11 a.m. to 3 a.m. Mon-Sat and 12 p.m. to 3 a.m. on Sundays. Extension of hours to 5 a.m. allowed if approved by exception procedures for alcohol service establishments. Note that in certain districts extension of hours are granted by right. | <ul style="list-style-type: none"> General hours for retail beverage stores (non-liquor) allows opening from 7 a.m. to 12 a.m., except that sales can continue from 7 a.m. to 1 a.m. on Sat. General hours for retail liquor stores and club vendors (including those in hotels and motels) to 2 a.m. daily. |

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| APPLICABILITY (Continued) | | | | | | |
| Areas Eligible for Extended Hours | Citywide | Downtown Master Plan Area | Citywide | Citywide, but Zoning Code limits location nightclubs and entertainment offered at lounges. | Citywide, but the City has created multiple districts where rules vary and, often, extended hours are by right. | Coral Gables' Code does not contemplate any extended hours permits or approval. |
| Types of Establishments Eligible for Extended Hours | Restaurants need not comply as long as they serve their full dinner menu at all hours when alcohol is sold. Otherwise, all establishments serving alcohol must comply. | Alcoholic beverage establishments and bone fide restaurants | Consumption on premises establishments Except those with occupancy of 50 or less. | Restaurant and Bars with 4,000 sf and space for 200 guests or more | Alcohol Service Establishments | Code does not contemplate extended hours approvals but non-restaurant facilities (e.g. stand-alone bars, galleries, theaters, museums, etc.) are subject to City Commission (with Conditions). |

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| CRITERIA | | | | | | |
| | For Suspension | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Exception Requirements | Not Applicable (No Extended Hour Permit) |
| History of Prior Convictions | Two or more of the same Code provision relating to operation which violations impact safety or security of patrons. | <ul style="list-style-type: none"> • Three or more verified police incidents within any 30-day period. • “Verified police incidents” means police activity during extended hours inside or outside. Does not include excessive noise violations. | <ul style="list-style-type: none"> • Amount and degree of law enforcement activities generated by: <ul style="list-style-type: none"> (i) Establishment; (ii) prior establishments in location; or (iii) establishment involving same owners or manager. • Background checks of all owners and “managers.” | Not explicitly but weighed when determining minimum security staffing. | <p>For nightclubs, no BTR may be issued or renewed if holder of license, managing agent, or employee of the holder at the same location has been convicted of a violation of the City’s alcohol code in the past year.</p> <p>Note: This is a general rule not specific to extended hours of operation. It applies only to nightclubs--not restaurants, bars, etc.</p> | --- |

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| CRITERIA (Continued) | | | | | | |
| | For Suspension | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Exception Requirements | Not Applicable (No Extended Hour Permit) |
| History of Sales After Permitted Hours | Engaged in or allows use of alcohol at establishment after closing hours by "any person." | Not specified as a criteria, but past conduct by applicant/principals is weighed. See row above relating to "past convictions." | Not specified as a criteria, but past conduct by applicant/principals is weighed. See row above re "past convictions." | Not specified as a criteria, but past conduct by applicant/principals is weighed. See row above re "past convictions." | Not specified as a criteria, but past conduct by applicant/principals is weighed. See row above re "past convictions." | --- |
| Past Refusal to Allow Inspection | Unlawful to refuse inspection of during operating hours. | --- | --- | Unlawful to refuse inspection by police during operating hours | For Nightclubs, "unlawful...to refuse or prevent or attempt to prevent" reasonable inspection of any portion of any nightclub premises by any city official during any hour in which a nightclub is open for business." | Non-restaurants with a state license "shall always be subject to inspection by city" and must maintain records for inspection (to confirm compliance with state and local regulations regarding receipts). |
| Controlled Substances | Knowingly permitted or should have known and did not take action to stop | --- | --- | Grounds for revocation of BTR / CU | --- | --- |
| Gambling | Knowingly permitting gambling. | --- | --- | --- | --- | --- |

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| | For Suspension | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Exception Requirements | Not Applicable (No Extended Hour Permit) |
| Minors | Knowingly permitting or <i>should have known</i> and did not take action to stop consumption, sale, or <i>presence</i> | Allowing 1 or more under age 21 to enter (Note: Applies with or without extended hours) | --- | --- | Minors strictly prohibited in "dance halls and ballrooms" (Code Sec. 5-46) | --- |
| Violation of Permit Conditions Will Jeopardize Extended Hours | Conviction of violating permit conditions. | Only Implied | Only Implied | Only Implied | Implied. Applicants must file operational plans with: (i) Hours, (ii) Number of employees, (iii) Menu items, (iv) business goals, (v) Sanitation plan (vi) Similar info | --- |

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| | For Suspension | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Exception Requirements | Not Applicable (No Extended Hour Permit) |
| Security | <ul style="list-style-type: none"> • “Inadequate Security” meaning violent crime at establishment OR abutting right of way that could have been avoided with measures including but not limited to: <ol style="list-style-type: none"> i. One security officer per 150 occupants (bartenders, barbacks, other employees don’t count as security); ii. Wandering patrons on entry; and iii. Video surveillance of public areas (with signage warning the public). | <ul style="list-style-type: none"> • On Friday and Saturday nights, one security officer per 150 occupants. • Security officers must have officer ID cards from Police Department and wear them at all times. • Establishment must keep list of all security personnel working each night and provide to police. | <ul style="list-style-type: none"> • Security camera to help identify and apprehend offenders • Must show entrances, exits, registers, and parking lots and must run during all hours of operation. • During extended hours, provide “required” number of off-duty police or licensed security for at least four hours. • Police chief may review and adjust recommended staffing and minimum hours based on “availability” and “current security conditions at the establishment and... vicinity.” • Commission may condition approval upon additional security measures. | <ul style="list-style-type: none"> • Camera(s) must monitor interior and exterior of all entrances and exits. • Records must be stored for 30 days. • Prominent signage must notify public of camera surveillance. • Provide security trained in crowd management and orderly exiting in emergency. • Interior security staff must exceed number police chief or fire marshal deems necessary based on permit application. • Police or fire marshal to consider nature of use & business’s history. • During extended hours, provide extra duty police for parking area. | <ul style="list-style-type: none"> • Must provide a general security plan for the alcohol service establishment and associated parking facilities. • Establishments with capacities of 300 or more must provide an indoor/outdoor crowd control plan addressing how large groups of people gain entry into the establishment and how indoor crowds will be controlled. | --- |

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| Parking and Traffic | --- | --- | --- | Provide sufficient parking attendants to keep traffic flowing and ROW clear. | <ul style="list-style-type: none"> • Must provide a parking plan describing where and how parking shall be provided and managed. • Off-site parking may be approved by PZAB or City Commission if: <ul style="list-style-type: none"> i. Self-Parking parking w/in 600 feet ii. Valet Parking w/in 1,000 feet • Establishments with capacities of 300 or more, must provide a traffic study and circulation analysis and plan detailing impacts of projected traffic on immediate neighborhood and mitigation. | --- |

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| | For Suspension | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Exception Requirements | Not Applicable (No Extended Hour Permit) |
| Violations of LDRs | Failure to comply with security, noise mitigation, or monitoring plan required by Section 16.50.310.3 (i.e., LDR regulations for “special uses”, similar to Neighborhood Impact Establishments and other CUPs). | --- | Commission may add condition for approval requiring compliance with approved site plan conditions regarding vehicular and pedestrian traffic. | --- | --- | --- |
| Noise | Failed to comply with noise ordinance. | Excessive noise violations are NOT counted toward verified police incidents. | Commission may add condition to approval requiring “adequate buffering of noise impacts from open-air areas, if any.” | <ul style="list-style-type: none"> • Entertainment must be provided indoors only. • Must be “completely soundproof so that no noise from the operation may be heard from outside.” | If establishment is within 200 feet of any residential use, a noise attenuation plan addressing how noise will be controlled must be provided, especially for indoor/outdoor uses. | --- |

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| Food | --- | --- | <ul style="list-style-type: none"> • Commission may condition approval to require that 40%+ of gross sales during extended hours be derived from food and may require that full course meals be served as follows: • 1,500 sf indoor seating; • Capacity for 70 or more patrons at one time; and • All federal, state, and local requirements for food service. <p><u>Note:</u> Code is poorly worded, ambiguous. It refers to optional conditions but uses mandatory language.</p> | Restaurants must operate kitchens at all hours of lounge operation. | --- | --- |

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| CRITERIA (Continued) | | | | | | |
| | For Suspension | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Exception Requirements | Not Applicable (No Extended Hour Permit) |
| Staff Training | --- | Owners and staff, must complete responsible service program teaching: <ul style="list-style-type: none"> • Server liability; • Alcohol as a drug; • Effects on body, behavior, and driving; • Reactions with illegal and Rx drugs; • Recognizing a problem drinker; • Knowing treatment agencies and programs; • Prohibitions on sales to minors and intoxicated persons; • Local regulations; • Drunk driving laws; • Ways to cut off service/dealing with belligerent customers; • Helping patrons find safe ways home; and • Advertising responsible drinking. | <ul style="list-style-type: none"> • Comply with Florida's Responsible Vendor Act (Secs. 561.701 - .706). • Submit proof of compliance for each employee. • Maintain membership in program. | --- | --- | --- |

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| | For Suspension | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Permit Requirements | Minimum Exception Requirements | Not Applicable (No Extended Hour Permit) |
| Maintenance | --- | Keep premises, accessory areas, & sidewalks clean free of trash & debris | --- | --- | Must provide sanitation plan for the maintenance of facility and abutting areas. | --- |
| Transportation | --- | --- | <ul style="list-style-type: none"> • Must offer <i>free</i> cab or towing for the intoxicated • Must have 36"x36" signage. | --- | --- | --- |
| License Supply Limitations | --- | --- | --- | --- | --- | <ul style="list-style-type: none"> • Per Special Law (1947), City caps beer, wine, and liquor licenses to no more than 1 per 1,500 residents, save grandfathered uses. • Due to unique legislation, this would likely not be allowed under general preemptions of Ch. 562, F.S. • Exceptions to this rule <i>appear</i> to abound because population today is about 50,000 which would allow only 33 liquor licenses. |

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| PROCEDURES | | | | | | |
| Issuance | By administration | By administration | <ul style="list-style-type: none"> • Approved (or denied) by Commission at public hearing • Can condition approval. • Contingent Approval. Commission may subject to issuance of state license and confirmation by administration. | By administration | <ul style="list-style-type: none"> • By PZAB and/or City Commission. See Code Sec. 4-7(c) and Miami 21. • City Commission may extend hours by Resolution for any alcohol service establishment for special occasions. | Coral Gables' Code does not contemplate extended hours permits. |
| Change of Ownership or Location | Immediate notice to City and new application | <ul style="list-style-type: none"> • Nontransferable. • Change of business name alone is not a transfer. | <ul style="list-style-type: none"> • Nontransferable • If business is sold, reapply but City review limited to (i) amount and degree of law enforcement activities; (ii) any calls during application period is grounds for denial; (iii) criminal background checks; and (iv) review of related establishments | Same as BTR | --- | --- |

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| PROCEDURES (Continued) | | | | | | |
| Responsibility of Principals | May deny if “any principal...of the applicant was directly associated with a permittee that had a permit revoked and that revocation is still in effect.” | In the event that a Chronic Nuisance Service Order is issued. <i>See</i> Section 54-401, <i>et seq</i> . | --- | <ul style="list-style-type: none"> For 12 months after applicant, “person in charge,” president, principal, or “member” of the firm or corporation has had license revoked. Made a misrepresentation or false statement in the application. | --- | --- |
| Access to Property | Acceptance of permit “deemed” authorization for any law enforcement to enter the establishment. | --- | --- | Refusal to allow police to inspect during working hours is itself a code violation. | If Alcoholic Service Establishment is a nightclub, must allow City inspection. | --- |
| Penalties | <ul style="list-style-type: none"> \$500 per incident Section 1-7 of their Code “any other actions to ensure compliance” | <ul style="list-style-type: none"> Per Section 54-401 \$500 60 days municipal jail See ‘Suspension’ row below | <ul style="list-style-type: none"> \$500 per incident 60 days Nuisance abatement | --- | In accordance with Ch. 562, F.S. | --- |

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| PROCEDURES (Continued) | | | | | | |
| Suspension | <p>By Police Chief for 30 days based on:</p> <ul style="list-style-type: none"> i. Two or more convictions of City Code; ii. Selling alcohol after closing hours; iii. Refusal to allow inspections; iv. Controlled substance use on premises; v. Knowingly permitting gambling; vi. Possession/consumption of alcohol by minor; vii. Violation of Permit condition; viii. Providing inadequate security twice in a year; ix. Non-compliance with noise or security plan; and x. Violating noise pollution rules <ul style="list-style-type: none"> • In lieu of suspension, Chief may accept security plan to address basis for suspension. | <ul style="list-style-type: none"> • By Magistrate upon issuance of a “Chronic Nuisance Service Order.” • By Magistrate after police documents 3+ “verified police incidents” in a 30-day period. • Magistrate may: <ul style="list-style-type: none"> (i) require plan to prevent violations; (ii) require additional security; (iii) require that security staff on Fri. & Sat. nights have a current class "D" security officer license; (iv) probation pending suspension; and (v) 90-day suspension. • Plan to prevent future violations may mitigate. | <ul style="list-style-type: none"> • Upon finding that permittee failed to comply with conditions or operates in manner harmful to public, Community Development Dir. may place on Commission’s agenda. • If Police Chief finds an immediate serious danger to the public, he may summarily suspend or impose conditions. Then permittee has 5 days to request hearing before Commission. City has 21 days to schedule hearing. • Hearings noticed to 500 foot radius. • Hearings are <i>de novo</i>. • Commission may revoke, allow to continue, or impose new conditions. | <ul style="list-style-type: none"> • By emergency proceeding where conduct by business or any agent, employee, or person in establishment constitutes threat the public. Notice shall be given and permittee may seek emergency hearing before City Council at next scheduled meeting. • Not clear but it appears that a traditional NOV and informal hearing process is available before the “business tax administrator.” • See revocation proceedings below. | <ul style="list-style-type: none"> • If alcohol service establishment violates “laws regarding health, safety, and welfare including but not limited to building codes, fire codes, [the zoning code] or any health department regulations” then the Cert. of Use shall be suspended for 30 days to allow establishment to come into compliance. Then revoked if noncompliance continues. • Mayor may prohibit sales during emergencies causing or tending to cause public disorder, lawbreaking, and confusion. | --- |

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|-------------------------------|--|---|--------------------------------------|---|---|--|
| PROCEDURES (Continued) | | | | | | |
| Revocation | <ul style="list-style-type: none"> • By police chief determining: <ol style="list-style-type: none"> 1. 2 suspensions within 12 mos. (except for noise violations); 2. False/misleading application documents; 3. Knowingly allows sale of controlled substances and has not taken reasonable actions to prevent future occurrences; or • Allowed sale or consumption during a suspension & hasn't taken reasonable steps to prevent repeat. • Revoked for 1 yr. • May be reinstated after 90 days if Chief finds measures are taken to address problem. • Requires notice. | <ul style="list-style-type: none"> • By Magistrate upon issuance of chronic nuisance service order • Such orders apply to properties with pattern of Police responses for things like: noise, street gang activity; sexual offenses; dangerous dogs, gun fire, prostitution, criminal mischief, trespass, theft, dealing in stolen goods, animals cruelty, disorderly intoxication, open house parties, loitering, prowling, breach of peace or disorderly conduct, drug offenses, failure to correct code violations, & felonies. | See cell above regarding suspension. | <ul style="list-style-type: none"> • By City Council upon recommendation of the licensing section or the police chief, and after hearing and procedure for revoking BTR. • Upon finding by Court or nuisance abatement board of guilt for prostitution or possession of drugs by any partner or employee. | <p>Exceptions granted may be rescinded upon application by the Director to the PZAB and finding by the PZAB that there have been violations of conditions, restrictions, or limitations contained in the resolution granting the exception. Section 7.1.1.4.(b)(8) of Miami 21 Zoning Code.</p> | --- |

SURVEY OF REGULATORY REQUIREMENTS FOR OPERATION OF EXTENDED HOURS

| | <u>St. Petersburg</u> (Sec. 3-8) | <u>W. Palm Beach</u> (Secs. 6-7, 6-8, 54-401 <i>et seq</i>) | <u>Sunrise</u> (Sec. 3-9 to -12) | <u>Hialeah</u> (Ch. 6, Secs. 18-210, 86-56, and 86-57) | <u>Miami</u> (Ch. 4 Secs. 4-2 thru 4-10 & Miami Zoning Code Sec. 7.1.1.4) | <u>Coral Gables</u> (Secs, 6-4, 6-5,6-12, 6-13 & Law of Fl. Ch. 25753 (1947)) |
|-------------------------------|---|--|---|--|---|--|
| PROCEDURES (Continued) | | | | | | |
| Appeals | <ul style="list-style-type: none"> • Appeal Police Chief's decision to the City Council. • Hearing no later than 30 days from date written appeal is received. • Public hearing to consider evidence by any interested person. • Majority vote of council members present. • Final decision. • Stays. Code is ambiguous. Section (j)(7) suggests no stay. Section (i) states there will be a stay. | <ul style="list-style-type: none"> • West Palm Beach's standard code enforcement appeal process. • Magistrate's ruling is appealed to Circuit Court (not de novo). | <ul style="list-style-type: none"> • Appeal of renewal decision made to City Commission within 10 days. • Appeal of initial issuance made to circuit court within 30 day. | <ul style="list-style-type: none"> • To City Council within 30 days • Then to Circuit Court. | <ul style="list-style-type: none"> • Revocations may be appealed to the Commission Section 7.1.1.4.(b)(8) of Miami 21 Zoning Code. | --- |

SURVEY OF REGULATORY REQUIREMENTS FOR OPERATION OF EXTENDED HOURS

Highlights from Other Jurisdictions:

- **Weston**: Places and emphasis on parking but does not have a concrete standard for measuring traffic. Miami Beach tends to address this through the site plan process. It might borrow concepts applied there or continue to look the site plan process to guarantee parking.
- **Riviera Beach**: Offers “Limited Extended Hours Licenses” that authorize extended sales only during weekends and certain holidays, and a “one-time” license. But same criteria are to apply to these (including City Council’s approval) so it is unclear why an applicant would take this option. If Miami Beach takes this approach, it may want to establishing slightly different standards for the various types of extension permits.
- **San Francisco and other California municipalities**: Grandfathered uses are “Deem Approved” unless they violate the performance standards. No permits are needed for grandfathered uses. As we discussed, this approach might be worthwhile with respect to our CUP and other existing establishments.

Regarding Caps on the Number of Permits

- Per the administration’s request, we examined local government limits on the total number of liquor license authorized in a given area. Most governments (including Miami Beach) have an effective cap in that they impose distance separation requirements from similar establishments, parks, schools, churches and similar uses.
- Among cities we examined, we have found that only Coral Gables imposes a cap on the number of licensed establishments. This cap (1 alcohol establishment per 1,500 residents) is established by special act of the Florida legislature that dates back to 1947 and was last amended in 1949. The City Commission can waive the cap for bona fide restaurants seating for 50 or more persons.
- Please note that the City of Miami provides caps on the number of establishments within certain districts. However, these “caps” apply to the number of facilities that for which typical distance requirements are waived. In other words, the cap effectively allows more facilities in a small area (a “district” or “center”) than might otherwise be permitted.

General Note Re City of Miami and Coral Gables

- Our table includes the City of Miami, and the City of Coral Gables as points of reference more than for the novelty or practicality of their approach to extended hours. The City of Miami does issue special approvals for the extension of night club hours but the general theme in the City is to encourage more, not fewer, nightclubs and similar activity. The City of Coral Gables goes to an opposite extreme—they are very strict and don’t allow the extension of hours.