

# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

RAFAEL PAZ, CITY ATTORNEY

## COMMISSION MEMORANDUM

**TO:** Mayor Dan Gelber  
Members of the City Commission  
Alina Hudak, City Manager

**CC:** Rafael Granado, City Clerk



**FROM:** Rafael Paz, City Attorney

**DATE:** May 4, 2022

**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 ADOPT UNIFORM HOURS FOR THE OUTDOOR SALE AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION AND CONSUMPTION AT SIDEWALK CAFES AT ALCOHOLIC BEVERAGE ESTABLISHMENTS LOCATED ALONG WEST AVENUE AND ALTON ROAD, BETWEEN 5TH STREET AND THE COLLINS CANAL (INCLUDING SIDE STREETS), AND CREATE A VESTED RIGHTS PROCEDURE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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Pursuant to the request of Commissioner Mark Samuelian, the attached Ordinance has been placed on the May 4, 2022 City Commission agenda for First Reading.

The Ordinance amends Section 6-3 of the City Code to modify the hours of sale for alcoholic beverages at alcoholic beverage establishments located along West Avenue and Alton Road, between 5th Street and the Collins Canal (including side streets). Specifically, the Ordinance adopts a uniform 12:00 a.m. termination time for the outdoor sale and service of alcoholic beverages for on-premises consumption and consumption at sidewalk cafes, within the specified geographic area.

For purposes of this section, the term "outdoors" shall mean any area of an alcoholic beverage establishment that is not completely enclosed and located entirely within a building. Any operable windows or doors shall remain closed at all times, except for purposes of ingress and egress.

The Ordinance also creates a vested rights procedure, consistent with other alcohol legislation under consideration by the City Commission, for a dedicated special magistrate, appointed by the

City Commission, to adjudicate applications by individual establishments claiming that they are vested as to certain alcohol hours of sale.

A companion item sponsored by Commissioner Samuelian has been placed on the May 4, 2022 City Commission meeting agenda as a referral to the Planning Board. The purpose of the referral is to amend the CD-1 and CD-2 district regulations for properties along Alton Road and West Avenue, to modify permitted hours for the outdoor sale and consumption of alcoholic beverages at alcoholic beverage establishments, with such outdoor sale and consumption of alcohol to terminate at midnight. To effectuate a uniform 12:00 a.m. termination time outdoors, the City Commission will need to adopt both this Ordinance and the companion Land Development Regulation.

If the City Commission adopts the attached Ordinance at First Reading, we recommend that Second Reading be scheduled on the same date as Second Reading of all other alcohol hours legislation pending before the City Commission.