

# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

RAFAEL PAZ, CITY ATTORNEY

## COMMISSION MEMORANDUM

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

**CC:** Rafael Granado, City Clerk

**FROM:** Rafael A. 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, ENTITLED "ALCOHOLIC BEVERAGES," ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 6-3 THEREOF, ENTITLED "HOURS OF SALE/VIOLATIONS," TO AMEND PERMITTED HOURS FOR THE OUTDOOR SALE AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION AND CONSUMPTION AT SIDEWALK CAFES, AND CREATE A VESTED RIGHTS PROCEDURE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

---

Pursuant to the request of Commissioner Alex J. Fernandez, 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, entitled "Hours of sale/violations," to modify permitted hours for the **outdoor** sale and service of alcoholic beverages at alcoholic beverage establishments throughout the City.

Specifically, the Ordinance adopts a **2:00 a.m. termination time for the outdoor sale and service of alcoholic beverages** for on-premises consumption. With regard to alcoholic beverage establishments **along West Avenue**, between 5th Street on the south and Collins Canal on the north, the Ordinance adopts a **12:00 a.m. termination time for outdoor sales and service.**

For purposes of the proposed limitation on hours, the term "outdoors" is defined as follows:

[A]ny 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. However, the term "outdoors" shall specifically exclude open-air courtyards that are accessed only from the interior of a building, and other outdoor courtyards, patios, or terraces that (i) are accessed only from the interior of a

building, (ii) serve as a necessary corridor to access the interior of another building on the property, (iii) are bounded by a wall or fence on all sides and not visible from the right-of-way, and (iv) are not directly accessible from the right-of-way, except for any required fire exits.

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.

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.