

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Planning Board

TO: Chairperson and Members  
Planning Board

DATE: November 24, 2015

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **File No. 2300-A – Ordinance Amendment to Chapter 114, Definitions.**  
**File No. 2300-B – Ordinance Amendment to Chapter 6, Alcoholic Beverages.**  
**File No. 2300-C – Ordinance Amendment to Chapter 142, Zoning Districts and Regulations.**

#### RECOMMENDATION

Transmit the proposed ordinance amendments to the City Commission with a favorable recommendation.

#### HISTORY/ BACKGROUND

*July 9, 2014*

The Land Use and Development Committee (LUDC) proposed amendments to the City Code pertaining to allowable Accessory Uses and Neighborhood Impact Establishments as part of a discussion of the following items:

1. Alcoholic Beverage Establishments (Chapter 6);
2. Requirements for determining the size and square footage of "Accessory Uses" in relation to the main permitted use; and
3. The clarification of threshold standards for Neighborhood Impact Establishments.

*July 23, 2014*

The Mayor and the City Commission referred to the LUDC (Item C4K) for further discussion proposed amendments to the City Code pertaining to the items listed above.

*December 10, 2014*

The LUDC recommended that the Mayor and City Commission refer the subject Ordinance Amendments to the Planning Board.

*January 14, 2015*

The Mayor and the City Commission referred to the Planning Board (Item C4H) the proposed amendments to the City Code.

*February 24, 2015*

The Planning Board heard the proposed ordinances and continued the items to the March 24<sup>th</sup> meeting.

*March 24, 2015* The subject Ordinances were updated to reflect the changes recommended by the Board at the February 24, 2015 Planning Board meeting. The Planning Board continued the items to the May 26<sup>th</sup> meeting.

*May 26, 2015* The Planning Board continued the proposed ordinances to the July 28<sup>th</sup> meeting. At the request of the Board at the May 26, 2015 meeting, the staff report was organized in a way that highlights the areas of the ordinances which were simply relocated, clarified, and where new language was inserted.

*July 28, 2015* At the request of the Mayor and the City Commission, the subject ordinances were removed from the Planning Board agenda and re-referred to the Land Use and Development Committee for discussion.

On July 29, 2015, the Land Use Committee discussed the item and considered two (2) revised versions:

*“Option A”*: Clarifies and adds definitions in Chapter 114, consolidates the code language pertaining to alcoholic beverage establishments into Chapter 6, clarifies language used in Chapters 6 and 142 in regards to accessory uses and Neighborhood Impact Establishment thresholds, updates the code to align it with current State statues and adds new neighborhood compatibility requirements.

*“Option B”*: New language pertaining to hours of operation for alcoholic beverage establishment South of Fifth Street.

After discussing the item, the Land Use Committee recommended that Option “B” be removed from consideration and that Option “A”, as slightly modified, be referred to the Planning Board.

*October 14, 2015* The Mayor and the City Commission referred the subject ordinances to the Planning Board (Item C4A). The current sponsor of the proposed Ordinances is Commissioner Joy Malakoff.

### **REVIEW CRITERIA**

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

**1. Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

**Consistent**–The proposed ordinance is consistent with the Goals, Objectives, and Policies in the Comprehensive Plan.

**2. Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

**Not applicable**–The proposed amendment does not modify district boundaries.

**3. Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

**Consistent**–The proposed ordinance will not create development that is out of scale with the needs of the neighborhood or city.

**4. Whether the proposed change would tax the existing load on public facilities and infrastructure.**

**Consistent**–The proposed change will not tax the existing load on public facilities, as the maximum intensity and density that can be developed on the site will not be affected by the proposed ordinance.

**5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

**Consistent**–District boundaries would not change as a result of this ordinance.

**6. Whether changed or changing conditions make the passage of the proposed change necessary.**

**Consistent**–The current wording of the legislation, as well as the increase in volume and intensity of alcoholic beverage establishment's city wide make the passage of this proposed change necessary.

**7. Whether the proposed change will adversely influence living conditions in the neighborhood.**

**Consistent**–The proposed change will not adversely affect living conditions in the neighborhood.

**8. Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

**Consistent**–The proposed change will not create or increase traffic congestion from what is currently permitted.

**9. Whether the proposed change will seriously reduce light and air to adjacent areas.**

**Consistent**–The proposed ordinance will not seriously reduce light and air to adjacent areas.

**10. Whether the proposed change will adversely affect property values in the adjacent area.**

**Consistent**–The proposed change should not adversely affect property values.

**11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

**Consistent**–The proposed change should not be a deterrent to the improvement or development of properties in the City.

**12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

**Not applicable.**

**13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

**Not applicable.**

**ANALYSIS**

Staff has identified areas of the alcoholic beverage section of the City Code (Chapter 6) that are in need of updating and clarification. As part of this analysis, the applicable sections of Chapter 142, pertaining to zoning districts and accessory use regulations, as well as Chapter 114, pertaining to definitions, were examined. The changes proposed herein would eliminate contradictions within Chapter 6 regarding hours of operation, and would coordinate Chapter 6 with existing regulations in regards to location and allowable areas located in the Land Development Regulations (LDR's). Finally, standard language for all alcoholic beverage establishments has been proposed regarding neighborhood compatibility, as well as extra security requirements in commercial areas and mixed use entertainment zoning districts.

In addition to consolidating all the provisions for alcoholic beverage establishments into Chapter 6 in regards to location, hours, and areas, the proposed legislation also relocates the applicable alcoholic beverage sections from the LDR's to Chapter 6. For clarification purposes, permitted alcoholic beverage uses have been included in each individual zoning district in Chapter 142 of the LDR's.

In the process of identifying additional definitions that needed updating and clarification in Chapter 6, staff also identified definitions to update and clarify in Chapter 114 of the LDR's. Finally, language that clarifies thresholds for accessory uses, and neighborhood impact establishments (NIE's) by their overall size, instead of the occupant content, and provides criteria to be used when there are multiple establishments on the same property are also proposed.

**SUMMARY**

Below is a summary of the proposed changes within the attached Ordinances separated by Chapters. At the request of the Board, the attached ordinances have been color coded to delineate what language is simply being relocated (purple), what is a clarification (blue), and what is completely new language (red). Additionally, Planning staff and the City Attorney's office met with the business owners, residents, and their representatives. Summaries of these meetings and the suggested modifications to the legislation are attached.

***Chapter 114, Definitions.***

1. Adding an “interpretation of terms or words section”;
2. Clarifying the definition of apartment-hotels that are allowable in some residential zoning districts;
3. Defining terms used in the existing code and the changes proposed in Chapter 6 and Chapter 142 above;
4. Removing dated terminology not used in the code any longer;
5. Defining types of uses that are frequently used during the Certificate of Use (CU) process when an establishment is receiving a Business Tax Receipt (BTR) and aligning the terms used in the process with the terms used in the code, such as retail, hall for hire, personal service uses, food service establishments, offices, and medical offices, etc;
6. Defining words that are often used in final orders when an establishment is receiving a CUP, but that are not otherwise used in the code, to give direction to staff when enforcing the provisions of the final orders;
7. Clarifying that disc jockey (DJ) falls under the definition of entertainment;
8. Adding a definition for ‘Ambient Disc Jockey’; and
9. Defining hall for hire, place of assembly, supper club.

#### ***Chapter 6, Alcoholic Beverages.***

1. Consolidating all alcoholic beverage regulations into one chapter, instead of having alcoholic beverage regulations scattered throughout the zoning code;
2. Updating language so that it coordinates with current State Statute and does not contradict current state statutes regarding alcoholic beverage regulations, minimum hotel rooms, and language changes such as the term Business Tax Receipt instead of occupational license;
3. Regulating the hours of sales of alcohol for off-premises package sales and consumption for restaurants to the same hours as other retail package sales establishments;
4. Modifying the hours of operation for all alcoholic beverage establishments operating South of Fifth Street and within close proximity to residential uses throughout the city;
5. Eliminating the distance separation between educational facilities and restaurants with full kitchens;
6. Adding neighborhood compatibility requirements for all alcoholic beverage establishments, instead of only having extra requirements for projects that go before a land use board;
7. Defining terms used in Chapter 6 that help interpreting existing and proposed provisions of the code; and
8. The City Commission, upon referral, added a limitation on any minimum number of seat variance requests for alcoholic beverage establishments.

#### ***Chapter 142, Zoning Districts and Regulations.***

1. Adding when applicable alcoholic beverage establishment uses into the use sections for the individual zoning districts, instead of having a list in a separate section in Article V, Specialized Use Regulations, Division 4, Alcoholic Beverages;
2. Making off-premises package sales a prohibited use in residential zoning districts that allow retail accessory uses (RM-2 an RM-3 zoning districts);
3. Using the term “entertainment establishment” whenever the term “dance hall” is used,

- behind retaining dance hall is because the term entertainment was added at a later date and there are past variances that would be effected. It appears to be an oversight that the term entertainment establishment was not added to the code in every place that mentioned dance hall previously, such as the CD-3 zoning district on Lincoln Road;
4. Removing references to hours, location and size restrictions for alcoholic beverage establishments from the zoning districts, as they were added in Chapter 6.
  5. Adding a defined threshold for accessory uses based on a percentage of the floor area of the main use, instead of having a more subjective determination left to the discretion of the Planning Director. This largely impacts residential districts that allow hotels, but do not allow stand-alone restaurant and bars, by setting definable standards that regulate the size of accessory restaurant and bar uses;
  6. Clarifying the accessory use percentages are applied to outdoor areas;
  7. Making outdoor, unenclosed or uncovered accessory uses a Conditional Use in RM-2 zoning districts;
  8. Defining the type of accessory uses allowed in hotels and residential buildings in residential districts, instead of having the determination of what is “customary” left to the discretion of the Planning Director;
  9. Changing the thresholds for neighborhood impact establishments to a clear and definable square footage threshold established on the objective standard of overall size of the establishment, instead of the occupant content. The current use of occupant contents as a threshold can easily be manipulated by removing furniture, mislabeling areas on floor plans, or excluding outdoor areas. The use of a square footage value will also cut down on last minute struggles to fill space with planters and large furniture, when the occupant content issued by the Fire Department is over what the original projections of the design professional’s drawings that were provided to the Planning Department;
  10. Clarifying the criteria to be used when there are multiple neighborhood impact establishments, alcoholic beverage establishments and/or entertainment establishments on one property or building site;
  11. Creating a waiver for NIE’s in the Convention Center zoning district (CCC) to mirror the language in Government Use (GU) districts;
  12. Adding language that gives clear direction as to when an NIE, outdoor entertainment establishment, open air entertainment, and after-hours dance hall have lost their non-conforming status.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendments to the City Commission with a favorable recommendation.

TRM/MAB/TUI

CHAPTER 114 – DEFINITIONS

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART B - LAND DEVELOPMENT REGULATIONS, CHAPTER 114 "GENERAL PROVISIONS" , AMENDING SECTION 114-1, DEFINITIONS, BY MODIFYING AND ADDING DEFINITIONS TO CLARIFY ALCOHOLIC BEVERAGE AND USE REQUIREMENTS OF THE CODE OF THE CITY OF MIAMI BEACH, PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; EXCEPTIONS; AND AN EFFECTIVE DATE.

WHEREAS, Chapter 114 of the City Code, entitled "General Provisions," provides definitions; and

WHEREAS, to ensure that the all the definitions are clear and concise and are located in one area of the code that is logical and convenient to the user; and

WHEREAS, the amendment set forth below is necessary to accomplish the above objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. Chapter 114, entitled "General Provisions" is amended, as follows:

\* \* \*

**Sec. 114-1. Definitions.**

(a). Interpretation of terms or words.

For the purpose of this chapter, certain terms or words used in this chapter shall be interpreted as follows:

- i. The word "shall" is always mandatory and the word "may" is permissive.
- ii. The words "used" or "occupied" include the words intended, designed or arranged to be used or occupied.
- iii. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
- iv. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

(b). The following words, terms and phrases when used in this Subpart B or Chapter 6 of Subpart A, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

Ambient Disc Jockey means a person who plays recorded music for an audience at Ambient Volume Level and who generates music using the sound system of the subject venue or business. The sound system must have an electronic lock, which can be unlocked only by

management of the venue and not by the Ambient Disc Jockey, which prevents the volume level of music from being played above Ambient Volume Level.

Ambient Volume Level refers to music or other sound, whose volume level does not interfere with normal conversation.

\* \* \*

Apartment hotel means a building containing both apartment units and hotel units, with at least 25% being apartment units, under resident supervision, and having an inner lobby through which all tenants must pass to gain access. Apartment Hotel uses may contain suite hotel units.

\* \* \*

Bar means an alcoholic beverage establishment which is not also licensed as a restaurant, dance hall or entertainment establishment. derives a minimum of 51 percent of gross revenue from the sale alcoholic beverages.

\* \* \*

Bottle club means a commercial establishment, operated for a profit, whether or not a profit is actually made, wherein patrons consume alcoholic beverages brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises.

\* \* \*

Business tax means the fees charged and the method by which the City grants the privilege of engaging in or managing any business, profession, or occupation within the City's jurisdiction (formerly known as an occupational license).

\* \* \*

Certificate of use (CU) means a document issued by the fire department, department of code compliance City allowing the use of a building and certifying that the use is in compliance with all applicable City codes, regulations and ordinances.

\* \* \*

Disc Jockey (abbreviated D.J., DJ or deejay) means a person who plays recorded music for an audience, but does not include an Ambient Disc Jockey.

\* \* \*

Entertainment establishment means a commercial establishment with any live or recorded, amplified or nonamplified performance, (excepting television, radio and/or recorded background music, played at a volume that does not interfere with normal conversation, and indoor movie theater operations). Entertainment establishments may not operate between the hours between the hours of 5:00 a.m. and 10:00 a.m., except as provided for under subsection 6-3(3)(b).

Entertainment establishment means a commercial establishment including, but not limited to, restaurants, bars, halls for hire, bottle clubs, supper clubs, and alcoholic beverage establishments that include live entertainment, Disc Jockey, patron dancing, and/or recorded

entertainment. Entertainment does not include television, radio and/or recorded background music, played at a volume that does not interfere with normal conversation, Ambient Disc Jockey and indoor movie theater operations. Entertainment establishments may not operate between the hours of 5:00 a.m. and 10:00 a.m., except as provided for under subsection 6-3(3)(b).

\* \* \*

Food service establishment includes but is not limited to any restaurant, bakery, bar, bistro, café, coffee shop, cafeteria, delicatessen, ice cream parlor, lounge, nightclub, pub, tavern, private, public, or nonprofit organization or institution routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

\* \* \*

Full cooking facilities, residential and suite hotels shall mean having burners, ovens and refrigeration units. Cooking facilities in units of less than 550 square feet shall be limited to one microwave oven and one five-cubic-foot refrigerator except historic district suites hotels or apartments may have full cooking facilities in units with a minimum of 400 square feet.

Full kitchen facilities, commercial shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchens must contain grease trap interceptors, and meet all applicable City, county and state codes.

\* \* \*

Hall for hire means an establishment which rents space, and may provide tables, chairs, catering, decor, sound systems, or other services in order to hold or host a private event.

\* \* \*

Live entertainment shall mean and include all shows, live music, games of sport and performances of any kind but shall not include Ambient Disc Jockey or adult entertainment.

\* \* \*

Loading, off-street means a loading space located on private property outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

\* \* \*

Occupational license means the required license to conduct business within the City pursuant to chapter 18.

Office, business or professional means an establishment offering services or knowledge to the business community or to individuals, but excluding a medical office. Such activities would include but are not limited to accounting, brokerage, insurance, advertising, employment services, real estate services, lawyer and architect.

Office, medical means a licensed establishment offering medical services and knowledge to the community or individuals. Such activities may include but shall not be limited to physician, dentist, psychologist, chiropractor, mental health therapist and physical therapists.

Operator means the person who conducts, manages, maintains or controls, either directly or indirectly, any business or commercial establishment.

Patron dancing shall mean dancing by patrons or guests of an establishment or business.

Personal service use means an establishment that provides services such as barbershops, beauty salons, tailor, shoe repair shops, dry cleaning, banks and financial service institutions.

Place of Assembly means an establishment that may have fixed seating that is not used for retail sales and service, restaurant, office or hotel, and may include a "hall for hire" use whether for a private event or a public event.

\* \* \*

Recorded entertainment means recorded music or recorded vocal entertainment or both, amplified or non-amplified, but shall not include Ambient Disc Jockey or adult entertainment.

~~Restaurant means a commercial establishment where refreshments or meals may be purchased by the public and which conducts the business of serving of food to be consumed on or off the premises.~~

Restaurant, Cafeteria means a food service establishment characterized typically by the selection of prepared food items by customers as they move in a line in front of the individual food items or selected from an open self-serve area. An individual menu is not normally provided and food items are typically placed on the customer's plate or packaged by restaurant employees or the customer. The food items are transported to adjoining tables by the customer.

Restaurant, standard means a food service establishment whose principal business is the sale of foods and beverages to the customer in a ready-to-consume state, and where customers are normally provided with an individual menu, are served their food or beverages on non-disposable service ware by a restaurant employee at a table or counter for consumption.

Restaurant, take-out means a food service establishment whose principal business is the sale of foods and beverages to the customer in a ready-to-consume state for carry-out with consumption off the premises, and which has all of the following characteristics:

(a) Food items are served primarily in paper, plastic or other disposable containers.

(b) The restaurant provides rapid customer service by preparing the menu items in advance of the customer's order or by having the items in a ready-to-assemble condition.

Retail establishment means any store, merchant or organization selling merchandise to the general public.

\* \* \*

School means a facility providing a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools and comparable private schools.

~~Shall is mandatory, the word "may" is permissive.~~

Supper club means a standard restaurant having a minimum enclosed dining/entertainment area of 4,000 square feet and providing entertainment, but not adult entertainment. The dining/entertainment area shall be composed of restaurant tables and seating and an entertainment stage area and/or dance floor. The dining area must occupy a minimum of fifty (50) percent of the gross floor area of the establishment. A supper club must provide full and continual food service throughout the periods of its operation. No more than twenty (20) percent of the seating area, may be removed to accommodate special performances.

\* \* \*

**SECTION 2. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

**SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 4. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. EXCEPTIONS.**

This Ordinance shall not apply to an application filed for Land Use Board Approval with the Planning Department on or before November 24, 2015, and shall not apply to any business that has received a business tax receipt on or before November 24, 2015. A business tax receipt that is issued in connection with an annual renewal of such business tax receipt or in connection with a change in the name of the licensee relating to such business tax receipt shall not be deemed to be issued after November 24, 2015 for purposes of this ordinance if the original business tax receipt for such business was issued before such date.

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

**APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION**

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: December 9, 2015

Second Reading: January \_\_, 2016

Verified by: \_\_\_\_\_  
Thomas Mooney, AICP  
Planning Director

Underscore denotes new language  
~~Strikethrough~~ denotes removed language

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CHAPTER 114 – DEFINITIONS

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Full cooking facilities, residential and suite hotels shall mean having burners, ovens and refrigeration units. Cooking facilities in units of less than 550 square feet shall be limited to one microwave oven and one five-cubic-foot refrigerator except historic district suites hotels or apartments may have full cooking facilities in units with a minimum of 400 square feet.

Full kitchen facilities, commercial shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchens must contain grease trap interceptors, and meet all applicable City, county and state codes.

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Hall for hire means an establishment which rents space, and may provide tables, chairs, catering, decor, sound systems, or other services in order to hold or host a private event.

\* \* \*

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Occupational license means the required license to conduct business within the City pursuant to chapter 18.

Office, business or professional means an establishment offering services or knowledge to the business community or to individuals, but excluding a medical office. Such activities would include but are not limited to accounting, brokerage, insurance, advertising, employment services, real estate services, lawyer and architect.

Office, medical means a licensed establishment offering medical services and knowledge to the community or individuals. Such activities may include but shall not be limited to physician, dentist, psychologist, chiropractor, mental health therapist and physical therapists.

Operator means the person who conducts, manages, maintains or controls, either directly or indirectly, any business or commercial establishment.

Patron dancing shall mean dancing by patrons or guests of an establishment or business.

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Place of Assembly means an establishment that may have fixed seating that is not used for retail sales and service, restaurant, office or hotel, and may include a "hall for hire" use whether for a private event or a public event.

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Restaurant, standard means a food service establishment whose principal business is the sale of foods and beverages to the customer in a ready-to-consume state, and where customers are normally provided with an individual menu, are served their food or beverages on non-disposable service ware by a restaurant employee at a table or counter for consumption.

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Retail establishment means any store, merchant or organization selling merchandise to the general public.

\* \* \*

School means a facility providing a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools and comparable private schools.

~~Shall is mandatory, the word "may" is permissive.~~

Supper club means a standard restaurant having a minimum enclosed dining/entertainment area of 4,000 square feet and providing entertainment, but not adult entertainment. The dining/entertainment area shall be composed of restaurant tables and seating and an entertainment stage area and/or dance floor. The dining area must occupy a minimum of fifty (50) percent of the gross floor area of the establishment. A supper club must provide full and continual food service throughout the periods of its operation. No more than twenty (20) percent of the seating area, may be removed to accommodate special performances.

\* \* \*

**SECTION 2. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

**SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 4. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. EXCEPTIONS.**

This Ordinance shall not apply to an application filed for Land Use Board Approval with the Planning Department on or before November 24, 2015, and shall not apply to any business that has received a business tax receipt on or before November 24, 2015. A business tax receipt that is issued in connection with an annual renewal of such business tax receipt or in connection with a change in the name of the licensee relating to such business tax receipt shall not be deemed to be issued after November 24, 2015 for purposes of this ordinance if the original business tax receipt for such business was issued before such date.

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: December 9, 2015

Second Reading: January \_\_, 2016

Verified by: \_\_\_\_\_  
Thomas Mooney, AICP  
Planning Director

Underscore denotes new language  
~~Strikethrough~~ denotes removed language

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CHAPTER 6 – ALCOHOLIC BEVERAGES

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART A - GENERAL ORDINANCES, CHAPTER 6 "ALCOHOLIC BEVERAGES" OF THE CODE OF THE CITY OF MIAMI BEACH, TO CONSOLIDATE ALL PROVISIONS RELATING TO ALCOHOL REGULATION IN ONE CHAPTER OF THE CITY CODE BY RELOCATING CERTAIN ALCOHOLIC BEVERAGE ESTABLISHMENT REGULATIONS FROM CHAPTER 142 AND PLACING THOSE PROVISIONS IN CHAPTER 6; PROVIDING FOR—HOURS OF OPERATION; LOCATION AND USE RESTRICTIONS; PATRON AGE RESTRICTIONS; MINIMUM SEATS AND HOTEL ROOMS REQUIREMENTS; PROVIDING FOR NEIGHBORHOOD COMPATIBILITY REQUIREMENTS; AMENDING ARTICLE II, CONDUCT; PROVIDING DEFINITIONS; STRIKING ALCOHOL REGULATIONS RELATING TO HOURS OF OPERATION, MINIMUM SEAT AND HOTEL ROOMS FROM CHAPTER 142 "ZONING DISTRICTS AND REGULATIONS", ARTICLE II "DISTRICT REGULATIONS," DIVISION 20 "TC NORTH BEACH TOWN CENTER DISTRICTS," AT SECTION 142-736; AND MODIFYING CHAPTER 142, ARTICLE V "SPECIAL USE REGULATIONS," AT DIVISION 4 "ALCOHOLIC BEVERAGES," BY STRIKING SECTIONS 142-1302 AND 142-1303; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; EXCEPTIONS; AND AN EFFECTIVE DATE.

WHEREAS, Alcoholic Beverages are addressed in Chapters 6, entitled "Alcoholic Beverages," and in Chapter 142 entitled "Zoning District Regulations"; and

WHEREAS, to ensure that all regulations relating to alcoholic beverages are clear and concise and in one location of the code that is logical and convenient to user; and,

WHEREAS, the amendment set forth below is necessary to accomplish the objectives identified above.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

**SECTION 1.** Chapter 6, "Alcoholic Beverages" is amended, as follows:

\* \* \*

**Section 6-1. Purpose.**

To achieve the purposes of this Chapter and to provide for the general welfare and safety of the public, it is necessary that regulations be established relating to the location, size and hours of operation, and patron age of uses that permit the sale and consumption of alcoholic beverages.

**Section 6-2. Licenses.**

(a) No vendor shall sell or distribute any alcoholic beverages without securing a license from the Florida Division Of Alcoholic Beverages And Tobacco Of The Department Of Business And Professional Regulation of the state ("State License"). A service charge as specified in

Appendix A shall be paid by an applicant requesting the review of an application to the state for an alcoholic beverage State License. The purpose of this charge is to defray the cost to the City for the verification of a correct occupational license, parking impact fees, and proximity to places of worship and/or schools review of the regulations enumerated in herein Chapter 6, and an area and establishment inspection and any other zoning inspection and/or review that may be applicable to the review of such an application.

~~(b) Consideration of a request for a private club Conditional Use permit, including the hours of operation, shall be pursuant to the Conditional Use Procedures and Review Guidelines as listed in section 118-191 et seq.~~

**Sec. 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, except as may be otherwise provided pursuant to subsection ~~(7)~~ (6):

(1) Retail stores for package sales only ~~– off premises consumption~~, either as permitted main or accessory uses. Vendors having a license from the state Division of alcoholic beverages and tobacco for the sale of liquor and other alcoholic beverages for consumption off the premises shall only offer for sale alcoholic beverages within may make sales of alcohol only for off premises consumption between the hours of 8:00 a.m. and midnight, ~~on any day of the week.~~

(2) Retail stores, including grocery, ~~–and–~~convenience stores, and gasoline service/filling stations, either as permitted main or accessory uses, which primarily offer for sale products other than alcoholic beverages may make sales of beer and wine only for off premises consumption ~~sealed containers~~ between the hours of 8:00 a.m. and midnight, ~~on any day of the week.~~

(3) All alcoholic beverage establishments with state licensure licensed as alcoholic beverage establishments (midnight to 5:00 a.m.) ~~–on premise consumption only, either as permitted main or accessory uses,~~ shall only offer for sale the on-premises consumption of alcoholic beverages within may make sales of alcohol between the hours of 8:00 a.m. and 5:00 a.m. ~~on any day of the week.~~

a. Restaurants with full kitchen facilities, serving full meals, licensed as alcoholic beverage establishments ~~(midnight to 5:00 a.m.)~~, but not operating as dance halls or entertainment establishments, may remain open 24 hours a day; however, alcoholic beverages may not be offered for sale or on-premises consumption between the hours of 5:00 a.m. and 8:00 a.m.

b. Restaurants with full kitchen facilities, serving full meals, licensed as alcoholic beverage establishments ~~(midnight to 5:00 a.m.)~~, and also operating as dance halls, or entertainment establishments, may remain open 24 hours a day; however, alcoholic beverages may not be offered for sale or on-premises consumption between the hours of 5:00 a.m. and 8:00 a.m., and dancing and entertainment shall not be conducted between the hours of 5:00 a.m. and 10:00 a.m.

c. Other alcoholic beverage establishments (midnight to 5:00 a.m.), not containing restaurants with full kitchen facilities, shall close at 5:00 a.m. and keep remain closed, ~~the place of business and not allow any~~ No patron or other persons, other than those employed by the vendor may, ~~to remain~~ on the premises therein between the hours of 5:00 a.m. and 8:00 a.m.

~~Note: For purposes of this section, full kitchen facilities shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchen facilities must contain grease trap interceptors, and meet all applicable City, county and state codes.~~

(4) Off-premises package sales associated with alcoholic beverage establishments other than retail stores shall be permitted between the hours of 8:00 a.m. and 11:00 p.m., midnight, ~~for all establishments licensed as alcoholic beverage establishments.~~

(5) Consideration of a request for a private club Conditional Use permit, including the hours of operation, shall be pursuant to the Conditional Use Procedures and Review Guidelines as listed in section 118-191 et seq. ~~Private clubs, either as a permitted main or accessory use, shall be considered pursuant to subsection 6-2(a). Hours of operation and the consumption of alcoholic beverages will be considered between the hours of 8:00 a.m. and 5:00 a.m., Monday through Sunday, provided that service is made only to members and guests of members~~ as provided under the ~~pursuant to Florida Statutes. However, any private club permitted to remain open after 2:00 a.m. shall purchase an extra-hours license and must provide for security in its premises by hiring private security guards or off-duty police officers between the hours of 2:00 a.m. and 5:00 a.m. each day. Private clubs securing a~~ State License ~~from the state Division of alcoholic beverages and tobacco by complying with the requirements of~~ Florida Statute, § 561.20 for racquetball, tennis or golf course facilities may admit members at any time for use of such facilities, but may not serve alcoholic beverages after 2:00 a.m. each day unless such private club is the holder of an extra-hours license Business Tax Receipt and complies with the above requirements.

~~(6) Upon a finding by the special master that a violation of this section has occurred, the City may initiate proceedings to revoke the Certificate of Use, occupational license or Certificate of Occupancy of the violator. In addition, this section may be enforced and violations may be punished as second degree misdemeanors, as provided in F.S. §§ 775.082 and 775.083.~~

(6) Alcoholic beverage establishments set forth in subsections (3) and (5) permitted to remain open to serve alcoholic beverages for on-premises consumption until 5:00 a.m. may continue to serve alcoholic beverages (i) until 7:00 a.m. on January 1 (New Year's Day) or, if January 1 is on a Sunday, until 7:00 a.m. on Monday if the day that is observed as a national holiday for New Year's Day is on Monday, and (ii) until 7:00 a.m. during certain major event days or weekends as may be designated by the City Commission or as may be designated by the City Manager following approval by the City Commission, under the following conditions:

a. The police department and the code compliance Division of the City must be notified by a letter, received no later than 15 business days prior to either (a) January 1 or (b) the day on which alcohol sales are to be extended, stating that

the alcoholic beverage establishment intends to serve alcoholic beverages for on-premises consumption until 7:00 a.m.;

b. If deemed reasonably necessary by the police chief, or the police chief's designee, off-duty police officers must be provided at the alcoholic beverage establishment until 7:00 a.m.;

c. There are no pending City Code violations against the alcoholic beverage establishment;

d. No delinquent or past due monies are owed to the City;

e. Outdoor entertainment or open-air entertainment is not allowed;

f. No violation of the City's noise ordinance shall be permitted;

g. No violation of the approved fire code occupancy load shall be permitted;

h. All required City permits and licenses are current;

i. The State of Florida alcoholic beverage license is current; and

j. Any other conditions required by the City Manager in order to protect the public health, safety, or welfare.

(7) Alcoholic beverage establishments set forth in subsections (3) and (5) permitted to remain open to serve alcoholic beverages for on-premises consumption until 5:00 a.m. may continue to serve alcoholic beverages until 6:00 a.m. on the first day of daylight savings time in the spring.

(8) Alcoholic beverage establishments located in the North Beach Town Center and shall not offer for sale the on-premises consumption of alcoholic beverages within the areas and during the hours listed hereinafter unless a Conditional Use is obtained pursuant to the section 118-191, et seq.:

a. In the TC-1 district, any accessory outdoor bar counters shall not be operated or utilized between midnight and 8:00 a.m.; however, accessory outdoor bar counters located on a property within 100 feet of a property with a residential unit may not be operated or utilized between 8:00 p.m. and 8:00 a.m. However, outdoor restaurant seating, not exceeding 40 seats, associated with indoor venues may be permitted in any open area above the ground floor until 8:00 p.m. with no background music (amplified or nonamplified).

b. In the TC-3 (c) district, any alcoholic beverage establishment shall be limited to beer and wine and close no later than 12 midnight, subject to limitations established in the Conditional Use Process.

(9) The City Manager may suspend the provisions of subsection (6) at any time to protect the public health, safety, or welfare.

(b) Violations/Special Master. Upon a finding by the special master that a violation of this section has occurred, the City may initiate proceedings to revoke the Certificate of Use, Business Tax Receipt, or Certificate of Occupancy of the violator. In addition, this section may be enforced and violations may be punished as second degree misdemeanors, as provided in Florida Statutes §§ 775.082 and 775.083.

#### **Section 6-4. Location and use restrictions.**

(a) *Generally.* The following location and use restrictions are applicable for facilities selling or offering alcoholic beverages for consumption:

(1) *Educational facilities.* No alcoholic beverage shall be sold or offered for consumption establishment, including bottle clubs, shall be located in a commercial use, within 300 500 feet of any property used as a public or private school operated for the instruction of minors in the common branches of learning. Except for uses in the civic and convention center (CCC) district, hospital (HD) district or within 300 feet of a marina. provided, however, for the following exceptions:

- a. Civic and Convention Center (CCC) district;
- b. Hospital (HD) district; and
- c. Within 300 feet of a marina.

(2) *Places of worship.* No alcoholic beverage shall be sold or offered for consumption in a commercial use, except in restaurants for consumption on the premises, in a alcoholic beverage establishment, including bottle clubs, within 300 feet of any property used as a place of worship, except in restaurants operating with full kitchens and serving full meals for consumption on the premises.

\* \* \*

(5) *Filling station.* No liquor as defined by Florida Statute § 568.01 shall be sold or offered for consumption on or off the premises of any filling station.

\* \* \*

~~(8) *Bottle clubs.* There shall be no bottle clubs within 300 feet of any property used as a public or private school operated for the instruction of minors in the common branches of learning or place of worship.~~

\* \* \*

(b) *Determination of minimum distance separation.*

(1) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the main entrance or exit in which the use associated with alcoholic beverages occurs to the nearest point of the property used for a public or private school. In cases where a minimum distance is required between two uses associated with the alcoholic beverages for consumption on or off the premises other than a public or private school, the minimum requirement shall be determined by measuring a straight line between the principal means of entrance of each use.

(2) When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning and zoning director that the minimum distance separation has been met.

(c) *Variances.* Variances to the provisions of this section may be granted pursuant to the procedure in section 118-351, et seq.

**Sec. 6-5. Patron age restrictions.**

(a) It shall be unlawful for persons under the age of 21 to patronize, visit, loiter, be admitted or allowed access, in any alcoholic beverage establishment, as defined in section 114-1 of this Code, except as hereinafter provided. This restriction shall not apply to:

(1) Persons employed by or at the alcoholic beverage establishments;

(2) Persons accompanied by either of their parents (natural, adoptive, or stepparent) or legal guardian (appointed by a court);

(3) Alcoholic beverage establishments also licensed and operating as restaurants, containing a full kitchen of appropriate size to serve the occupancy load of the establishment, serving full meals at all times. In the case of hotels, supermarkets, and other similar multiuse establishments, this restriction applies only to those areas of the establishment operating primarily as an alcoholic beverage establishment, and not also operating as a restaurant as described above; and

(4) Alcoholic beverage establishments also licensed and operating as motion picture theaters, subject to compliance with subsection 6-4(a)(4).

(5) Supermarkets conducting wine tastings upon a premises authorized to sell beer and wine by package or for consumption on premises, provided that the conduct of the wine tasting shall be limited to and directed toward the general public of the age of legal consumption.

\* \* \*

**Section 6-6. Minimum seats and hotel room requirements:**

Vendors shall be permitted to sell alcoholic beverages within zoning districts if such district permits as a permitted main use or accessory use one of the following: Restaurant, bar, alcoholic beverage establishment, outdoor cafe, private club, hall for hire or golf clubhouse pursuant to the following standards:

(1) Permitted main uses:

a. Restaurants, alcoholic beverage establishments, and private clubs shall be permitted to sell alcoholic beverages for consumption on the premises based upon the following; when beer and wine are served a minimum of 30 seats shall be provided; and when, beer, wine and liquor are served, a minimum of 60 seats shall be provided.

b. Outdoor cafes, when visible from or facing a public street and associated with (a) above, shall have a minimum of 20 seats in order to be permitted to sell alcoholic beverages for consumption on the premises.

c. Outdoor cafes, when not visible from or on a public street, alley, or way, and associated with (a) above, shall have no minimum seating requirement and shall be permitted to sell alcoholic beverages only for consumption on the premises.

d. Golf clubhouse located on a golf course shall be permitted to sell alcoholic beverages only for consumption on the premises.

(2) Accessory uses. Hotels, apartment-hotels, or apartments, when permitted under Chapter 142, shall be permitted to have accessory uses on site, which sell alcoholic beverages pursuant to the following minimum standards:

a. Restaurants, alcoholic beverage establishments, and private clubs shall be permitted to sell alcoholic beverages for consumption on the premises based upon the following; when beer and wine are served a minimum of 30 seats shall be provided; and when, beer, wine and liquor are served, a minimum of 40 seats shall be provided.

b. Outdoor cafes when visible from a public street which have a minimum of 20 seats are permitted to sell alcoholic beverages for consumption only on the premises.

c. Outdoor cafes when not visible from a public street, alley, or way, shall have no minimum seating requirement and shall be permitted to sell alcoholic beverages only for consumption on the premises.

d. Golf clubhouse; when located on a golf course, the sale of alcoholic beverages is permitted only for consumption on the premises.

e. Hotels, when requesting a "S" Class State License shall be required to demonstrate that they comply with all applicable Florida Statutes.

(3) Variance requests from subsections (1) and (2) above shall not be permitted to exceed 30% of the required number of seats.

#### **Section 6-7. Exemptions.**

(a) Notwithstanding any other provision of this Chapter, the sale of beer for off-premises consumption by a vendor licensed by the State shall be exempt from the regulations in Section 6-4, and Section 6-6. However, the sale by such vendor of alcoholic beverages other than beer and of beer for on-premises consumption shall be conducted in accordance with the provisions of Section 6-6.

(b) Nothing herein shall be construed to restrict sales of alcoholic beverages in the Civic and Convention Center District or Government Use Districts.

#### **Section 6-8. Neighborhood Compatibility Requirements.**

Under the provisions of this Chapter, a new Certificate of Use and/or Business Tax Receipt shall not be issued for any alcoholic beverage establishment, without submitting evidence of complying with the following requirements:

(1) All alcoholic beverage establishments shall have a litter abatement program, certified by the Division of Sanitation. Such program shall include the following items:

a. All trash receptacles, excluding dumpsters, shall be located inside of a structure and shall be placed in the public right-of-way on pick-up days only;

b. All garbage pickups and service deliveries shall not take place between 5 p.m. and 8 a.m.;

c. All litter shall be cleared from the site, the adjacent public right-of-way and any accessory parking lot on a daily basis;

d. The establishment shall sweep the public right-of-way adjacent to the petitioned site and any accessory parking lot daily and shall clean such public right-of-way with a pressure washing hose a minimum of once per week.

(2) The establishment shall screen any dumpster used in conjunction with site, which is visible from the public right-of-way or parking area with a six-foot opaque fence with gates. No dumpster is permitted to be placed within the public right-of-way.

(3) Equipment and supplies shall not be stored in areas visible from adjacent streets, alleys or nearby buildings.

(4) If installing a kitchen, the establishment shall install an exhaust system, as required by Code, that will substantially reduce grease and smoke that would otherwise escape to the surrounding area. This may include the installation of a fan in connection with the kitchen exhaust system within the interior of the building in order to reduce noise levels.

(5) Any outdoor or rooftop areas permitted to be utilized as part of an alcoholic beverage establishment shall comply with the following operational and noise attenuation requirements and limitations not in contravention of district- specific provisions of the Land Development Regulations:

a. Outdoor bar counters which are within 100 feet of a property with a residential use shall require Conditional Use approval.

b. Outdoor bar counters, where permitted, shall not be operated or utilized between midnight and 8:00 a.m.; however, for a property with an accessory outdoor bar counter that is within 100 feet of a property with a residential use, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

c. Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the above restriction on the hours of operation, provided the accessory outdoor bar counter is (i) located in the rear yard, and (ii) set back 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.

d. No exterior loudspeakers are permitted except those necessary for fire and life safety purposes, unless approved pursuant to the Conditional Use Procedures and Review Guidelines as listed in section 118-191, et seq.;

e. All entertainment is prohibited in the exterior spaces of the property unless approved pursuant to the Conditional Use Procedures and Review Guidelines as listed in section 118-191, et seq.;

f. Rooftop accessory bar counters shall require either Design Review or Historic Preservation Board approval, as applicable;

g. In residential districts, rooftop food and beverage services shall cease no later than 11:00 p.m., unless hours of operation are extended pursuant to the Conditional Use Procedures and Review Guidelines as listed in section 118-191, et seq.;

h. For all alcoholic beverage establishments located in residential districts, except the RM-3 zoning district, only tables and chairs shall be permitted at the ground level or first floor. Any other type of furniture, including, but not limited to, sofas, love seats, benches and picnic tables, shall require the review and approval of the Design Review Board, Historic Preservation Board, or Planning Board, as applicable.

(6) The principle means of ingress and egress shall be from a public street or public sidewalk. A public or private alley way, a private road or a public park shall not be permitted as a means of ingress. This shall not be applicable to Lincoln Lane North, Lincoln Lane South, Collins Court, Washington Avenue or within the Mixed-Use Entertainment (MXE) zoning district.

## ARTICLE II. CONDUCT

### Section. 6-36. Definitions.

The following words, terms and phrases, when used in this article [Chapter](#), shall have the meanings ascribed to them in this section [or if not defined in this Chapter, the meaning ascribed to them in Chapters 114 and 142](#), except where the context clearly indicates a different meaning:

[Alcoholic beverage sales—On premises](#) means the sale of beverages in open containers for consumption on the premises only.

[Alcoholic beverage sales—Package](#) means the sale of beverages in sealed containers for consumption off the premises.

\* \* \*

[Full kitchen facilities](#) means having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchen facilities must contain grease trap interceptors, and meet all applicable City, county and state codes.

\* \* \*

[Primarily](#) means that more than fifty (50) percent of the floor area of a retail establishment shall be dedicated to the sale of alcoholic beverages. And in the instance of a restaurant, at least fifty-one (51) percent of the gross income of the restaurant must be derived from the sale of prepared food and non-alcoholic beverages.

School means a facility providing a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools and comparable private schools.

\* \* \*

**Section 6-37. Violations and penalties.**

Upon a finding by the appropriate administrative official or agency that a violation of this article has occurred, the City shall initiate proceedings to revoke the Business Tax Receipt, Certificate of Use, occupational license or Certificate of Occupancy, whichever is appropriate. Additionally, this article may be enforced and violations may be punished as follows:

**Chapter 142 - ZONING DISTRICTS AND REGULATIONS**

\* \* \*

**ARTICLE II. - DISTRICT REGULATIONS**

**DIVISION 20. - TC NORTH BEACH TOWN CENTER DISTRICTS**

**Sec. 142-736. Main permitted uses, Conditional Uses, accessory uses, and prohibited uses.**

(a) Land uses in the TC-1, Town Center Core District shall be regulated as follows:

(1) The main permitted uses in the TC-1 District are commercial uses; alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6; apartments; apartments/hotels; hotels. The ground story frontage along 71st Street and Collins Avenue shall be governed by subsection 142-737(c). ~~The provisions of subsection 6-4(a)(1) concerning distance separation for consumption of alcoholic beverages on premises in restaurants shall not apply to this district.~~

\* \* \*

(3) The accessory uses in the TC-1 District are those uses permitted in Article IV, Division 2 of this Chapter; alcoholic beverage establishments and accessory outdoor bar counters pursuant to the regulations set forth in Chapter 6; ~~and accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, accessory outdoor bar counters located within 100 feet of an apartment unit may not be operated or utilized between 8:00 p.m. and 8:00 a.m.~~

(6) The prohibited uses in the TC-1 district are pawnshops, and alcoholic beverage establishments located in any open area above the ground floor (any area that is not included in the FAR calculations), except as provided in this Division. ~~However, outdoor restaurant seating, not exceeding 40 seats, associated with indoor venues may be permitted in any open area above the ground floor until 8:00 p.m. with no background music (amplified or nonamplified).~~

\* \* \*

(c) Land uses in the TC-3 Town Center Residential Office District shall be regulated as follows:

\* \* \*

(2) The Conditional Uses in the TC-3 District are hotel, adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; and commercial or noncommercial parking lots and garages (with accessory commercial uses) in accord with subsection 130-68(9).

a. In areas designated TC-3(c) on the zoning map, the following uses may be permitted as Conditional Uses in addition to the uses in paragraph (2) above: neighborhood-oriented retail and services uses, limited to 2,500 square feet or less per establishment, located on the ground floor of buildings. Such neighborhood-oriented retail and service uses shall be limited to antique stores; art/craft galleries; artist studios; bakery or specialty food stores; barber shops and beauty salons; coffee shop or juice bar; dry cleaner or laundry with off-site processing (dry cleaning receiving station); newspapers, magazines and books; photo studio; shoe repair; tailor or dressmaker; and food service establishments with 30 seats or less (including outdoor cafe seating) pursuant to the regulations set forth in Chapter 6. ~~with alcohol limited to beer and wine and closing no later than 12 midnight subject to limitations established in the Conditional Use process.~~ In addition, full service restaurants serving alcoholic beverages pursuant to the regulations set forth in Chapter 6 ~~or and~~ with 30 seats or more may be permitted only on waterfront properties with a publicly accessible waterfront walkway in the area located south of 71st Street.

(3) The accessory uses in the TC-3 district are those uses customarily associated with the district purpose, as set forth in article IV, Division 2 of this Chapter, except that hotels may have accessory uses based upon the criteria below:

\* \* \*

b. Hotels in the TC-3(c) district may include accessory restaurants or ~~bars~~ alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6 when approved as part of the Conditional Use. Such accessory restaurants or bars that serve alcohol shall be limited to a maximum of 1.25 seats per hotel or apartment unit for the entire site. The patron occupant load, as determined by the planning director or designee, for all accessory restaurants and ~~bars that serve alcohol~~ alcoholic beverage establishments on the entire site shall not exceed 1.5 persons, per hotel and/or apartment unit. For a hotel or apartment property of less than 32 units, the restaurant or bar may have a maximum of 40 seats in the aggregate on the site. The number of units shall be those that result after any renovation. ~~Accessory restaurants and bars shall be permitted to sell alcoholic beverages for consumption only on the premises and shall be limited to closing no later than 12 midnight subject to limitations established in the Conditional Use process.~~

\* \* \*

## ARTICLE V. - SPECIALIZED USE REGULATIONS

\* \* \*

### DIVISION 4. - ALCOHOLIC BEVERAGES

\* \* \*

#### Sec. 142-1302. Permitted main and accessory uses.

~~Vendors shall be permitted to sell alcoholic beverages within the zoning districts listed in section 142-1301 if such district permits as a permitted main use or accessory use one of the following: Restaurant, bar, alcoholic beverage establishment, outdoor cafe, private club, or golf clubhouse pursuant to the following standards:~~

~~(1) — Permitted main uses.~~

~~a. Restaurants, alcoholic beverage establishments, and private clubs shall be permitted to sell alcoholic beverages for consumption on the premises based upon the following; when beer and wine are served a minimum of 30 seats shall be provided; and when, beer, wine and liquor are served, a minimum of 60 seats shall be provided.~~

~~b. Outdoor cafes, when visible from or facing a public street, shall have a minimum of 20 seats in order to be permitted to sell alcoholic beverages for consumption on the premises.~~

~~c. Outdoor cafes, when not visible from or on a public street, alley, or way, shall have no minimum seating requirement and shall be permitted to sell alcoholic beverages only for consumption on the premises.~~

~~d. Golf clubhouse; when located on a golf course, the sale of alcoholic beverages is permitted only for consumption on the premises.~~

~~(2) — Accessory uses. Hotels, apartment hotels, or apartments, or any mixed use having a minimum of 100 apartment units or a minimum of 100 hotel units or which are located in the MXE district shall be permitted to have accessory uses which sell alcoholic beverages pursuant to the following minimum standards:~~

~~a. — Bars, alcoholic beverage establishments, restaurants, or private clubs which have a minimum of 40 seats shall be permitted to sell alcoholic beverages for consumption on or off the premises.~~

~~b. — Outdoor cafes when visible from a public street which have a minimum of 20 seats are permitted to sell alcoholic beverages for consumption only on the premises.~~

~~c. — Outdoor cafes when not visible from a public street, alley, or way, shall have no minimum seating requirement and shall be permitted to sell alcoholic beverages only for consumption on the premises.~~

~~d. — Golf clubhouse; when located on a golf course, the sale of alcoholic beverages is permitted only for consumption on the premises.~~

~~(3) — [Accessory uses which sell alcoholic beverages.] Accessory uses which sell alcoholic beverages in the TC-1, TC-2 and TC-3 districts shall be governed by the district use regulations in section 142-746.~~

**Sec. 142-1303. Exemption.**

~~(a) — Notwithstanding any other provision of this Division, the sale of beer for off-premises consumption by a vendor licensed for such sale from that location by the Division of alcoholic beverages and tobacco of the department of business and professional regulation of the state shall be exempt from the regulations in section 6-4, and sections 142-1301 and 142-1302. However, the sale by such vendor of alcoholic beverages other than beer and of beer for on-~~

~~premises consumption shall be conducted in accordance with the provisions of sections and 142-1302.~~

~~(b) Nothing herein shall be construed to restrict sales of alcoholic beverages in the civic and convention center district or government use district.~~

**SECTION 2. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

**SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith are and the same are hereby repealed.

**SECTION 4. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. EXCEPTIONS.**

This Ordinance shall not apply to an application filed for Land Use Board Approval with the Planning Department on or before November 24, 2015, inclusive of hours of operation specified in the Land Use Board's final order, and shall not apply to any business that has received a business tax receipt on or before November 24, 2015. A business tax receipt that is issued in connection with an annual renewal of such business tax receipt or in connection with a change in the name of the licensee relating to such business tax receipt shall not be deemed to be issued after November 24, 2015 for purposes of this ordinance if the original business tax receipt for such business was issued before such date.

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: December 9, 2015

Second Reading: January \_\_, 2016

Verified by: \_\_\_\_\_  
Thomas Mooney, AICP  
Planning Director

Underscore denotes new language  
~~Strikethrough~~ denotes removed language

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CHAPTER 142 – ZONING DISTRICTS AND ALCOHOLIC BEVERAGES

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142 “ZONING DISTRICTS AND REGULATIONS;” ARTICLE II, “DISTRICT REGULATIONS”, DIVISION 3, “RESIDENTIAL MULTIFAMILY DISTRICTS” DIVISION 4, “CD-1 COMMERCIAL, LOW INTENSITY DISTRICT” DIVISION 5, “CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT” DIVISION 6, “CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT” DIVISION 7, “CCC CIVIC AND CONVENTION CENTER DISTRICT” DIVISION 8, “GC GOLF COURSE DISTRICT” DIVISION 9, “GU GOVERNMENT USE DISTRICT” DIVISION 10, “HD HOSPITAL DISTRICT” DIVISION 11, “I-1 LIGHT INDUSTRIAL DISTRICT” DIVISION 12, “MR MARINE RECREATION DISTRICT;” DIVISION 13, “MXE MIXED USE ENTERTAINMENT DISTRICT;” DIVISION 16, “WD-1 WATERWAY DISTRICT” DIVISION 17, “WD-2 WATERWAY DISTRICT” DIVISION 18, “PS PERFORMANCE STANDARD DISTRICT,” TO DELINEATE ALL ALCOHOLIC BEVERAGE ESTABLISHMENTS AS RELATED MAIN PERMITTED, CONDITIONAL, AND PROHIBITED USES BY ZONING DISTRICT; MODIFYING CHAPTER 142, ARTICLE V, “SPECIALIZED USE REGULATIONS,” TO DELETE DIVISION 4, AND SECTION 143-1301, ENTITLED “PERMITTED DISTRICTS;” AMENDING CHAPTER 142, DIVISION 6, “ENTERTAINMENT ESTABLISHMENTS” TO MODIFY AND CLARIFY DEFINITIONS REGULATIONS RELATING ENTERTAINMENT ESTABLISHMENTS AND NEIGHBORHOOD IMPACT ESTABLISHMENTS; BY AMENDING THE NEIGHBORHOOD IMPACT ESTABLISHMENT THRESHOLD REQUIREMENTS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; EXCEPTIONS; AND AN EFFECTIVE DATE.

**WHEREAS**, Chapter 142 of the City Code, entitled “Zoning Districts and Regulations,” includes specialized use regulations that address alcoholic beverages; and

**WHEREAS**, Chapter 6 of the City Code entitled “Alcoholic Beverages”, which regulates the hours of operation of and size of such establishments; and

**WHEREAS**, Chapter 142 shall be amended to ensure that each districts lists whether alcoholic beverage establishments are permitted, not permitted or conditional uses; and

**WHEREAS**, to ensure that all regulations relating to alcoholic beverages are clear, concise and in one location of the code that is logical and convenient to the user; and

**WHEREAS**, the amendment set forth below is necessary to accomplish the objectives identified above.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**SECTION 1.** That Chapter 142, “Zoning Districts and Regulations” is amended, as follows:

## DIVISION 3. - RESIDENTIAL MULTIFAMILY DISTRICTS

\* \* \*

### Subdivision IV. - RM-2 Residential Multifamily, Medium Intensity

\* \* \*

#### Sec. 142-212. - Main permitted uses.

The main permitted uses in the RM-2 residential multifamily, medium intensity district are single-family detached dwellings; townhomes; apartments; apartment-hotels; hotels; except that in the "West Avenue Corridor", defined in this Subdivision as that area bordered by Collins Canal to the north, Alton Road to the east, Biscayne Bay to the West and 6th Street to the south, apartment-hotel or hotel uses are only permitted if issued a building permit or occupational license prior to May 28, 2013, or are approved by the Design Review Board pursuant to a complete application filed and pending prior to May 28, 2013, in which event they shall be considered a "Legal Conforming Use." A property that has a "Legal Conforming Use" as used in this Subdivision prior to May 28, 2013, may retain all, and apply for new, expansions and modifications to, permitted, conditional and /or accessory uses permitted in the zoning category as of May 28, 2013, and apply for building permits to add, improve and/or expand existing structures, or construct new structures for permitted, conditional and/or accessory uses permitted in the zoning category, if FAR remains available; and offices that are incidental and customary to a hotel in the RM-3 district fronting Collins Avenue located no more than 1,200 feet from the RM-3 hotel property. For purposes of this section, the distance between the RM-3 hotel property and the RM-2 office property shall be measured by following a straight line between the properties' boundaries; further that office property shall be governed by a restrictive covenant approved as to form by the City Attorney, recorded in the public records, stipulating that the office use may only remain as long as the hotel use continues.

\* \* \*

#### Sec. 142-214. - Accessory uses.

The accessory uses in the RM-2 residential multifamily, medium intensity district are as required in article IV, division 2 of this chapter and ~~uses that serve alcoholic beverages~~ establishments as listed in article V, division 4 of this chapter, pertaining to alcoholic beverages pursuant to the regulations set forth in Chapter 6. RM-2 properties within the Palm View, or West Avenue corridors may not have accessory outdoor entertainment establishments. Notwithstanding the foregoing, a property that had a legal conforming use as of May 28, 2013, shall have the right to apply for and receive special event permits that contain entertainment uses.

\* \* \*

#### Sec. 142-215. - Prohibited uses.

The prohibited uses in the RM-2 residential multifamily, medium intensity district are accessory outdoor entertainment establishment, accessory open air entertainment establishment, as set forth in article V, division 6 of this chapter; off-premise package sales of alcoholic beverages, and accessory outdoor bar counter; and for properties located within the Palm View, and West Avenue corridors, hotels and apartment-hotels, except to the extent preempted by F.S. §

509.032(7), and unless they are a legal conforming use. Properties that voluntarily cease to operate as a hotel for a consecutive three-year period shall not be permitted to later resume such hotel operation. Without limitation, (a) involuntary hotel closures due to casualty, or (b) cessation of hotel use of individual units of a ~~condo~~-hotel, shall not be deemed to be ceasing hotel operations pursuant to the preceding sentence.

\* \* \*

## **Subdivision V. - RM-3 Residential Multifamily, High Intensity**

### **Sec. 142-242. - Main permitted uses.**

The main permitted uses in the RM-3 residential multifamily, high intensity district are single-family detached dwelling; townhomes; apartments; apartment-hotels; and hotels, except that in the "West Avenue Corridor," defined in this Subdivision as that area bordered by Collins Canal to the north, Alton Road to the east, Biscayne Bay to the West and 6th Street to the south, apartment-hotel or hotel uses are only permitted if issued a building permit or occupational license prior to May 28, 2013, or are approved by the Design Review Board pursuant to a complete application filed and pending prior to May 28, 2013, in which event they shall be considered a "Legal Conforming Use." A property that has a "Legal Conforming Use" as used in this Subdivision prior to May 28, 2013, may retain all, and apply for new, expansions and modifications to, permitted, conditional and accessory uses permitted in the zoning category as of May 28, 2013, and apply for building permits to add, improve and/or expand existing structures, or construct new structures for permitted, conditional and/or accessory uses permitted in the zoning category, if FAR remains available.

\* \* \*

### **Sec. 142-244. - Accessory uses.**

The accessory uses in the RM-3 residential multifamily, high intensity district are as follows:

\* \* \*

~~(2) Uses that serve a Alcoholic beverages establishments as listed in article V, division 4 of this chapter, pertaining to alcoholic beverages pursuant to the regulations set forth in Chapter 6.~~

~~(3) Accessory outdoor bar counters, pursuant to the regulations set forth in Chapter 6. provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.~~

~~(4) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the above restriction on the hours of operation, provided the accessory outdoor bar counter is (i) located in the rear yard, and (ii) set back 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.~~

(4) RM-3 properties within the "West Avenue Corridor" may not have accessory outdoor entertainment establishments. Notwithstanding the foregoing, a property that had a Legal Conforming Use as of May 28, 2013, shall have the right to apply for and receive special event permits that contain entertainment uses.

**Sec. 142-245. - Prohibited uses.**

The prohibited uses in the RM-3 residential multifamily, high intensity district is are off-premise package sales of alcoholic beverages and accessory outdoor bar counters, except as provided in Section 142-244.; and ~~and for~~ properties located within the West Avenue Corridor, hotels and apartment-hotels, except to the extent preempted by Florida Statutes § 509.032(7), and unless a legal conforming use. Properties that voluntarily cease to operate as a hotel for a consecutive three-year period shall not be permitted to later resume such hotel operation. Without limitation, (a) involuntary hotel closures due to casualty, or (b) cessation of hotel use of individual units of a condo-hotel, shall not be deemed to be ceasing hotel operations pursuant to the preceding sentence.

\* \* \*

**DIVISION 4. - CD-1 COMMERCIAL, LOW INTENSITY DISTRICT**

**Sec. 142-272. - Main permitted uses.**

The main permitted uses in the CD-1 commercial, low intensity district are commercial uses; apartments; bed and breakfast inn (pursuant to ~~s~~Section 142-1401); religious institutions with an occupancy of 199 persons or less, and ~~uses that serve alcoholic beverages~~ establishments as listed in ~~article V, division 4 of this chapter, pertaining to alcoholic beverages~~ pursuant to the regulations set forth in Chapter 6.

**DIVISION 5. CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT**

**Sec. 142-302. - Main permitted uses.**

The main permitted uses in the CD-2 commercial, medium intensity district are commercial uses; apartments; apartment/hotels; hotels; religious institutions with an occupancy of 199 persons or less and ~~uses that serve alcoholic beverages~~ establishments as listed in ~~article V, division 4 of this chapter, pertaining to alcoholic beverages~~ (alcoholic beverages) pursuant to the regulations set forth in Chapter 6.

**Sec. 142-303. - Conditional uses.**

- (a) The conditional uses in the CD-2 commercial, medium intensity district include the following:
- (1) Adult congregate living facilities;
  - (2) Funeral homes;
  - (3) Nursing homes;
  - (4) Religious institutions;
  - (5) Pawnshops;
  - (6) Video game arcades;
  - (7) Public and private institutions;
  - (8) Schools;
  - (9) Any use selling gasoline;
  - (10) New construction of structures 50,000 square feet and over (even when divided by a district boundary line), which review shall be the first step in the process before the review by any of the other land development boards;
  - (11) Outdoor entertainment establishments;

- (12) Neighborhood impact establishments;
- (13) Open air entertainment establishments;
- (14) Storage and/or parking of commercial vehicles on a site other than the site at which the associated commerce, trade or business is located. See Section 142-1103.

(b) *Sunset Harbour Neighborhood*. In addition to the conditional uses specified in section 142-303(a), and subject to the conditional use criteria in section 118-192(a), conditional uses in the CD-2 commercial, medium intensity district in the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20<sup>th</sup> Street, Alton Road and Dade Boulevard shall also include the following:

- (1) Main use parking garages;
- (2) Restaurants with alcoholic beverage licenses (~~Alcoholic beverage establishments~~) with more than 100 seats or an occupancy content (as determined by the Fire Marshall) in excess of 125, but less than 199 persons and a floor area in excess of 3,500 square feet.

(c) *North Beach Neighborhood*. In addition to the conditional uses specified in section 142-303(a), and subject to the conditional use criteria in section 118-192(a), conditional uses in the CD-2 commercial, medium intensity district in the North Beach neighborhood (located north of 65<sup>th</sup> Street), shall also include the following:

- (1) Alcoholic beverage establishments (not also operating as a full restaurant with a full kitchen, serving full meals);
- (2) Dance halls;
- (3) Entertainment establishments.

#### **Sec. 142-304. - Accessory uses.**

The accessory uses in the CD-2 commercial, medium intensity district are as required in article IV, division 2 of this chapter; and accessory outdoor bar counters, pursuant to the regulations set forth in Chapter 6, ~~provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for a property an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.~~

#### **Sec. 142-305. - Prohibited uses.**

The prohibited uses in the CD-2 commercial, medium intensity district are accessory outdoor bar counters, except as provided in ~~this division~~ Article IV, Division 2 of this chapter and in Chapter 6. Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, also include alcoholic beverage establishments (not also operating as a full restaurant with a full kitchen, serving full meals); dance halls; entertainment establishments; outdoor entertainment establishment; neighborhood impact establishment; and open air entertainment establishment.

## DIVISION 6. - CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT

### Sec. 142-332. - Main permitted uses.

The main permitted uses in the CD-3 commercial, high intensity district are commercial uses; apartments; apartment/hotels; hotels, [alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6](#), and religious institutions with occupancy of 199 persons or less. Oceanfront properties in the architectural district shall not be permitted to have new retail and/or office areas totaling more than 250 square feet unless the building is rehabilitated according to the South Florida Building Code, the city property maintenance standards, and fire prevention and safety codes and if it is a historic structure the U.S. Secretary of the Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. Offices are prohibited on the ground floor on that portion of Lincoln Road which is closed to traffic, unless the office area is located in a mezzanine, or at least 75 feet back from the storefront; also apartments, apartment/hotels and hotels located on that portion of Lincoln Road shall comply with section 142-335. Dance halls [and entertainment establishments](#) (as defined in section 114-1 of this Code) not also operating as restaurants with full kitchens and serving full meals and licensed as alcoholic beverage establishments are prohibited on properties having a lot line adjoining Lincoln Road, from the Atlantic Ocean to Biscayne Bay, unless the dance hall [and entertainment establishment](#) is located within a hotel with a minimum of 100 hotel units.

\* \* \*

### Sec. 142-334. - Accessory uses.

The accessory uses in the CD-3 commercial, high intensity district are as follows:

(1) Those uses permitted in Article IV, Division 2 of this chapter.

(2) Accessory outdoor bar counters, [pursuant to the regulations set forth in Chapter 6](#), ~~provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.~~

~~(3) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter notwithstanding the above restriction on the hours of operation, provided the accessory outdoor bar counter is (i) located in the rear yard, and (ii) setback 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.~~

### Sec. 142-335. - Prohibited uses.

The prohibited uses in the CD-3 commercial, high intensity district are pawnshops; secondhand dealers of precious metals/precious metals dealers; and accessory outdoor bar counter, except as provided in ~~this division~~ [Article IV, Division 2 of this chapter and in Chapter 6](#).

## DIVISION 7. CCC CIVIC AND CONVENTION CENTER DISTRICT

\* \* \*

### Sec. 142-362. - Main permitted uses.

The main permitted uses in the CCC civic and convention center district are parking lots, garages, performing arts and cultural facilities; hotel; [alcoholic beverage establishments](#)

pursuant to the regulations set forth in Chapter 6, merchandise mart; commercial or office development; landscape open space; parks. Any use not listed above shall only be approved after the City Commission holds a public hearing. See section 142-367 for public notice requirements.

\* \* \*

**Sec. 142-363. - Conditional uses.**

Conditional use approval for a neighborhood impact establishment may be waived by the City Commission, otherwise there are no conditional uses in the CCC, Civic and Convention Center District

**DIVISION 8. - GC GOLF COURSE DISTRICT**

**Sec. 142-394. - Accessory uses.**

The accessory uses in the GC golf course district are as required in article IV, division 2 of this chapter and the sale or distribution of alcoholic beverages pursuant to the regulations set forth in Chapter 6.

**DIVISION 9. - GU GOVERNMENT USE DISTRICT**

**Sec. 142-422. - Main permitted uses.**

The main permitted uses in the GU, Government Use District, are government buildings and uses, including but not limited to parking lots and garages; parks and associated parking; schools; performing arts and cultural facilities; alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6, monuments and memorials. Any use not listed above shall only be approved after the city commission holds a public hearing. See subsection 142-425(e) for public notice requirements.

**DIVISION 10. - HD HOSPITAL DISTRICT**

**Sec. 142-452. - Permitted uses.**

In the HD, Hospital District, no land, water or structure may be used, in whole or in part, except for one or more of the following permitted uses. ~~Permitted uses that sell, serve or otherwise distribute alcoholic beverages in this district shall comply with the standards and regulations found in article V, division 4 of this chapter~~ The sale of alcohol within the HD shall be regulated pursuant to the requirements of Chapter 6.

**DIVISION 11. I-1 LIGHT INDUSTRIAL DISTRICT**

**Sec. 142-482. - Main permitted uses.**

The main permitted uses in the I-1, Urban Light Industrial District, are those uses that are consistent with the district purpose including the following:

\* \* \*

- 13) Commercial uses that provide support services to the light industrial uses and to the adjacent RM-3 residents, including but not limited to retail sales, photocopying, coffee shop, ~~standard~~ restaurant, alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6, video rental, bank;

## DIVISION 12. - MR MARINE RECREATION DISTRICT

### Sec. 142-514. - Accessory uses.

The accessory uses in the MR, Marine Recreation District, are as required in article IV, division 2 of this chapter. Accessory uses in this district shall be any use that is customarily associated with a main permitted use; including but not limited to and alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6.

## DIVISION 13. - MXE MIXED USE ENTERTAINMENT DISTRICT

### Sec. 142-543. - Accessory uses.

The accessory uses in the MXE, Mixed Use Entertainment District, are as follows.

(1) Those uses permitted in Article IV, Division 2 of this chapter. See also Article IV, Division 2, of this article Chapter. Note:

(2) Uses that serve alcoholic beverages are also subject to the regulations of article V, division 4 of this chapter. set forth in Chapter 6.

(3) Accessory outdoor bar counters, pursuant to the regulations set forth in Chapter 6. provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter that is within 100 feet of which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

(2) Accessory outdoor bar counter located in the cabaret overlay district.

(3) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the restriction on the hours of operation, set forth in subsection (1) of this section, provided the accessory outdoor bar counter is located in the rear yard and set back 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.

\* \* \*

### Sec. 142-546. - Additional restrictions for lots fronting on Ocean Drive, Ocean Terrace and Collins Avenue.

In the MXE, Mixed Use Entertainment District, permitted uses in existing buildings at the time of adoption of this section with two stories or less fronting on Ocean Drive or Ocean Terrace and any building fronting on Collins Avenue from Sixth Street to 16th Street shall comply with the following:

\* \* \*

- (2) Such-The buildings may contain offices ~~(medical and dental offices are prohibited),~~ retail, eating or drinking uses food service establishments, alcoholic beverage establishments and residential uses or any combination thereof. Medical and dental office shall be prohibited uses in the MXE districts. Commercial uses located above the ground floor shall only have access from the interior of the building; no exterior access shall be permitted, unless a variance from this requirement is granted.

## DIVISION 16. - WD-1 WATERWAY DISTRICT

**Sec. 142-634. - Accessory uses.**

The accessory uses in the WD-1, Waterway District, are as required by Article IV, Division 2 of this Chapter and as delineated in Chapter 6, as it relates to alcoholic beverage establishments.

**DIVISION 17. - WD-2 WATERWAY DISTRICT**

**Sec. 142-664. - Accessory uses.**

The accessory uses in the WD-2, Waterway District, are as required in Article IV, Division 2 of this Chapter and as delineated in Chapter 6, as it relates to alcoholic beverage.

\* \* \*

**DIVISION 18. PS PERFORMANCE STANDARD DISTRICT**

\* \* \*

**Sec. 142-693. Permitted uses.**

(a) The following uses are permitted in the performance standard districts:

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
Single-family; townhome; apartment; apartment/hotel	P	P	P	P Apartment/hotel not permitted
Hotel	N	P	P	N
Commercial	N	N	P	P 8% of floor area
Institutional	C	C	C	C 1.25% of floor area
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an	N	N However, accessory outdoor bar counters are permitted in oceanfront hotels with at least 100 hotel units in the R-PS4 district*.	P* <u>However, accessory outdoor bar counters shall not be permitted on a property within 100 feet of a property with a residential use</u> *	N

which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.				
Outdoor entertainment establishments and open air entertainment establishments	N	N	N	N
Neighborhood impact establishments	N	N However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a conditional use. Access to the establishment shall be only from the interior lobby of the hotel and not from the street.	C	N
Accessory	P*	P*	P*	P*

The following uses are permitted in the performance standard district:

P—Main permitted use    C—Conditional use    N—Not permitted

\* — Accessory use only

Floor area in the RM-PS1 district refers to total floor area in project. Commercial uses in RM-PS1 are limited to stores and restaurants.

\* \* \*

- (i) Notwithstanding the uses permitted in (a) and (d) above, in all districts except GU, government use district, no alcoholic beverage establishment, or restaurant, may be licensed or operated as a main permitted, conditional, or accessory use in any open area above the ground floor (any area that is not included in the FAR calculations) located south of 5th Street. Except that:

- (1) Outdoor restaurant seating, not exceeding 40 seats, associated with indoor venues may be permitted in the areas described in this subsection (i) before 8:00 p.m. with no background music (amplified or nonamplified).
- (2) No commercial activity may be permitted on areas as described in this subsection (i) between the hours of 8:00 p.m. and 10:00 a.m.
- (3) Nothing herein shall prohibit residents of a multifamily (apartment or condominium) building, or hotel guests and their invitees to use these areas as described in this subsection (i), which may include a pool or other recreational amenities, for their individual, personal use.

Variances from this subsection (i) shall not be permitted. Special events shall not be permitted in the areas described in this subsection (i).

(i) In districts that allow commercial and hotel uses above, alcoholic beverage establishments are permitted pursuant to the regulations set forth in Chapter 6, but not in contravention of section (i) herein.

\* \* \*

## **DIVISION 2. - ACCESSORY USES**

### **Sec. 142-901. - General provisions.**

Accessory uses shall comply with the following general provisions:

- (1) Accessory uses shall be located on the same lot as the main permitted use, except for required parking which may be located within 1,200 feet of the property. The distance separation shall be measured by following a straight line from the lot on which the main permitted use is located to the lot where the parking lot or garage is located.
- (2) Accessory uses shall be incidental to and customarily associated with the main permitted use, in accordance with the regulations herein. ~~In making the determination, the planning and zoning director may require the applicant to provide evidence that such use meets this criteria. The planning and zoning director may also make use of and require the applicant to provide planning reports and studies and other investigations to support the applicant's request.~~
- (3) Accessory uses in residential districts shall comply with the following, whether covered or uncovered:
  - a. In the RM-1 zoning district, the floor area of individual accessory uses, or the total aggregate floor area of multiple accessory uses, shall not occupy more than twenty (20) percent of the floor area of the main permitted use.
  - b. In the RM-2 zoning district, the floor area of individual accessory uses, or the total aggregate floor area of multiple accessory uses, shall not occupy more than thirty

(30) percent of the floor area of the main permitted use. The Planning Board may allow up to thirty-five (35) percent through the conditional use process.

c. In the RM-3 zoning, the floor area of individual accessory uses, or the total aggregate floor area of multiple accessory uses, shall not occupy more than forty (40) percent of the floor area of the main permitted use. The Planning Board may allow up to forty-nine (49) percent through the conditional use process.

d. Any outdoor, unenclosed or uncovered accessory use serving alcohol and located in an RM-2 district shall require Conditional Use approval.

e. The percentages contained in this section 142-901 (3) do not include required parking.

(4) Off-street parking and loading spaces shall be considered as accessory uses in all districts.

~~(5) A use other than those listed in this division may be considered as an accessory use if it is customarily associated with one of the main permitted uses and if the planning and zoning director finds that the use complies with the below mandatory criteria:~~

~~a. The use complies with subsections (1) and (2) of this section.~~

~~b. The use is consistent with the purpose of the zoning district in which it is located.~~

~~c. That the necessary safeguards will be provided for the protection of surrounding property, persons and neighborhood values.~~

~~d. That the public health, safety, morals and general welfare of the community will not be adversely affected.~~

~~e. It is consistent with the comprehensive plan and neighborhood plan if one exists.~~

(6) An occupational license [A business tax receipt](#) or building permit, whichever is being requested, shall only be approved for an accessory use if the building complies with all of the following mandatory requirements.

a. All structures shall conform to the South Florida Building Code, the property maintenance standards and the fire prevention and life safety code.

b. The existing building and the proposed improvements shall be built in a manner that is substantially consistent with the design recommendations in a neighborhood plan for the area if one exists, and if the building is a historic structure, then the U.S. Secretary of the Interior Standards for Rehabilitation of Historic Buildings as amended shall be used.

c. The minimum and average floor area requirements for the units as set forth in article II, division 13 of this chapter shall be met.

(7) Appeal of the ~~Planning and zoning~~ Director's decision pertaining to any finding shall be to the Board of Adjustment as provided in chapter 118, article IX, and shall be considered as an appeal of an administrative decision.

\* \* \*

**Sec. 142-902. - Permitted accessory uses.**

The following are permitted accessory uses:

(1) a. Hotels not located in the RM-1 or RM-2 district are permitted to have any accessory restaurants, drinking establishments, outdoor and sidewalk cafés, hotel management offices, and retail uses use in accordance with the regulations herein, as well as accessory uses customarily associated with the operation of an apartment building, as specified in subsection 142-902(2). ~~that is customarily associated with the operation of a hotel or apartment building.~~

b. Hotels located in the RM-2 district are permitted to have any accessory restaurants, and hotel management offices use in accordance with the regulations herein. ~~that is customarily associated with the operation of a hotel or apartment building, except for d~~Dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air entertainment establishments shall be prohibited in an RM-2 district.

c. Where permitted, hotels located in the RM-1 district may have accessory uses based upon the below criteria:

1. A dining room operated solely for registered hotel visitors and their guests, located inside the building and not visible from the street, with no exterior signs, entrances or exits except as required by the South Florida Building Code.

2. Other accessory uses customarily associated with the operation of an apartment building, as referenced in subsection 142-902(2), for the use of registered hotel visitors and their guests only.

\* \* \*

(2) Apartment buildings may have accessory uses based upon the below criteria:

\* \* \*

e. Buildings in the RM-3 and R-PS4 districts may have:

1. Commercial, office, eating or drinking uses with access from the main lobby or from the street if they are either located on the ground floor, subterranean level or on the highest floor of a building.

2. A retail store and / or a café with less than 30 seats may occupy space on the amenity level of an apartment building located within a RM-3 district that is only open to residents and their guests.

3. Office space, when originally constructed on the second level of an existing building may be retained or re-introduced. When located on the ground floor, office space shall be at least 50 feet from the front property line.

## ARTICLE V. - SPECIALIZED USE REGULATIONS

### DIVISION 4. ALCOHOLIC BEVERAGES

#### Sec. 142-1301. Permitted districts.

~~Vendors may be permitted to sell or distribute alcoholic beverages, either for consumption on or off the premises only in the following zoning districts:~~

- ~~(1) RM-2 multiple family, medium intensity.~~
- ~~(2) RM-3 multiple family, high intensity.~~
- ~~(3) CD-1 commercial, low intensity.~~
- ~~(4) CD-2 commercial, medium intensity.~~
- ~~(5) CD-3 commercial, high intensity.~~
- ~~(6) CCC convention center district.~~
- ~~(7) HD hospital district.~~
- ~~(8) I-1 industrial, light.~~
- ~~(9) MR marine recreational.~~
- ~~(10) MXE mixed use entertainment.~~
- ~~(11) WD-1 waterway district.~~
- ~~(12) WD-2 waterway district.~~
- ~~(13) R-PS2 residential medium density.~~
- ~~(14) R-PS3 residential medium-high density.~~
- ~~(15) R-PS4 residential high density.~~
- ~~(16) C-PS1 commercial limited mixed use.~~
- ~~(17) C-PS2 commercial general mixed use.~~
- ~~(18) C-PS3 commercial intensive mixed use.~~
- ~~(19) C-PS4 commercial intensive phased bayside.~~
- ~~(20) RM-PS1 residential limited mixed-use development.~~
- ~~(21) TC-1 North Beach Town Center core.~~
- ~~(22) TC-2 North Beach Town Center mixed-use.~~
- ~~(23) TC-3 North Beach Town Center residential/office.~~

### DIVISION 6. ENTERTAINMENT ESTABLISHMENTS AND NEIGHBORHOOD IMPACT ESTABLISHMENTS

\* \* \*

#### Sec. 142-1361. Definitions.

\* \* \*

~~Entertainment means any live show or live performance or music amplified or nonamplified. Exceptions: Indoor movie theater; big screen television and/or background music, amplified or nonamplified, played at a volume that does not interfere with normal conversation.~~

Entertainment establishment means a commercial establishment including, but not limited to, restaurants, bars, and alcoholic beverage establishments that include live entertainment, disc jockey, patron dancing, and/or recorded entertainment. Entertainment does not include television, radio and/or recorded background music, played at a volume that does not interfere with normal conversation, and indoor movie theater operations.

Hours of operation of entertainment establishments. Entertainment establishments may not operate between the hours of 5:00 a.m. and 10:00 a.m.

Live entertainment shall mean and include all shows, live music, games of sport and performances of any kind but shall not include adult entertainment.

Neighborhood impact establishment means:

(1) An alcoholic beverage establishment, place of assembly, hall for hire or restaurant, not also operating as an entertainment establishment or dance hall (as defined in section 114-1), with an occupant content of 300 or more persons as determined by the chief fire marshal 6,000 square feet or more of gross floor area inclusive of outdoor areas associated with food and beverage services; or

(2) An alcoholic beverage establishment, place of assembly, hall for hire or restaurant, which is also operating as an entertainment establishment or dance hall (as defined in section 114-1), with an occupant content of 200 or more persons as determined by the chief fire marshal 3,500 square feet or more of gross floor area inclusive of outdoor areas associated with food and beverage services.

(3) For purposes of this section, an alcoholic beverage establishment shall include multiple establishments in one building site unless both criteria (a) and (b) below are met:

a. The alcoholic beverage establishments have separate Business Tax Receipts.

b. The alcoholic beverage establishments are completely self-contained and do not share any ingress or egress points.

\* \* \*

Patron dancing shall mean dancing by patrons or guests of an establishment or business.

Recorded entertainment means recorded music or recorded vocal entertainment or both, amplified or non-amplified, but shall not include adult entertainment.

## **SECTION 2. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or

re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

**SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 4. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. EXCEPTIONS.**

This Ordinance shall not apply to an application filed for Land Use Board Approval with the Planning Department on or before November 24, 2015, and shall not apply to any business that has received a business tax receipt on or before November 24, 2015. A business tax receipt that is issued in connection with an annual renewal of such business tax receipt or in connection with a change in the name of the licensee relating to such business tax receipt shall not be deemed to be issued after November 24, 2015 for purposes of this ordinance if the original business tax receipt for such business was issued before such date.

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: December 9, 2015

Second Reading: January \_\_, 2016

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP Planning Director

Underscore denotes new language  
~~Strikethrough~~ denotes removed language