MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Members of the Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: July 20, 2016

SUBJECT: **LAND USE AND DEVELOPMENT COMMITTEE MEETING OF JULY 20, 2016**

A meeting of the Land Use and Development Committee has been scheduled for July 20, 2016 at 2:00 p.m. in the City Commission Chambers.

ACTION ITEMS

1. **An Ordinance Amending Chapter 142 Of The City Code As It Pertains To Alcoholic Beverage Establishments On The West Side Of Alton Road And The South Side Of 17th Street.**

   (Continued from the June 15, 2016 LUDC Meeting
   Sponsored by Commissioner Joy Malakoff
   May 11, 2016 City Commission Meeting, Item R5F)

DISCUSSION ITEMS

2. **Update On The Transit Hub On The 500 Block Of Alton Road.**

   (Continued from the May 18, 2016 LUDC Meeting
   Sponsored by Commissioner Ricky Arriola
   April 13, 2016 City Commission Meeting, Item C4Q)

3. **Discussion Regarding Exploring Limiting Package Store Alcohol Sales To No Earlier Than 10:00 a.m., As Recommended By The Miami Beach Homeless Committee.**

   (Continued from the June 15, 2016 LUDC Meeting
   Sponsored by Commissioner Joy Malakoff
   June 8, 2016 City Commission Meeting, Item C4X)

VERBAL REPORTS

4. **Discussion Regarding The Recommendation Of The Neighborhood/Community Affairs Committee To Establish More Aggressive Requirements For Employee Transportation Plans.**
   (Continued from the June 15, 2016 LUDC Meeting
   Sponsored by City Commission
   June 8, 2016 City Commission Meeting, Item R7X)

5. **Discussion Regarding Potential Ordinance Amendment Addressing Further Restrictions On Illegal STR's In Suite- And Condo-Hotels.**
   (Sponsored by Commissioner Michael Grieco
   July 13, 2016 City Commission Meeting, Item C4K)

6. **Discussion Regarding An Amendment To The West Avenue Overlay To Remove The Current Allowance For Bed And Breakfast And Suite Hotel Uses.**
   (Sponsored by Commissioner Joy Malakoff
   July 13, 2016 City Commission Meeting, Item C4L)

7. **Discussion Regarding Amending Chapter 114 Prohibiting Package Stores in the MXE District.**
   (Sponsored by Commissioner Ricky Arriola
   July 13, 2016 City Commission Meeting, Item C4I)

8. **Amendment To Sec. 118-394 Of The City Code To Expand And Better Define The Discontinuance Procedures For Legal Non-Conforming Uses.**
   (Sponsored by Commissioner Michael Grieco
   July 13, 2016 City Commission Meeting, Item R5I)

2016 Meeting Schedule

Wednesday September 21, 2016

Wednesday October 26, 2016 at 2 p.m.

Wednesday November 16, 2016

Monday December 12, 2016

ITEM ONE

LUDC # 3

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: July 20, 2016

SUBJECT: **PROPOSED ORDINANCE: OPERATIONAL REGULATIONS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS ALONG THE SOUTH SIDE OF 17TH STREET.**

HISTORY

At the February 10, 2016 City Commission meeting, while discussing item R5F, concerning the consolidation ordinance for alcoholic beverages, the Commission referred a discussion item to the Land Use and Development Committee (LUDC) pertaining to separate alcohol regulations for Alton Road and 17th Street. This proposal was sponsored by Commissioner Joy Malakoff.

On February 17, 2016, the LUDC discussed the item and continued the matter to March 30, 2016. Staff was instructed to prepare a draft ordinance in accordance with the discussion, for review on March 30, 2016. On March 30, 2016, the Land Use Committee reviewed the proposed ordinance and transmitted it to the City Commission with a favorable recommendation.

Initially the proposed modifications were to be located in Chapter 6 of the City Code. Subsequent to the recommendation of the Land Use Committee, it was determined that the modifications needed to be in Chapter 142 of the Land Development Regulations, so that all regulations regarding alcohol hours of operation and conditional use criteria be located within the same chapter.

On April 13, 2016, the City Commission approved the proposed ordinance at First Reading and set a Second Reading Hearing for May 11, 2016. The City Commission also referred the item to the Planning Board, prior to Second Reading. Additionally, the City Commission requested that the Planning Board further study the 17th Street portion of the legislation, particularly as it pertains to a 100 foot distance separation from single family uses.

On April 19, 2016, the Planning Board reviewed the proposed Ordinance and took the following action:

1. The Alton Road portion of the ordinance was transmitted with a favorable recommendation (6-1).

2. The 17th Street portion of the ordinance was transmitted with an unfavorable recommendation (7-0) and the Board further recommended that this portion of the legislation be bi-furcated for further study.

On May 11, 2016, the City Commission approved the Alton Road portion of the legislation, and referred the 17th Street part back to the Land Use Committee for further study. On May 18, 2016, the Land Use Committee continued this item to June 15, 2016.

On June 15, 2016 the Land Use Committee discussed the item and directed staff to revise the ordinance to amend Sec 142-332, and to require that entertainment establishments in the affected area also include full kitchens.

ANALYSIS

The south side of 17th Street is commercially zoned (CD-3), between Meridian Avenue and Lenox Avenue; therefore, there is the potential for more intense commercial development. This area is directly across the street from residential uses (RM-1 and RS-4) in the Palm View Historic District, which is comprised of low-rise apartment buildings and single family homes. Certain operational standards and regulations exist in the zoning code for the other parts of the City (e.g. North Beach, South of Fifth, and Sunset Harbor) that have a mixture of residential development and destination eating and drinking establishments. However, new establishments along 17th Street do not currently have the same type of regulations.

Currently, alcoholic beverage and entertainment establishments not exceeding specified occupational load thresholds do not require Conditional Use review by the Planning Board in the commercial zoning districts along 17th Street. These thresholds are less than 300 persons for eating and drinking establishments without entertainment or less than 200 persons for establishments with entertainment as determined by the Fire Marshall. Additionally, 5:00 am liquor licenses are permitted.

The CD-3 district between Lincoln Lane North and 17th Street, from Meridian Avenue to Lenox Avenue, borders low intensity, non-transient residential districts. As such, residents from these areas have been expressing a strong desire for operational restrictions on eating and drinking establishments, particularly with regard to the hours of operation, outdoor areas, and entertainment uses.

At the direction of the City Commission on May 11, 2016, staff drafted a revised ordinance, specific to the 17th Street area. The previous draft legislation had proposed operational requirements and hours restrictions on alcoholic beverage establishments and outdoor areas for properties south of 17th Street, from Meridian to Lenox Avenues, the entrance door of which was located within 100 feet of a single family residential use.

UPDATE

As indicated previously, the 100 foot distance separation proposed under the prior ordinance draft would have only affected a very limited number of properties. On June 15, 2016, the Land Use Committee discussed a more defined way to address the area south of 17th Street and north of Lincoln Lane North, between Lenox and Meridian Avenue. Pursuant to the direction of the Land Use Committee, the attached ordinance has been revised and updated to include the following revision to sec 142-332:

"For properties located south of 17th Street, between Lenox Avenue and Meridian Avenue, and properties with a lot line adjoining Lincoln Road, from Collins Avenue to Alton Road, entertainment establishments and dance halls (as defined in section 114-1 of this Code) licensed as alcoholic beverage establishments shall only operate as restaurants with full kitchens and serving full meals. Such entertainment establishments and dance halls shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits"

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the item further and provide appropriate policy direction. If there is consensus on the item, it is further recommended that the revised ordinance be sent to the full City Commission for referral to the Planning Board.

JLM/SMT/TRM

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17TH STREET SOUTH
ALCOHOLIC BEVERAGE ESTABLISHMENT REGULATIONS

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," AT DIVISION 6, "CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT," SECTION 142-332, "MAIN PERMITTED USES"; TO AMEND THE OPERATION, LOCATION, AND USE RESTRICTIONS FOR ENTERTAINMENT, DANCE HALL AND ALCOHOLIC BEVERAGE ESTABLISHMENTS LOCATED SOUTH OF 17TH STREET, BETWEEN LENOX AVENUE AND MERIDIAN AVENUE, AND PROPERTIES WITH A LOT LINE ADJOINING LINCOLN ROAD, FROM COLLINS AVENUE TO ALTON ROAD; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the 17th Street corridor has historically been composed of low intensity retail, service and retail establishments, which primarily serve City residents; and

WHEREAS, alcoholic beverage establishments in Miami Beach have been historically concentrated in the commercial and mixed-use entertainment districts along Washington Avenue, Collins Avenue, and Ocean Drive; and

WHEREAS, the Palm View neighborhood, located to the north of 17th Street and to the south of the Collins Canal, is comprised of mainly single family residential uses and is divided by 17th Street from a CD-3 commercial high intensity district; and

WHEREAS, the City Code allows certain uses within the CD-3 district, which, absent mitigation, could be incompatible with adjacent residential uses in the Palm View neighborhood; and

WHEREAS, stand-alone bars, entertainment establishments, and dance halls can sometimes be incompatible with the low scale character and quality of life of adjacent residential neighborhoods if not regulated; and

WHEREAS, the Mayor and City Commission desire to encourage uses that are compatible with the low-scale character of the neighborhood; and

WHEREAS, pursuant to Section 562.14, Florida Statutes, a municipality may, by ordinance, establish hours of sale for alcoholic beverages; and

WHEREAS, Florida courts have rejected equal protection and due process challenges to Section 562.14, Florida Statutes (*See Wednesday Night, Inc. v. City of Fort Lauderdale* (Fla. 1973)); and

WHEREAS, in *State ex rel. Floyd v. Noel* (Fla. 1936), the Florida Supreme Court recognized that "[i]t is so well settled that no citation of authority is required to support the statement that a municipality exercising the powers inherent in municipal corporations may reasonably regulate the sale of intoxicating liquors and in providing such reasonable regulations may prohibit the sale of such liquors within certain hours, and also may prohibit the sale of liquors within certain zones"; and

WHEREAS, in *Makos v. Prince* (Fla. 1953), the Florida Supreme Court recognized that a county may establish separate zones for the hours of sale of alcoholic beverages, and that the regulation of hours need not be uniform throughout the county as a whole; and

WHEREAS, Florida courts have consistently held that alcoholic beverage establishments are not entitled to grandfather status as to hours of sale for alcoholic beverages (*See Village of North Palm Beach v. S & H Foster's, Inc.* (Fla. 4th DCA 2012); *Other Place of Miami, Inc. v. City of Hialeah Gardens* (Fla. 3d DCA 1978)); and

WHEREAS, Chapter 1, of the Land Use Element, Objective 2, "Land Use Compatibility," of the City's 2025 Comprehensive Plan (hereinafter "Plan"), specifies that the City's land development regulations will be used to address the location, type, size and intensity of land uses and to ensure adequate land use compatibility between residential and non-residential land uses; and

WHEREAS, Policy 2.1 of the Plan provides that the land development regulations shall continue to address the location and extent of nonresidential land uses in accordance with the Future Land Use map and the policies and descriptions of types, sizes and intensities of land uses contained in [the Future Land Use] Element; and

WHEREAS, Policy 2.2 of the Plan provides that development in land use categories which permit both residential and non-residential uses shall be regulated by formalized land development regulations which are designed to ensure adequate land use compatibility; and

WHEREAS, compatibility shall be achieved by one or more of the following: (1) enumeration of special land uses which may be particularly incompatible with residential uses and may be prohibited in specified areas or zoning districts; (2) enumeration of special land use administrative procedures such as Conditional Use approval, which require public hearings prior to special land use approval; (3) enumeration of special land use criteria such as minimum required distance separations from residential districts or uses or allowable hours of operation, to ensure that non-residential special land uses are properly located with respect to any residential uses to which they may be incompatible; and (4) the vertical separation of residential and non-residential uses within mixed use buildings through the use of land use regulations on accessory uses within residential buildings, and the identification of those types of commercial uses which are particularly incompatible with residential uses and which shall therefore NOT be permitted in mixed use buildings; and,

WHEREAS, in determining incompatibility, consideration shall be given to noise, lighting, shadows, access, traffic, parking, height, bulk, landscaping, hours of operation, buffering and any other criteria that may be important to ensure that necessary safeguards are provided for the protection of surrounding property, persons, and neighborhood values; and

WHEREAS, in accordance with Chapter 1, Objective 2, Policies 2.1 and 2.2 of the Plan, is it is desirable to encourage uses in commercial districts that are properly balanced and compatible with the scale, character and context of adjacent residential neighborhoods; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 6, "CD-3, Commercial, High Intensity District," is hereby amended as follows:

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. 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. For properties located south of 17th Street, between Lenox Avenue and Meridian Avenue, and properties with a lot line adjoining Lincoln Road, from Collins Avenue to Alton Road, entertainment establishments and dance halls (as defined in section 114-1 of this Code) licensed as alcoholic beverage establishments shall only operate as restaurants with full kitchens and serving full meals. Such entertainment establishments and dance halls shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits. ~~For Dance halls (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 is located within a hotel with a minimum of 100 hotel units~~.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 3. CODIFICATION.

It is the intention of the City Commission, 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, as amended; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

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 any valid, pre-existing permitted use with a valid business tax receipt (BTR).

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2016.

_____
Philip Levine
Mayor

ATTEST:

_____
Rafael E. Granado
City Clerk

First Reading: _____, 2016
Second Reading: _____, 2016

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

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ITEM TWO

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: July 20, 2016

SUBJECT: **DISCUSSION: TRANSIT HUB ON THE 500 BLOCK OF ALTON ROAD**

BACKGROUND

On April 13, 2016, at the request of Commissioner Arriola, the City Commission referred the subject item to the Land Use and Development Committee (Item C4Q). On April 20, 2016, the Land Use Committee discussed the proposal, including a draft ordinance prepared by the 500 Alton Road property owner, and continued the item to May 18, 2016. On May 18, 2016, the matter was continued to July 20, 2016.

ANALYSIS

The owner of the property at 500 Alton Road has filed a private application with the Planning Board for the proposed ordinance amendment, as well as required comprehensive plan amendments. The proposal would amend the CPS-2 development regulations for properties west of Alton Road that incorporate a City multi-modal transit hub.

These proposed modifications include amending setback and first floor activation requirements, as well as a proposal to increase the maximum allowable building height from the current 7 stories / 75 feet to 30 stories / 300 feet. Chapter 114 of the Land Development Regulations is also proposed to be modified by creating a definition for 'Developments that incorporate a City multi-modal transit hub'.

UPDATE

On June 28, 2016, the Planning Board, at the request of the applicant, continued the item to a date certain of August 23, 2016. The ordinance and comprehensive plan amendments are now scheduled to be considered by the City Commission at First Reading on September 14, 2016.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the matter further and provide appropriate policy direction.

JLM/SMT/TRM

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ITEM THREE

LUDC # 13

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: July 20, 2016

SUBJECT: **DISCUSSION: PROPOSED ORDINANCE LIMITING PACKAGE STORE ALCOHOL SALES TO NO EARLIER THAN 10:00 A.M., AS RECOMMENDED BY THE MIAMI BEACH COMMITTEE ON THE HOMELESS.**

HISTORY

On June 8, 2016, the City Commission, at the request of Commissioner Joy Malakoff, referred the item to the Land Use and Development Committee (Item C4X). On June 15, 2016 the Land Use Committee discussed the item and directed the Administration to prepare an ordinance that would be applicable to all retail stores.

ANALYSIS

The Committee on the Homeless has recommended that package liquor sales be pushed back by two hours, from the current 8:00 am to 10:00 am. This recommendation was specifically limited to package sales and not restaurant/bar sales. Pursuant to the direction of the Land Use Committee, the attached ordinance has been drafted. The specific revisions to Chapter 6, as drafted, include the following:

- For retail package sales only (off-premises consumption), sales would only be permitted between the hours of 10:00 a.m. and midnight.

- For retail stores, including grocery, convenience stores, and gasoline service/filling stations, which primarily offer for sale products other than alcoholic beverages, the sale of beer and wine (off-premises consumption) would only be permitted between the hours of 10:00 a.m. and midnight.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the item further and provide appropriate policy direction.

JLM/SMT/TRM/MR

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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 CHAPTER 6 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "ALCOHOLIC BEVERAGES," ARTICLE I, ENTITLED "IN GENERAL," SECTION 6-3 THEREOF, ENTITLED "HOURS OF SALE," TO PROHIBIT PACKAGE LIQUOR SALES AT RETAIL STORES BEFORE 10:00 A.M. EACH DAY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, in Chapter 6 of the City Code, entitled "Alcoholic Beverages," the City of Miami Beach ("City") regulates the location, size, hours of operation, and minimum patron age for uses that permit the sale and consumption of alcoholic beverages; and

WHEREAS, the City's Committee on the Homeless has recommended...

WHEREAS, it is in the best interest of the City, and it serves the health, safety, and welfare of the City's residents and visitors, to prohibit package liquor sales at retail stores before 10:00 a.m. each day, because the sale and consumption of package liquor sales early in the morning contributes to adverse safety conditions, including the operation of motor vehicles under the influence, as well as an interference with the enjoyment of the environment, and the overall safety and quality of life for residents and visitors; and

WHEREAS, State law expressly grants the City the authority to establish its own regulations for the time for sale of alcoholic or intoxicating beverages; and

WHEREAS, pursuant to Section 562.14, Florida Statutes, a municipality may, by ordinance, establish hours of sale for alcoholic beverages; and

WHEREAS, Florida courts have rejected equal protection and due process challenges to Section 562.14, Florida Statutes (*See Wednesday Night, Inc. v. City of Fort Lauderdale* (Fla. 1973)); and

WHEREAS, Florida Courts have determined that it is within the police power and authority for a municipality to change the hours of regulation of alcoholic beverages, because municipalities have the statutory authority under Section 562.14, Florida Statutes, to restrict the sale of alcohol; additionally, a municipal ordinance regulating the hours of sale of alcoholic beverages may be applied to a property incorporated later into the municipality by annexation. *Village of North Palm Beach v. S & H Foster's, Inc.*, 80 So. 3d 433 (Fla. 4th DCA 2012); and

WHEREAS, in *State ex rel. Floyd v. Noel* (Fla. 1936), the Florida Supreme Court recognized that "[i]t is so well settled that no citation of authority is required to support the statement that a municipality exercising the powers inherent in municipal corporations may reasonably regulate the sale of intoxicating liquors and in providing such reasonable regulations may prohibit the sale of such liquors within certain hours, and also may prohibit the sale of liquors within certain zones"; and

WHEREAS, the Florida Attorney General has opined that a municipality may regulate (1) the hours of sale, (2) zoning of locations in which alcoholic beverages may be sold, and (3) the sanitary conditions under which alcoholic beverages may be dispensed or served to the public. Florida AGO 059-73 (1959); and

WHEREAS, in fact, the Florida Attorney General has opined that different hours may be provided for in a municipal ordinance, provided there is reasonable relation to the health, safety, and morals of the community. Op. Att'y Gen. Fla., p. 497 (1950); and

WHEREAS, Florida courts have consistently held that alcoholic beverage establishments are not entitled to grandfather status as to hours of sale for alcoholic beverages (*See Village of North Palm Beach v. S & H Foster's, Inc.* (Fla. 4th DCA 2012); *Other Place of Miami, Inc. v. City of Hialeah Gardens* (Fla. 3d DCA 1978)); and

WHEREAS, injunctive relief is not available against the enforcement of a municipal ordinance regulating the time at which alcoholic beverages may be sold, because municipalities have the statutory authority to set times for sale of alcoholic beverages. *Id.*; *Playpen S., Inc. v. City of Oakland Park,* 396 So. 2d 830 (Fla. 4th DCA 1981); and

WHEREAS, Florida Courts have ruled that hours of operation are not a property right. *S. Daytona Rests., Inc. v. City of S. Daytona,* 186 So. 2d 78 (Fla. 1st DCA 1966); and

WHEREAS, the amendments set forth below are 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 Section 6-3, entitled "Hours of Sale," of Article I, of Chapter 6, of the City Code of the City of Miami Beach is hereby amended as follows:

CHAPTER 6

ALCOHOLIC BEVERAGES

ARTICLE I. In General

* * *

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 (6):

(1) *Retail stores for package sales only—Off-premises consumption.* Vendors may make sales of alcohol only for off-premises consumption between the hours of ~~8:00 a.m.~~ 10:00 a.m. and midnight.

(2) *Retail stores, including grocery, convenience stores, and gasoline service/filling stations.* Retail stores, including grocery, convenience stores, and gasoline service/filling stations, which primarily offer for sale products other than alcoholic

beverages may only make sales of beer and wine only for off-premises consumption between the hours of ~~8:00 a.m.~~ 10:00 a.m. and midnight.

(3) *Alcoholic beverage establishments.* All alcoholic beverage establishments with state licensure—On-premises consumption only, may make sales of alcohol between the hours of 8:00 a.m. and 5:00 a.m.

(a) *Restaurants not operating as dance halls or entertainment establishments.* Restaurants with full kitchen facilities, serving full meals, licensed as alcoholic beverage establishments, 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 also operating as dance halls or entertainment establishments.* Restaurants with full kitchen facilities, serving full meals, licensed as alcoholic beverage establishments, 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.* Other alcoholic beverage establishments, not containing restaurants with full kitchen facilities, shall close at 5:00 a.m. and remain closed. No patron or other persons, other than those employed by the vendor may remain on the premises between the hours of 5:00 a.m. and 8:00 a.m.

(d) *Sidewalk cafes.* Notwithstanding the provisions of subsections (3)(a) through (c), alcoholic beverages shall not be offered for sale or consumption at sidewalk cafes, as defined in section 82-366 of this Code and as otherwise permitted by the City in accordance with chapter 82, article IV, division 5, subdivision II of this Code (as may be amended from time to time), between the hours of 1:30 a.m. and 8:00 a.m., and shall not be consumed at sidewalk cafes between the hours of 2:00 a.m. and 8:00 a.m. No variances may be granted from the provisions of this section 6-3(3)(d) as to the hours of sale or consumption of alcoholic beverages at sidewalk cafes.

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 by alcoholic beverage establishments.* Off-premises package sales associated with alcoholic beverage establishments other than retail stores shall be permitted between the hours of ~~8:00 a.m.~~ 10:00 a.m. and midnight.

(5) *Private clubs.* 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. A private club, either as a permitted main or accessory use, shall only offer alcoholic beverages for sale or on-premises consumption if the private club, in accordance with section 6-2(a), secures a license for the distribution or sale of any alcoholic beverages from the division of alcoholic beverages and tobacco of the department of business and professional regulation of the state. Private clubs licensed as alcoholic beverage establishments,

either as permitted main or accessory uses, shall, only offer alcoholic beverages for sale or on-premises consumption between the hours of 8:00 a.m. and 5:00 a.m., on any day of the week, provided that service is made only to members and guests of members 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 license from the state division of alcoholic beverages and tobacco by complying with the requirements of F.S. § 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 and complies with the above requirements.

(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 for on-premises consumption and, if the alcoholic beverage establishment is located on Ocean Drive between 5th Street and 15th Street, for consumption at the establishment's sidewalk cafe (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 department 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 and, if the alcoholic beverage establishment is located on Ocean Drive between 5th Street and 15th Street, for consumption at the establishment's sidewalk cafe 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 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) The city manager may suspend the provisions of subsection (6) at any time to protect the public health, safety, or welfare.

(9) *Penalties and enforcement.*

(a) The following penalties shall be imposed for a violation of this section:

i. The penalty for the first violation by a person or entity within a 12-month period shall be a civil fine of $1,000.00;

ii. The penalty for the second violation by a person or entity within a 12-month period shall be a civil fine of $5,000.00;

iii. The penalty for the third violation by a person or entity within a 12-month period shall be a civil fine of $10,000.00;

iv. Upon a finding by the special master that four (4) or more violations by a person or entity have occurred within a 12-month period, the city may initiate proceedings to revoke the certificate of use, business tax receipt, or certificate of occupancy of the violator.

v. A sidewalk cafe permittee that has been issued four (4) or more violations pursuant to this section or section 82-388 within a permit year shall be prohibited from applying for and obtaining a sidewalk cafe permit for a period of two (2) permit years following the permit year in which the sidewalk cafe permittee incurred the violations.

(b) Enhanced penalty. The following enhanced penalty shall be imposed, in addition to any mandatory fines set forth in subsection (8)(a) above, for violations of this section:

i. The sale of alcoholic beverages in violation of this section must be immediately terminated, upon confirmation by the code compliance department that a violation has occurred.

(c) Enforcement. The code compliance department shall enforce this section. This shall not preclude other law enforcement agencies or regulatory bodies from any action to assure compliance with this section and all applicable laws. If a code compliance officer (which, as defined in section 70-66, includes a police officer) finds a violation of this section, the code compliance officer shall issue a notice of violation in the manner prescribed in chapter 30 of this Code. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten (10) days after service of the notice of violation, and that the failure to appeal the violation within ten (10) days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

(d) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master.

i. A violator who has been served with a notice of violation must elect to either:

A. Pay the civil fine in the manner indicated on the notice of violation; or

B. Request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten (10) days of the service of the notice of violation.

ii. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.

iii. If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special master, the special master may be informed of such failure by report from the officer. The failure of the named violator to appeal the decision of the officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation. for which fines and penalties shall be assessed accordingly.

iv. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the sixty-first (61st) day following the recording of any such lien that remains unpaid, the City may foreclose or otherwise execute upon the lien.

v. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

vi. The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten (10) days of the service of the notice of violation.

vii. The special master shall not have discretion to alter the penalties prescribed in subsection (8)(a) or (8)(b).

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 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. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2016.

ATTEST:

_____
Philip Levine, Mayor

_____
Rafael E. Granado, City Clerk

(Sponsored by

Underline denotes new language
~~Strikethrough~~ denotes removed language

M:\$CMB\CCUPDATES\Land Use and Development Committee\2016\July 20, 2016\10 AM Retail Alcohol Regs - DRAFT ORD July 2016 LUDC.docx

ITEM FOUR

VERBAL REPORT

LUDC # 22

Jose Gonzalez, Transportation Director, introduced the item. Many ideas were generated out of the Transportation Workshop. Last month some of those initiatives and ideas were discussed at Neighborhood/Community Affairs Committee (NCAC) and one of those initiatives was establishing transportation plans for special events, with the goal of reducing the number of cars traveling into the City during special events from the causeway. One of the proposals is to provide parking in remote locations outside the City limits and then provide public transportation to and from those parking locations to the event. They are recommending identifying a suitable event as a model and transmitting the results via LTC.

Vice-Mayor Steinberg stated that this was a no brainer and she moved the item.

3:30:34 p.m.

R7X A Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee To Establish More Aggressive Requirements For Developers To Provide Employee Transportation Plans And To Refer This Matter To The Land Use And Development Committee For Further Discussion And Input.

(Transportation)

ACTION: **Resolution 2016-29459 adopted.** Item referred to LUDC. Motion made by Commissioner Malakoff; seconded by Commissioner Steinberg. Voice-vote: 7-0. **Thomas Mooney to place on the Committee Agenda. Jose Gonzalez to handle.**

REFERRAL:
Land Use and Development Committee for further discussion and input.

Commissioner Grieco stated that this is the next progression from the parking plans already required of the developers. When there is a new project that exceeds over $250,000, before building plans are approved, a builder or developer needs to submit a parking plan for the workers, and this is the next step, which is developing an actual transportation plan. They should have a high threshold as to the requirements that they need to meet.

Jose Gonzalez, Transportation Director, clarified that this item pertains more to development, and not necessarily to construction workers (See Item R7Y), but more so for employees to take transit, to commute and carpool, etc. It is geared more to those types of initiatives that they would like to establish by Ordinance.

3:33:23 p.m.

R7Y A Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee To Expand The City's Current Construction Parking Plan Requirements To Include Construction Transportation Plan Requirements.

(Transportation)

ACTION: **Resolution 2016-29460 adopted.** Motion made by Commissioner Grieco; seconded by Commissioner Alemán. Voice-vote: 7-0. **Jose Gonzalez to handle.**

Commissioner Malakoff stated that this is for construction projects over $250,000. She asked if this is for single-family homes as well.

Jose Gonzalez, Transportation Director, recommended establishing requirements by Ordinance and answered that all single family homes will also have a construction parking plan.

ITEM FIVE

VERBAL REPORT

LUDC # 24

Granado, Rafael

From: Michael Grieco <michael@griecolaw.com>
Sent: Tuesday, July 05, 2016 5:39 PM
To: Granado, Rafael
Subject: Consent agenda referral
Attachments: pastedGraphic.pdf

Referral to land use committee:

Potential ordinance amendment addressing further restrictions on illegal STRs in Suite- and Condo-Hotels

Michael C. Grieco
Michael@GriecoLaw.com

(305) 857-0034
(305) 856-7771 (fax)

175 sw 7th Street
Suite 2410
Miami, FL 33130

www.MiamiCriminalDefense.com

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Agenda Item C4K
Date 7-13-16

ITEM SIX

VERBAL REPORT

LUDC # 26

MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy L. Morales, City Manager
FROM: Joy V. W. Malakoff, Commissioner
DATE: July 6, 2016
SUBJECT: Referral to the Land Use and Development Committee a Discussion Regarding an Amendment to the West Avenue Overlay to Remove the Current Allowance for Bed and Breakfast and Suite Hotel Uses

Please place the above Discussion Item on the Agenda for the Commission Meeting of July 13, 2016.

If you have any questions, please contact me at extension 6622.

Thank you.

JVWM

ITEM SEVEN

VERBAL REPORT

LUDC # 28

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Jimmy L. Morales, City Manager

cc: Mayor Philip Levine
Members of the City Commission

FROM: Commissioner Ricky Arriola

DATE: July 13, 2016

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 114 OF THE CITY CODE, ENTITLED "GENERAL PROVISIONS," SECTION 114-1, "DEFINITIONS," TO DEFINE PACKAGE STORES; AND AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 13, "MXE MIXED USE ENTERTAINMENT DISTRICT," BY AMENDING SECTION 142-544 THEREOF, ENTITLED "PROHIBITED USES," TO PROHIBIT PACKAGE STORES IN THE MXE DISTRICT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

Please place on the July 13, 2016 City Commission meeting agenda an item referring the above-titled Ordinance to the Planning Board.

If you have any questions, please contact my aide, Erick Chiroles, at ext. 6274.

Agenda Item C4I
Date 7-13-16

ITEM EIGHT

VERBAL REPORT