

MEMORANDUM

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Agenda Item No. 3(B)

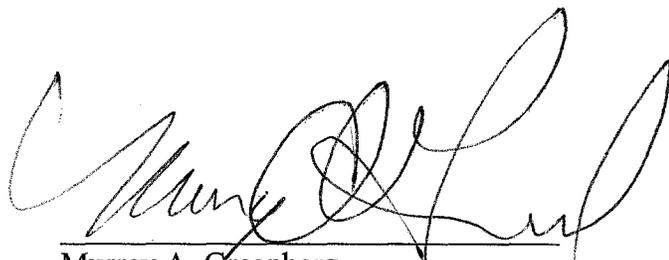
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: September 25, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance relating to zoning;
pertaining to hours and days
of sale of alcoholic beverages
at restaurants in BU districts

The accompanying ordinance was prepared and placed on the agenda at the request of Senator Javier D. Souto.

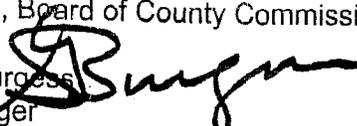


Murray A. Greenberg
County Attorney

MAG/bw

Memorandum



Date:
To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
From: George M. Burgess
County Manager 
Subject: Ordinance Amending Sections 33-151 and 33-238 of the Code; Pertaining to Hours
and Days of Sale of Alcoholic Beverages at Restaurants in BU Districts

The ordinance amending Sections 33-151 and 33-238 of the Code of Miami-Dade County pertaining to hours and days of sale of alcoholic beverages at restaurants in BU districts will have a fiscal impact to Miami-Dade County.

If approved, the Department of Planning and Zoning (DP&Z) must provide at least two mailed notices of the new legislation to all lawfully established restaurants that have a valid Certificate of Use. The purpose of the first mailed notice would be to advise the restaurant owners/operators of the new legislation. The second mailed notice would provide owners/operators with a response to their certified survey submittals depicting the distances between their respective restaurants and residentially zoned properties. The estimated cost based upon a total of 4,700 restaurant establishments is \$28,600 plus \$10,000 to obtain the addresses of restaurants.

Team Metro (TM) currently enforces setback requirements and it is expected that the overall code enforcement activity will not increase significantly as a result of this legislation. The sale and consumption of alcoholic beverages is enforced by Miami-Dade Police Department (MDPD), Environments Investigative Unit (EIU) in partnership with TM as needed. No fiscal impact is anticipated for MDPD and TM as a result of the proposed ordinance.

The fiscal impact to restaurant owners/operators would include the cost of obtaining a certified survey from a Professional Land Surveyor and the potential re-issuance of a Certificate of Use showing the restriction on hours of operation and sales of alcoholic beverages.


Assistant County Manager

Fiscal00306



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 18, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 4(E)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor

Agenda Item No. 4(E)

Veto _____

7-6-06

Override _____

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; AMENDING SECTIONS 33-151 AND 33-238 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PERTAINING TO THE HOURS AND DAYS OF SALE OF ALCOHOLIC BEVERAGES AT CERTAIN RESTAURANTS IN BU DISTRICTS, AND REQUIRING THE SERVICE OF CERTAIN FOOD WITH ALCOHOLIC BEVERAGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-151 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-151. Hours and days of sale.

No alcoholic beverages shall be sold or served within the unincorporated areas of Miami-Dade County except at such hours and on such days and by such vendors as set forth below:

- (a) Establishments for package sales only. Vendors holding a license from the State beverage department for the sale of alcoholic beverages for consumption off the premises only, shall make no sale of alcoholic beverages on Sundays, and shall make no sale of alcoholic beverages during weekdays except between the hours of 8:00 a.m. and 10:00 p.m.; provided, however, that vendors operating stores primarily for the sale of products other than alcoholic beverages (excepting such stores as are nonconforming under the zoning regulations) may make sales of beer in sealed

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

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containers for consumption off the premises during such hours as their stores legally remain open for the sale of other goods; provided further, however, that nothing in the foregoing proviso shall be deemed to modify any of the provisions of the zoning regulations as heretofore or hereafter adopted. Vendors in bait and tackle installations and camp grounds holding a State license from the beverage department for the sale of beer in sealed containers, for consumption off the premises, shall make no sale of beverages except between the hours of 5:00 a.m. and 7:00 p.m.

* * *

- (g) Restaurants. >>Except as provided in subsections (g)(1) and (g)(2) below,<< ~~[[V]]>> vendors holding a license from the State beverage department for the sale of alcoholic beverages for consumption on the premises in restaurants, which are restricted by the zoning regulations to making such sales with the service of food only, shall make no sales of such alcoholic beverages on weekdays except between the hours of 8:00 a.m. and 1:00 a.m. on the following day, and shall make no sales of beer on Sundays except between the hours of 10:00 a.m. and 1:00 a.m. on the following Monday; and shall make no sales of other alcoholic beverages on Sundays except between the hours of 1:00 p.m. and 1:00 a.m. on the following Monday. Sales of alcoholic beverages for consumption off the premises shall not be permitted. ~~[[Vendors in restaurants located in a proper business zone and conforming to the zoning regulations permitting unrestricted sales only during the times permitted under Subsection (h) hereof.]]~~~~
- >>(g)(1) Vendors in BU Districts located within two hundred fifty (250) feet from any RU or EU District boundary line or residential use, existing as of the effective date of this ordinance, and holding a license from the State beverage department for the sale of alcoholic beverages for consumption on the premises in restaurants, which are restricted by zoning regulations to making such sales with the service of food only, shall make no sales of such alcoholic beverages on weekdays and Saturdays except between the hours of noon and 11:00 p.m. and shall make no sales of alcoholic beverages on Sundays except between the hours of 1:00 p.m. and 11:00 p.m. Sales of alcoholic

beverages for consumption off the premises shall not be permitted. This subsection shall not apply to vendors authorized by zoning regulations and holding a license from the State beverage department for the sale or service of alcoholic beverages for consumption on the premises in cocktail lounge-bars in restaurants as described in Section 33-150 (E) (4) or to vendors located in BU Districts restricted to making sales of alcohol with the service of food only and granted a variance to sell alcoholic beverages between the hours of 8:00 a.m. and 1:00 a.m., on the following day, prior to the effective date of this ordinance.

(g)(2) For the purpose of establishing the distance between a vendor in a BU District as described in subsection (g)(1) above and a RU or EU District boundary line, the distance of two hundred fifty (250) feet shall be measured from the closest point of said vendor's property line to the closest point of the RU or EU District boundary line. For the purpose of establishing the distance between said vendor and an existing residential use, said distance shall be measured from the closest point of said vendor's property line to the closest point of the property line of the residential use.

No later than ninety (90) days after the effective date of this ordinance, vendors as described in subsection (g)(1) and applicants for such use, shall furnish to the Director of the Department of Planning and Zoning a certified survey from a registered surveyor, which shall indicate such distances. In case of dispute, the measurement scaled by the Director shall prevail.

Within ninety (90) days of receipt of the certified survey, the Director shall provide notification to the vendor as to whether or not said vendor's property is within two hundred fifty (250) feet from a RU or EU District boundary line or an existing residential use. Absent a certified survey from a registered surveyor and written confirmation from the Director within one hundred eighty (180) days of the effective date of this ordinance that said property is not within 250 feet from a RU or EU District boundary line or an existing residential use, a vendor as described in subsections (g) and (g)(1) shall make no sale of alcoholic

beverages except during the hours and days prescribed in subsection (g)(1).<<

* * *

Section 2. Section 33-238 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-238. Uses permitted.

No land, body of water or structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, reconstructed or structurally altered or maintained in any BU-1 District, which is designed, arranged or intended to be used or occupied for any purpose, except for one (1) or more of the following uses:

- (1) Residential uses may be permitted as a combination of permitted business uses and residential uses housed in the same building; the floor area of the residential use shall not exceed fifty (50) percent of the floor area of the building.

* * *

- (29) Restaurants and coffee houses or dining room>>s<< where >>the<< kitchen is screened or located altogether within an enclosed building or room and with ample provisions for carrying away or dissipating fumes, odors, smoke or noise and where premises are so arranged and the business is so conducted as not to be offensive or obnoxious to occupants of adjoining premises or to passersby. Restaurants and outdoor (where approved by public hearing) cafes may serve alcoholic beverages where such service is strictly incidental to the service of food and from a service bar only provided no entertainment of any kind is furnished. >>Restaurants shall cook and serve full-course meals, daily prepared on the premises, and shall neither sell nor serve alcoholic beverages except as provided in Section 33-51.<< No sign of any type or character shall be exhibited or displayed to the outside denoting that alcoholic beverages are obtainable within.

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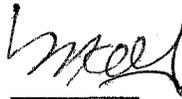
Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

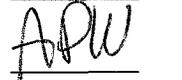
Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:





Prepared by:

Abigail Price-Williams

Sponsored by Senator Javier D. Souto