

MEMORANDUM

UMSA
Substitute No. 2 to
Agenda Item No. 1(G)2

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

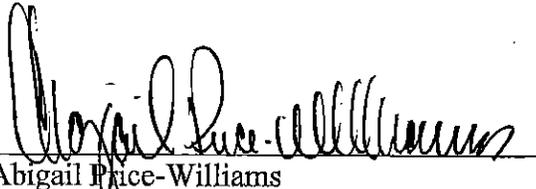
DATE: October 13, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to Zoning;
updating regulations pertaining
to restaurants and to live
entertainment at restaurants, bars,
night clubs, cabarets and similar
establishments; updating the
definition of night clubs;
providing for night clubs in the
IU-1 Zoning District; amending
Sections 33-1, 33-150, 33-238,
and 33-259 of the Code

This substitute differs from the original in that a certificate of use shall be required for the entertainment portion of a use, which shall describe the type and hours of entertainment provided and which shall be subject to revocation and other penalties in the event of violations. In addition, the provision relating to outdoor entertainment has been further modified such that restaurants, bars, night clubs, and cabarets may offer outdoor entertainment if the business is not located within 500 linear feet of an adjacent or surrounding residential zoning district or property with a residential use; or, when separated by a section line road, the business is not within 400 feet of an adjacent or surrounding residential zoning district or property with a residential use.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.


Abigail Price-Williams
County Attorney

APW/smm



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: November 3, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No.
11-3-15

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; UPDATING REGULATIONS PERTAINING TO RESTAURANTS AND TO LIVE ENTERTAINMENT AT RESTAURANTS, BARS, NIGHT CLUBS, CABARETS AND SIMILAR ESTABLISHMENTS; UPDATING THE DEFINITION OF NIGHT CLUBS; PROVIDING FOR NIGHT CLUBS IN THE IU-1 ZONING DISTRICT; AMENDING SECTIONS 33-1, 33-150, 33-238, AND 33-259 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; 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 33-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-1. Definitions.

For the purpose of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise:

* * *

(75) *Night club.* Any place of business ~~[[located within any building or establishment under one (1) roof and on one (1) floor,]]~~ established and operated for the purpose of supplying entertainment ~~[[or music, or both,]]~~ >>where alcoholic beverages are dispensed and consumed on the premises, and where meals and refreshments may be provided<< ~~[[and providing meals and refreshments prepared on the premises, having a seating capacity of not less than forty (40) people at tables; having an aggregate floor space of not less than two thousand two hundred (2,200) square feet, and providing a~~

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.

~~dance floor containing not less than three hundred eight (308) square feet; such floor space providing for dancing to be free from chairs, tables or other obstructions at all times]].~~

* * *

Section 2. Section 33-150 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-150. Location of establishments.

(A) Distance from other establishments. Unless approved as a special exception (Section 33-311(A)(3)), no premises shall be used for the sale of any alcoholic beverages, as defined herein, to be consumed on or off the premises where the structure or place of business intended for such use is located less than fifteen hundred (1,500) feet from a place of business having an existing, unabandoned, legally established (and not one (1) of the uses excepted from the spacing requirements hereinafter provided) alcoholic beverage use which permits consumption on or off the premises. The fifteen hundred (1,500) feet distance requirements shall be measured by following a straight line from the nearest portion of the structure of the place of business.

* * *

(H) ~~[[Entertainment in night clubs and cabarets; hearing on night club use. Except in night clubs and cabarets, band or orchestra music or dancing or entertainment shall be prohibited in all bars, gardens, saloons, package stores or similar establishments dispensing of alcoholic beverages. Night club use shall be prohibited unless the same is approved after a public hearing.]]~~

>>Entertainment in establishments dispensing of alcoholic beverages; hearing for certain uses. Entertainment shall be permitted in all restaurants, bars, night clubs, and cabarets, or other establishments deemed by the Director to be similar thereto, in accordance with the following:

(1) Indoor Entertainment. Restaurants, bars, night clubs, and cabarets may offer entertainment conducted within a completely enclosed building.

(2) Outdoor Entertainment. Restaurants, bars, night clubs, and cabarets may offer outdoor entertainment if the business is not located within 500 linear feet of an adjacent or surrounding residential zoning district or a property with a residential use.<< >>or, when separated by a section line road, not within 400 feet of an adjacent or surrounding residential zoning district or a property with a residential use.<<² [[as]] >>The distance shall be<< >>measured by following a straight line from the closest edge of the area in which outdoor entertainment will be located to the nearest point of an adjacent or surrounding residentially zoned property or use.<< [[Outdoor entertainment within 500 feet of a residentially zoned property or use]] >>Except as otherwise provided in this subsection, outdoor entertainment only<< >>shall be permitted as a special exception after a public hearing.

(3) Entertainment hours shall be limited to those allowed for the dispensing of alcoholic beverages in Section 33-151 (hours and days of sales).

For purposes of this section, "entertainment" shall be defined as dancing, any live performance, or any recorded or live music played; however, adult entertainment shall be allowed only as provided elsewhere in the Code.<< >>A certificate of use shall be obtained for the entertainment portion of the use on an annual basis. Application for the certificate of use shall be made on a form prescribed by the Director and shall contain a description of the type of entertainment and the hours that the entertainment will be provided. The Director may combine this type of certificate of use with others required for the subject property. Additionally, the Department shall have the right to periodically inspect premises at any reasonable time to ensure the existence of a current and valid certificate of use, and to ensure compliance with the terms and conditions under which it was issued. Violators will be subject to all appropriate penalties, including revocation of the certificate of use.<<

² The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

* * *

Section 3. Section 33-238 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-238. Use 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:

* * *

(25.1) Outdoor dining as an ancillary use in conjunction with restaurants, snack shops and other food service facilities where the primary use is the preparation of food for consumption on premises shall be permitted, subject to the following restrictions:

* * *

(g) No outside public address system shall be permitted>>. except in connection with outdoor entertainment as provided by section 33-150(H) of this Code<<. [[Unamplified music shall be permitted in the outdoor dining area, subject to compliance with Section 21-28 of this Code]]; and

* * *

(29) ~~Restaurants and coffee houses [[or dining room where 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. No sign~~

~~of any type or character shall be exhibited or displayed to the outside denoting that alcoholic beverages are obtainable within]].~~

* * *

Section 4. Section 33-259 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-259. Use permitted.

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

* * *

>>(53.2) Night clubs, bars and pubs located no closer than five hundred (500) feet of any RU or EU District.<<

* * *

(56.1) Outdoor dining as an ancillary use in conjunction with restaurants, snack shops and other food service facilities where the primary use is the preparation of food for consumption on premises shall be permitted, subject to the following restrictions:

* * *

(g) No outside public address system shall be permitted>>, except in connection with outdoor entertainment as provided by section 33-150(H) of this Code<<. ~~[[Unamplified music shall be permitted in the outdoor dining area, subject to compliance with Section 21-28 of this Code]]~~; and

* * *

Section 5. 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 6. 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.

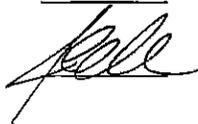
Section 7. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

James "Eddie" Kirtley, Jr.
Dennis A. Kerbel

APW


Prime Sponsor: Commissioner Jose "Pepe" Diaz