

MEMORANDUM

Agenda Item No. 7(B)

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

DATE: November 3, 2015

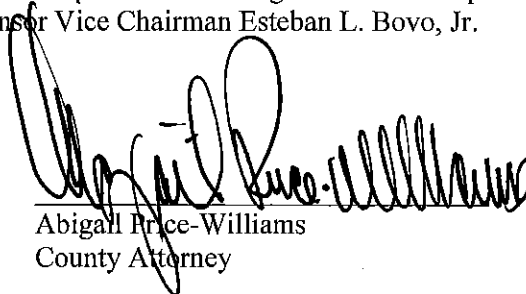
FROM: Abigail Price-Williams
County Attorney

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

A substitute was presented at the 10-13-15 Unincorporated Municipal Service Area Committee. 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.

This item was further amended to require establishments with an entertainment use to implement security measures, including security guards, to ensure the safety of patrons and minimize impacts to residential neighbors. The amendment also requires that such security measures be identified and certified to the Department at the time of application and renewal for certificate of use.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz and Co-Sponsor Vice Chairman Esteban L. Bovo, Jr.

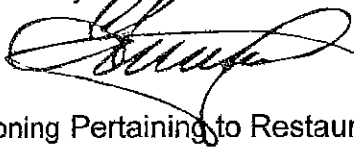


Abigail Price-Williams
County Attorney

APW/smm

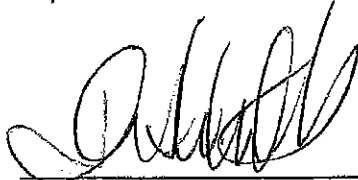
Memorandum



Date: November 3, 2015
To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners
From: Carlos A. Gimenez 
Mayor
Subject: Ordinance Relating to Zoning Pertaining to Restaurants and Live Entertainment

The proposed ordinance amends Sections 33-1, 33-150, 33-238, and 33-259 of the Code relating to zoning, and updates regulations pertaining to restaurants and live entertainment at restaurants, bars, night clubs, cabarets, and similar establishments. This proposed ordinance also updates the definition of a night club and provides for night clubs in the IU-1 zoning district. Additionally, a renewable annual certificate of use shall be required for the entertainment portion of a use describing the type and hours of entertainment to be provided, which shall be subject to revocation and other penalties in the event of violations

Currently, certain establishments such as restaurants and bars that want to provide live entertainment are required to file for a public hearing and pay associated fees. Implementation of this ordinance, which amends the County's Zoning Code, may result in a slight reduction of hearings requested for this purpose. Historically, there have been very few hearings requested by establishments such as restaurants and bars to allow live entertainment. However, if adopted, this ordinance will now require that restaurants, bars, night clubs, cabarets, and similar establishments meeting the zoning requirements delineated in this ordinance obtain a yearly certificate of use if they wish to provide live entertainment. Revenues generated from certificate of use application and renewal processes will be used to cover the cost of inspections and enforcement related expenses shall not exceed revenue collected in association with the related enforcement activities. Therefore, it is anticipated that the implementation of this ordinance will have no fiscal impact.



Jack Osterholt
Deputy Mayor

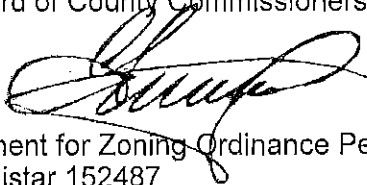
fis08115a substitute 152288

Memorandum



Date: November 3, 2015

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

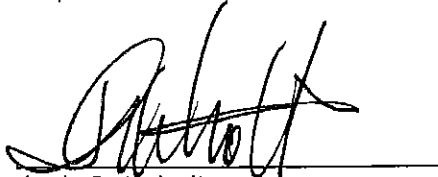
From: Carlos A. Gimenez
Mayor 

Subject: Social Equity Statement for Zoning Ordinance Pertaining to Restaurants and Live Entertainment – Legistar 152487

This legislative change revises the definition of "nightclubs" to remove restrictive and outdated parameters such as seating capacity and size of space limitations. Furthermore, this legislation overhauls the "live entertainment" provisions of the Code to allow for live entertainment in all restaurants, bars, nightclubs, cabarets, and other facilities deemed similar that serve alcohol, subject to a yearly certificate of use. However, outdoor live entertainment at those facilities within 500 feet of a residential area – or 400 feet of a residential area if separated by a section line road - require a special exemption public hearing.

The proposed changes to the Code will allow for more establishments in the unincorporated municipal service area to have live entertainment, which can provide an economic benefit to such establishments. It can also provide residents in the unincorporated municipal service area with more live entertainment options.

This ordinance was amended at the October 13, 2015 meeting of the Unincorporated Municipal Service Area Committee to require security measures that include security guards, which shall be filed with and certified to the Department of Regulatory and Economic Resources (RER) at the time of application and annual Certificate of Use renewal and are subject to audit by RER. The requirement for security measures has the potential to ensure the safety of patrons and may serve to minimize impacts to immediate neighbors. While the specific amount of security is left to the discretion of the owner of the establishment, the associated costs will be borne by the respective establishment.



Jack Osterholt
Deputy Mayor

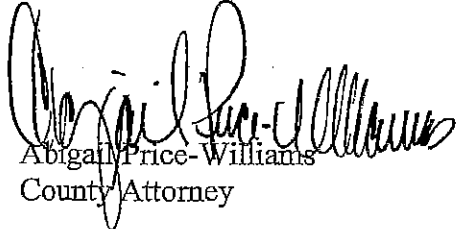


MEMORANDUM

(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. 7(B)

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
- Statement of social equity 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

Agenda Item No. 7(B)

Veto _____

11-3-15

Override _____

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. 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. 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. >>In addition, security measures, to include security guards, shall be implemented to ensure the safety of patrons and minimize impacts to residential neighbors. Such security measures shall be filed with, and certified to, the Department at the time of application and renewal, and are subject to audit by the Department during operations.<<² 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

² Committee amendments are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

conditions under which it was issued. Violators will be subject to all appropriate penalties, including revocation of the certificate of use.<<

* * *

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

Handwritten signature in black ink, appearing to be 'ADW' with a flourish underneath.

Prime Sponsor: Commissioner Jose "Pepe" Diaz
Co-Sponsor: Vice Chairman Esteban L. Bovo, Jr.