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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA**

MEMORANDUM

Agenda Item No. 7(D)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: (Second Reading: 5-2-23)

March 7, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to zoning
in the unincorporated area;
amending section 33-150 of
the Code; revising exceptions
to spacing and distance
requirements for alcoholic
beverage establishments; revising
minimum size requirements for
exception pertaining to
restaurants with accessory
cocktail lounge-bar use

Ordinance No. 23-30

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Keon Hardemon.


Geri Bonzon-Keenan
County Attorney

GBK/jp

MDC001

Memorandum



Date: May 2, 2023

To: Honorable Chairman Oliver G. Gilbert III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Spacing Requirements for Alcoholic Beverage Establishments

It is not anticipated that the implementation of this Ordinance will have a negative fiscal impact to Miami-Dade County. Should the ordinance be approved, there could potentially be additional businesses opening and/or refurbishment of existing businesses in the County which would increase revenues, however it is difficult to estimate the impact.

A handwritten signature in blue ink, appearing to read "Jimmy Morales".

Jimmy Morales
Chief Operations Officer

Memorandum



Date: May 2, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Social Equity Statement for Ordinance Amending Certain Spacing Requirements
Applicable to Certain Alcohol Beverage Establishments.

The proposed ordinance amends Section 33-150 of the Code of Miami-Dade County pertaining to regulations for the spacing and distancing of restaurants that have a cocktail lounge (a bar area within the restaurant). Examples of cocktail lounges are the bar areas in restaurants such as Olive Garden, Chili's and the Cheesecake Factory, among others. Currently, the Code permits and exempts a restaurant that has a cocktail lounge as an accessory use from spacing requirements, which is normally applicable for bars, nightclubs and liquor stores. In order for a restaurant to qualify for the spacing exemption, the restaurant must have a minimum of 4,000 gross square feet and accommodate a minimum of 200 patrons at tables. Additionally, the size of the cocktail lounge is limited to no more than 15% of the restaurant's floor area. Should a restaurant not meet these criteria, it will be considered a bar or pub and, where permitted, will require a public hearing or be required to meet spacing requirements. If the spacing is required, the distance required shall be at least 1,500 linear feet away from any existing place of business that has a legally established alcoholic beverage use and at least 2,500 linear feet away from a church or public school. These standards apply in the BU and IU districts in the County. Restaurants with cocktail lounges in the Rapid Transit Zones and Urban Centers are not subject the minimum size and patron area requirements and are permitted by right. In all districts, restaurants that serve alcohol at tables, are fully exempt from any spacing requirements.

The proposed amendment would reduce the minimum square footage and number of patrons requirement for restaurants with an accessory cocktail lounge to qualify for the spacing exemption.

The amendment reduces the minimum square footage for the restaurant to 2,500 square feet and the minimum number of patrons to 150 served at tables or otherwise. The maximum size of the cocktail lounge within the restaurant will remain at no more than 15% of the restaurant's floor area.

Generally, the alcoholic beverage license that the state issues to restaurants that intend to serve Beer, Wine and Liquor for the on-premise consumption of alcoholic beverages is called a Special Food Service Establishment License (SFS). The State does not regulate the configuration of the restaurant, but requires the restaurant to demonstrate that a minimum of 51% of the sales are from food and nonalcoholic beverages. Additionally, they require the establishment to be a minimum of 2,500 square feet and serve meals to a minimum of 150 patrons:

A restaurant must have 2,500 square feet of service area, be equipped to serve meals to 150 persons at one time, and derive at least 51 percent of gross food and beverage revenue from the sale of food and nonalcoholic beverages. May not operate as a package store and may not sell intoxicating beverages after the hours of serving or consumption of food have elapsed.

The proposed amendment is a balanced approach to provide opportunities for restaurants to design their space with a cocktail lounge while meeting the state standards and maintaining the restaurant as the primary use. It should be noted that code provides other regulations that maintain that the restaurant is the primary use, and the cocktail lounge as an accessory component. The code currently prohibits restaurants with cocktail lounges from advertising as a bar or nightclub and may not have a separate entrance to the cocktail lounge area. Furthermore, the operating hours of the cocktail lounge shall not extend past the operating hours of the restaurant. Because the maximum size of the cocktail lounge area will remain at 15% of the overall size of the restaurant, the size of the cocktail lounge area in restaurants of 2,500 square feet in size, will be proportionally reduced since the restaurant will be smaller than the existing code minimum of 4,000 square feet.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: May 2, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(D)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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. 7(D)
5-2-23

ORDINANCE NO. 23-30

ORDINANCE RELATING TO ZONING IN THE UNINCORPORATED AREA; AMENDING SECTION 33-150 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING EXCEPTIONS TO SPACING AND DISTANCE REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS; REVISING MINIMUM SIZE REQUIREMENTS FOR EXCEPTION PERTAINING TO RESTAURANTS WITH ACCESSORY COCKTAIL LOUNGE-BAR USE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, section 33-150 of the Code of Miami-Dade County (the “Code”) provides certain spacing and distance requirements applicable to certain alcoholic beverage establishments; and

WHEREAS, specifically, section 33-150 provides that certain alcoholic beverage establishments may be located no closer than 1,500 feet from one another and no closer than 2,500 feet from any church or school, unless approved as a special exception; and

WHEREAS, section 33-150 includes certain exceptions to these spacing and distance requirements, including an exception for cocktail lounge-bars established as an accessory use to restaurants, located in certain commercial and industrial zoning districts, with at least 4,000 square feet in gross floor space and that accommodate at least 200 patrons at tables; and

WHEREAS, to permit greater flexibility in establishing restaurants with accessory cocktail lounge-bars in Miami-Dade County, this Board wishes to revise the minimum size requirements set forth in this exception to the spacing and distance requirements; and

WHEREAS, in particular, this Board wishes to broaden the exception to apply to restaurants that have at least 2,500 square feet of gross floor space and that accommodate at least 150 patrons at tables or other locations,

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

Section 1. The foregoing recitals are incorporated herein and are approved.

Section 2. Section 33-150 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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.
- (B) *Distance from church or school.* Unless approved as a special exception (Section 33-311(A)(3)), no premises shall be used for the sale of alcoholic beverages to be consumed on or off the premises where the structure or place of business intended for such use is located less than twenty-five hundred (2,500) feet from a church or public school. The twenty-five-hundred-foot distance requirement shall be measured and computed as follows:
- (1) From a church, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the church structure, and
 - (2) From a public school, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the school grounds.

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.

* * *

- (E) *Exceptions to spacing and distance requirements.* The restrictions and spacing requirements set forth in Subsections (A) and (B) above shall not apply:

* * *

- (4) CERTAIN COCKTAIL LOUNGE-BARS IN RESTAURANTS. To cocktail lounge-bars as an accessory use in restaurants located in any IU or BU-1A or more liberal BU District, provided the restaurant occupies no less than >>2,500<< ~~[[four thousand (4,000)]]~~ square feet of gross floor space, and has accommodations for service of >>150<< ~~[[two hundred (200)]]~~ or more patrons ~~[[at tables]]~~, and provided that the restaurant prepares and serves fully cooked meals daily and contains full kitchen facilities, meaning commercial grade burners, ovens, range hood(s) and refrigeration units of such size and quantity to accommodate the occupancy content of the restaurant, and provided that the restaurant shall be prohibited from advertising itself as a bar, cocktail lounge-bar, saloon, nightclub or similar type of establishment; and further provided that once the restaurant use is terminated, the cocktail lounge use will automatically terminate. The cocktail lounge-bar in the restaurant structure shall not have separate outside patron entrances, provided, however, a fire door exit shall be permitted, when the same is equipped with panic-type hardware and locks and is maintained in a locked position except in emergencies; and provided the cocktail lounge-bar shall be so located that there is no indication from the outside of the structure that the cocktail lounge-bar is within the structure, and provided that the accessory cocktail lounge-bar is no larger than fifteen (15) percent of the gross square footage of the restaurant, and provided that the alcoholic beverages are served for on-premises consumption only; and further provided that the operating hours for the cocktail lounge-bar shall not extend beyond the permitted hours of operation for the restaurant.

* * *

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:

May 2, 2023

Approved by County Attorney as
to form and legal sufficiency:

GKS for GBK

Prepared by:

James Eddie Kirtley
Dennis A. Kerbel



Prime Sponsor: Commissioner Keon Hardemon