

Alcohol Ordinance West Ave Neighborhood 5th to Collins Canal, Zone CD-1 & CD-2

In recent years, more nightclubs and 5am bars have been establishing themselves in the West Avenue neighborhood, causing noise and other disturbances near our homes. WAVNA initiated an ordinance to restrict hours of operation for alcohol establishments which was passed by the City Commission in 2016. Other neighborhoods, i.e. Sunset Harbour, Palm View, North Beach, thought it was a good idea so they joined the ordinance.

Unfortunately, several alcohol establishment are grandfathered for 5am : Ricky's, Bodega, Wholes and Halves, Tanuki, Dewey's, Foxhole, Drunkn Dragon, Macchialina, and Able & Baker. However, the space that Able & Baker occupied has closed down so they should lose their 5am grandfather, per the law.

Below is the ordinance with sections pertaining to the West Ave neighborhood highlighted in yellow.

DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

Sec. 142-302. - Main permitted uses.

The main permitted uses in the CD-2 commercial, medium intensity district are commercial uses; apartments; apartment hotels, hotels, hostels, and suite hotels (pursuant to section 142-1105 of this chapter); religious institutions with an occupancy of 199 persons or less and alcoholic beverages establishments pursuant to the regulations set forth in chapter 6. Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:

- (a) *Alton Road corridor.* Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road.
- (b) *Sunset Harbour neighborhood.* The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

Sec. 142-303. - Conditional uses.

- (a) *Generally.* The conditional uses in the CD-2 commercial, medium intensity district include the following:
 - (1) Reserved;
 - (2) Funeral home;
 - (3) Reserved;
 - (4) Religious institutions;
 - (5) Pawnshops;
 - (6) Video game arcades;
 - (7) Public and private institutions;
 - (8) Schools;
 - (9) Any use selling gasoline;

- (10) New construction of structures 50,000 square feet and over (even when divided by a district boundary line), which review shall be the first step in the process before the review by any of the other land development boards;
 - (11) Outdoor entertainment establishment;
 - (12) Neighborhood impact establishment;
 - (13) Open air entertainment establishment; and
 - (14) Storage and/or parking of commercial vehicles on a site other than the site at which the associated commerce, trade or business is located. See section 142-1103.
- (b) *Sunset Harbour neighborhood.* All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the Sunset Harbour neighborhood, generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall include those conditional uses listed at section 142-303(a), but shall exclude subsection 142-303(a)(11) outdoor entertainment establishments, subsection 142-303(a)(12) neighborhood impact establishments, and subsection 142-303(a)(13) open air entertainment establishments, as these specific uses are prohibited in the Sunset Harbour neighborhood pursuant to section 142-305. The following additional uses shall require conditional use approval in the Sunset Harbour neighborhood:
- (1) Main use parking garages; and
 - (2) Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons and a floor area in excess of 3,500 square feet.
- (c) *North Beach neighborhood.* All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the North Beach neighborhood (located north of 65th Street) shall include those listed at section 142-303(a), and shall also include the following:
- (1) Alcoholic beverage establishments (not also operating as a full restaurant with a full kitchen, serving full meals);
 - (2) Dance halls; and
 - (3) Entertainment establishments.
- (d) *South Alton Road corridor.* All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the South Alton Road corridor, which includes properties located along Alton Road between 6th and 11th Street, shall include those listed at section 142-303(a), and shall also include the following:
- (1) Self storage warehouse, provided the minimum distance separation between self-storage warehouses shall be 300 feet and self-storage warehouses shall follow the development regulations for "self-storage warehouse" in section 142-305 and setback requirements in section 142-307.
- (e) *[Additional requirements.]* Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:
- (1) *Alton Road corridor.* Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue, and Alton Road.
 - (2) *Sunset Harbour neighborhood.* The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

Sec. 142-304. - Accessory uses.

The accessory uses in the CD-2 commercial, medium intensity district are as required in article IV, division 2 of this chapter; and accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m. Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:

- (a) *Alton Road corridor.* Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road.
- (b) *Sunset Harbour neighborhood.* The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

Sec. 142-310. - Special regulations for alcohol beverage establishments.

- (a) *Alton Road corridor.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road:
 - (1) Operations shall cease no later than 2:00 a.m.
 - (2) Establishments with sidewalk cafe permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served in the restaurant, shall cease sidewalk cafe operations at 12:00 a.m., and shall not be permitted to have outdoor speakers.
 - (3) Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.
 - (4) Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
 - (5) Outdoor bar counters shall be prohibited.
 - (6) No special event permits shall be issued.
 - (7) This subsection (a) above shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that (i) is in application status prior to April 14, 2015; or (ii) issued prior to May 21, 2015; or (iii) to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to May 21, 2015. Any increase to the approved hours of operation shall meet the requirements of this subsection (a).
- (b) *Sunset Harbour neighborhood.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

- (1) Operations shall cease no later than 2:00 a.m., except that outdoor operations (including sidewalk cafe operations) shall cease no later than 12:00 a.m.
- (2) Alcoholic beverage establishments may not operate any outside dining areas or accessory bar counters above the ground floor of the building in which they are located; however, outdoor restaurant seating, associated with indoor venues, not exceeding 40 seats, may be permitted above the ground floor until 8:00 p.m.
- (3) Except as may be required by any applicable fire prevention code or building code, outdoor speakers shall not be permitted.
- (4) Special events shall not be permitted in any alcoholic beverage establishment.
- (5) This subsection (b) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.

DIVISION 4. - CD-1 COMMERCIAL, LOW INTENSITY DISTRICT

Sec. 142-279. - Special regulations for alcoholic beverage establishments.

- (a) The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located on the west side of Alton Road and east of Alton Court, between 11th Street and 14th Street:
 - (1) Operations shall cease no later than 2:00 a.m.
 - (2) Establishments with sidewalk cafe permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served in the restaurant, shall cease sidewalk cafe operations at 12:00 a.m., and shall not be permitted to have outdoor speakers.
 - (3) Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.
 - (4) Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
 - (5) Outdoor bar counters shall be prohibited.
 - (6) No special event permits shall be issued.
 - (7) This subsection (a) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that (i) is in application status prior to April 14, 2016; or (ii) issued prior to May 21, 2016; or (iii) to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to May 21, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.
- (b) The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in areas adjacent to the CD-3 zoning

district along the 41st Street corridor, between 40th Street and 41st Street, and between Alton Road and the Indian Creek waterway:

- (1) Operations shall cease no later than 2:00 a.m.
- (2) Alcoholic beverage establishments with sidewalk cafe permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served in the restaurant, shall cease sidewalk cafe operations at 12:00 a.m., and shall not be permitted to have outdoor speakers.
- (3) Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.
- (4) Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures in chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.
- (5) Outdoor bar counters shall be prohibited.
- (6) No special event permits shall be issued to alcoholic beverage establishments.
- (7) The provisions of this subsection (b) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.