



To: Billy Urquia, City Clerk and Suramy Cabrera, Development Services Director

From: Stephanie Throckmorton, Deputy City Attorney

Approved: Cristina M. Suárez, City Attorney *ms*

RE: Section 6-4 of the City Code and Appendix E of the City's Zoning Code

Date: April 4, 2023

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In 1995, the City adopted Resolution No. 28987 which established the Business Improvement District of Coral Gables. Until 2022, the Business Improvement District operated as a Chapter 170, *Florida Statutes*, special assessment district. Pursuant to Resolution 2022-291, the Business Improvement District automatically dissolved on November 18, 2022. The Business Improvement District was also dissolved by ordinance in Ordinance 2023-01. Given the dissolution of the Business Improvement District, this opinion addresses references in the Zoning Code and City Code to "Business Improvement District."

First, a reference in the City Code regarding administrative reviews for retail beverage and retail liquor store licenses refers to "a non-restaurant facility requesting open air seating on private property is located within the Business Improvement District (BID). *Section 6-4, City of Coral Gables City Code.*

Second, Appendix E of the City's Zoning Code lays out numerous standards for the Business Improvement Overlay (BIOD) District. Section E.1 (A)1 states that the provisions in that section of the code apply "within the boundaries of the Business Improvement District (BID) as established pursuant to Resolution No. 2012-99."

In order to clarify where those provisions apply, given the dissolution of the Business Improvement District special assessment district, please direct the Municipal Code Corporation to amend the City's Code as indicated below <sup>1</sup> and amend the City's Zoning Code to reflect the changes below:

**Sec. 6-4. Administrative review by city manager with approval by city commission for retail beverage and retail liquor store licenses issued to nonrestaurant facilities.**

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<sup>1</sup> Insertions are indicated by underline, deletions by ~~strikethrough~~.

(a) Retail beverage and retail liquor store licenses issued by the state, as permitted by state law limiting the number of permitted licenses for the sale of alcoholic beverages and intoxicating liquors, may be issued by the city commission, after administrative review by the city manager, for the following:

- (1) Art galleries, including private art galleries, for the retail sale of art.
- (2) Theaters.
- (3) Museums.

(4) Other nonrestaurant facilities as determined on an individual basis by the city commission. In approving such facilities, the city commission may impose appropriate conditions and safeguards to protect the public health, safety and welfare.

(b) In order for a nonrestaurant facility to qualify for a retail beverage or retail liquor store license under this section, the following minimum requirements shall be met in addition to other requirements set out elsewhere in this chapter:

- (1) That the nonrestaurant facility shall have a valid certificate of use and local business tax.
- (2) The sale of alcoholic beverages and intoxicating liquors shall be only incidental to the primary function of the facility.
- (3) Permanent bars or counters with a surface area not exceeding 45 square feet shall be permitted. It is provided, however, that this restriction shall not apply to an event space or venue facility with a minimum of 4,000 or more permanent seats.
- (4) Total receipts from the sale of alcoholic beverages and intoxicating liquors shall not exceed 25 percent of the total annual gross receipts of any nonrestaurant facility. It shall be the responsibility of the nonrestaurant facility to maintain records open for inspection by the city to demonstrate compliance with this requirement.
- (5) Nonrestaurant facilities holding a state retail beverage or retail liquor store license shall always be subject to inspection by the city manager or his or her designee for the purpose of determining that such nonrestaurant facilities are in compliance with the existing requirements.

(c) A non-restaurant facility that has been issued a retail beverage or retail liquor store license under this section may request open air seating from the city commission if the following minimum requirements are met, in addition to other requirements set out elsewhere in this chapter:

- (1) That the non-restaurant facility requesting open air seating on private property is located within the ~~Business Improvement District (BID)~~ Business Improvement Overlay (BIO) District as defined in the City's Zoning Code.
- (2) That if the non-restaurant facility is requesting open air seating in the public right-of-way, the non-restaurant facility shall front Miracle Mile or Giralda Plaza.

(3) That the open-air seating must comply with the standards, criteria, and conditions for Outdoor Dining for restaurants set forth in section 4-206 of the Zoning Code, and any other state and local regulations, including, without limitation, any state alcohol licensing requirements.

(4) The city commission may impose additional appropriate conditions to protect the public health, safety, and welfare.

(5) The non-restaurant facility shall apply for the applicable open-air seating permit after obtaining the city commission approval. Any permit application and user permit fees as specified in the fee schedule applicable to sidewalk cafes in the public right-of-way or outdoor dining on private property shall apply.

(6) The issued open air seating permit may be administratively renewed, consistent with section 4-206 of the Zoning Code, if (a) there are no proposed changes to the open air seating; (b) the non-restaurant facility is in compliance with all requirements of its retail beverage or retail liquor store license under this section and all conditions required by the city commission; and (c) no code enforcement citations have been issued to the non-restaurant facility. Otherwise, renewal must be reviewed and approved by the city commission.

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## **Appendix E. Business Improvement Overlay District (BIOD)**

### **Section E.1 Business Improvement Overlay (BIOD) District**

#### **A. Applicability**

1. The following provisions shall apply to all properties adjoining and abutting Miracle Mile, from Douglas Road to Le Jeune Road; on both sides of the street on Giralda Avenue, Aragon Avenue and Andalusia Avenue from Douglas Road to Le Jeune Road and all adjacent north-south streets such as Salzedo, Ponce de Leon Boulevard, and Galiano. ~~within the boundaries of the Business Improvement District (BID) as established pursuant to Resolution No. 2012-99.~~

This opinion is issued pursuant to Section 2- 252(e)(1), (8), and (9) of the City Code.