NORTH MIAMI
FLORIDA
776 N.E. 125 Street, North Miami, Florida 33161

Staff Report

Date: January 27, 2015

To: The Honorable Mayor and City Council

From: Tanya Wilson-Sejour, Planning Manager, Community Planning & Development

Re: Amendment to LDR, Article 4. Section 4-302 - Establishment of Use (Liquor Package Store)

AN ORDINANCE OF THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 4, DIVISION 3 ENTITLED "NON-RESIDENTIAL DISTRICTS", SPECIFICALLY AT SECTION 4-302 ENTITLED "USES PERMITTED", TO ESTABLISH LIQUOR PACKAGE STORES IN THE C-1 COMMERCIAL ZONING DISTRICT, TO ENCOURAGE THE RETENTION, ATTRACTION AND EXPANSION OF BUSINESS AND INDUSTRY CONSISTENT WITH THE INTENT OF THE NORTH MIAMI COMPREHENSIVE PLAN; PROVIDING FOR REPEAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.

RECOMMENDATION

That the Mayor and Council approve the proposed ordinance to amend Article 4, Section 4-302 of the City's Land Development Regulation (LDR) to re-establish Liquor Package Stores as a special exception use in the C-1 Commercial zoning district.

PLANNING COMMISSION RECOMMENDATION

At its meeting on October 7th 2014, the Planning Commission (attended by Commissioners Castor, James, Ernst, Each, Seifried and Prevatel) reviewed and discussed the proposed ordinance to amend Article 4, Section 4-302 to re-establish Liquor Package Stores as a special exception use in C-1 Commercial zoning district. Based on the information provided, several Board members expressed concern that allowing the liquor package stores in the C-1 district would diminish the quality of life in the City. Staff clarified that he subject use currently existed in the City but the LDR only permits the use along Biscayne Boulevard in the C2BE and C2BW zoned areas. Furthermore based on current regulations, alcohol consumption is prohibited on the premises and must be sold in sealed containers. Historically, liquor package stores were always allowed in the City's C-1 district up until 2009 when the LDR was updated. Nonetheless the majority of the board members were still reluctant to support the proposed amendment.

During the public hearing, Ms. Jessica Alston of Sunkist Grove spoke against the item and stated that she diametrically opposed liquor package stores in the area. She also shared that her Homeowner's Association gathered over 50 signatures to deny a grocery store outside of the City limits that would have sold liquor in order to preserve the quality of life. Based on the proceedings the motion was moved by Commissioner Castor to deny the item and was seconded by Commissioner James. The proposed ordinance failed by a vote of 4-2 (with the 2 supporting votes made by Commissioners Each and Prevatel).

BACKGROUND INFORMATION

The proposed text amendment, sponsored by Councilman Philip Bien-Aime, seeks to amend Article 4, Section 4-302 entitled "Uses Permitted", to re-establish *Liquor Package Stores* as a Special Exception use in the C-1 Zoning District. Article 7 of the City's LDR defines *Liquor Package* Stores as *"... a state licensed vendor selling alcoholic beverages in sealed containers only for consumption off the premises subject to the limitations provided in Chapter 3 (alcoholic beverages) of the City's Code of Ordinances."* Furthermore Chapter 3 of the City's Code of Ordinances requires that all liquor package stores adhere to a 1500 feet distance separation from the following types of uses: House of Worship, Schools, Residential, City Parks and Other liquor package stores. Also, any applicant desiring to establish a liquor package store must first obtain a 3-PS State Beverage License prior to making application with the City to obtain a Business Tax Receipt (BTR) and Certificate of Use (CU). Given the forgoing, any deviation from the aforementioned provision would require approval of a variance from the Board of Adjustment before a BTR and CU can be issued.

The City's regulations currently prohibit liquor package stores in all Commercial districts except C-2BE and C-2BW, both located along Biscayne Boulevard, which contains the City's only 3-PS licensed liquor package store (which is owned and operated by Walgreens). **However it should be noted that under the City's former Zoning Code liquor package stores were historically allowed as a special exception use in the City's Commercial and Industrial district until 2009 when the use was excluded from said districts in the newly adopted LDR.** As such, the proposed amendment seeks to reestablish the use as a special exception in the C-1, Commercial district for businesses with no less than 1000 square feet of commercial space, to allow greater flexibility to property owners in the C-1 district to be able to invest in and operate a business where *alcoholic beverages are sold in sealed containers (see attached examples of compatible liquor package stores in other municipalities).*

Section 3-1004 of the City's Land Development Regulations requires that all City initiated text Amendments to the LDR must meet the following minimum criteria:

1. **Promotes the public health, safety and welfare;**

Staff believes the current restrictions as outlined in Chapter 3, (Alcoholic beverages) of the City's Code of Ordinance, provides sufficient safeguards to protect the public health, safety and welfare of the City's residents. In fact based on staff's analysis any new liquor package store would not be able to meet the current 1500 ft distance separation and as such would by virtue of the Code requirement need to apply for a variance through the Board of Adjustment for consideration.

Furthermore City administration believes re-establishing liquor package stores as a special exception use in the City's C-1 commercial district allows for the creation of new businesses in other areas of the City besides the C2BE and C2BW Commercial Districts and reduces the possible proliferation of such uses in said districts. In order to further limit the number of liquor package stores along the City's major commercial corridors, City administration recommends limiting such uses at locations with no less than 1000 square feet.

Staff believes the proposed amendment promotes economic growth and stimulates job creation thereby enhancing the overall quality of life within the City.

2. **Does not permit uses the Comprehensive Land Use Plan prohibits in the area affected by the zoning map change or text amendment**

The proposed use is consistent with the permitted uses allowed in the underlying Land Use as identified in the City's Comprehensive Plan.

3. **Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property;**

Policy 1.1 of the City's Comprehensive Plan (Future Land Use Element) establishes maximum densities and intensities in each land use category which restricts proposed developments throughout the City to certain minimum development standards. Also, Section 4-303 of the LDR provides maximum density and intensity standards for proposed developments in all non-residential zoning districts. E.g. uses in the C-1, C-2BW and C-2BE districts *have a maximum lot coverage of 80%, maximum height of 55 ft; and uses in the M-1 district have maximum lot coverage of 75% with a maximum height of 55 ft. As such, all future uses associated with the proposed text amendment must comply with the maximum densities and intensities permitted in the City's Comprehensive Plan and Section 4-303 of the LDR.*

4. **Will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the Comprehensive Land Use Plan;**

Any future permitted uses associated with the proposed text amendment will be subject to applicable concurrency requirements. If it is determined that any proposed development may potentially cause adverse impacts on the City's current or future infrastructure, the applicant will be required to mitigate these impacts that exceed the established level of service for a given public facility.

5. **Does not directly conflict with any goal, objective or policy of the Comprehensive Land Use Plan; and**

The proposed text amendment is consistent with the goals, policies and objectives of the City's Comprehensive Plan. Specifically, Policy 9.4.6 the Economic Element which requires that the City create land use and zoning regulations that encourage the retention, attraction and expansion of businesses. Furthermore Goal 9 also requires that the City create an environment that will enhance the economic prosperity of local businesses and attract new business while improving the quality of life for all of its citizens.

6. **The proposed amendment furthers the orderly development of the City of North Miami.**

Since Liquor Package stores are solely permitted in the C2BE and C2BW Districts, staff believes re-establishing the use by Special Exception in the C-1 district reduces the possibility of a clustering or proliferation of such uses along Biscayne Boulevard and affords the orderly diffusion of such uses throughout other C-1 zoned areas of the City. Also re-establishing liquor package stores as a special exception use in the C-1, districts further advances the City's Comprehensive Plan vision to support the expansion of businesses in areas that are deemed appropriate by the City. If approved all future liquor package stores are subject to the limitations on service and hours of operation as provided in Chapter 3 (Alcoholic Beverages) of the City's Code of Ordinances in order to sell alcoholic beverages in sealed containers for consumption off the premises.

CONCLUSION

Staff is of the opinion that the proposed amendment to re-establish liquor package stores as a special exception use in the C-1 District is in keeping with the goals, policies and objectives of the City's Comprehensive Plan and furthers the orderly development of the City. As such, staff requests approval of the proposed ordinance.

TWS

Attachments

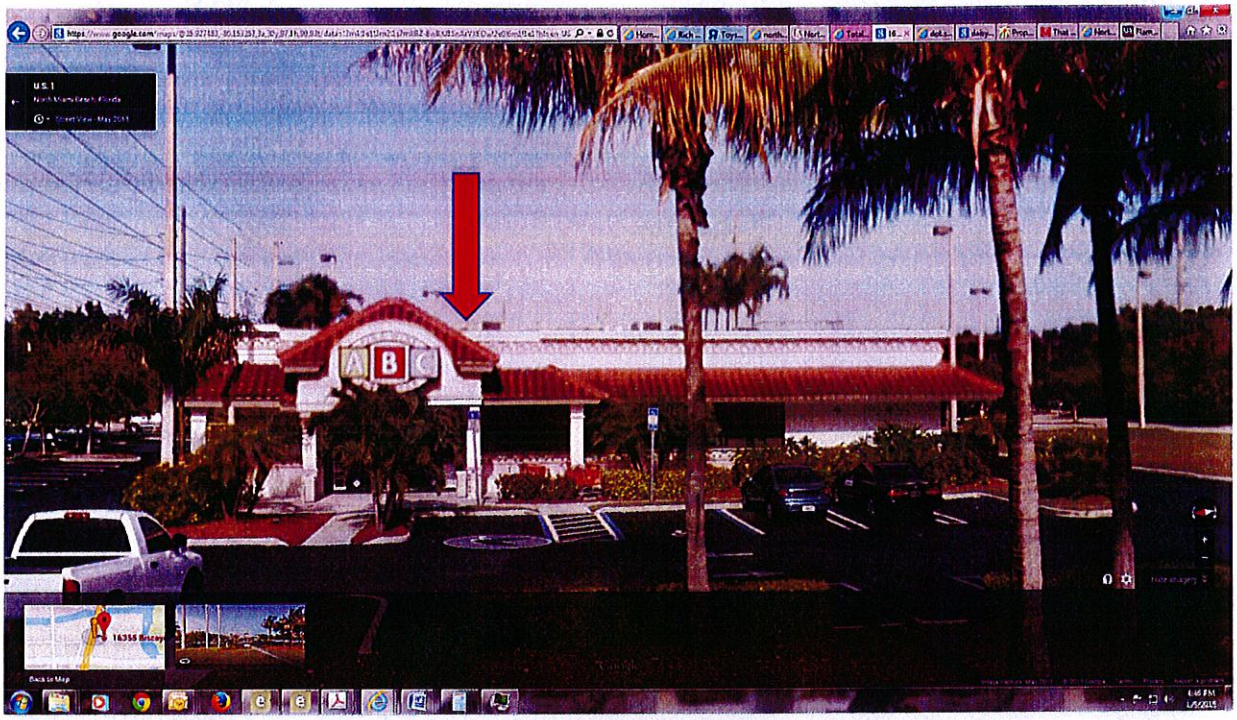
1. Proposed Ordinance
2. Chapter 3, Code of Ordinances
3. Examples of Liquor Packaging Stores

The following pictures depict some existing liquor package stores within other neighboring communities.

Collins Liquor Store: 7317 Collins Avenue, Miami Beach, FL 33141 3,508 sq. ft.

Total Wine & More: 14750 Biscayne Boulevard, North Miami Beach, FL 33181 42,102 sq. ft.

ABC Fine Wine 16355 Biscayne Boulevard, North Miami Beach, FL 33160 10,871 sq. ft.



While the size of these liquor package stores shown in the pictures above tends to vary from 3,000 sq. ft. to over 40,000 sq. ft., it shall be noted that in many instances, some liquor package stores can occupy an area as small as 1,000 sq. ft. depending on whether their inventory includes wine and beers. The liquor store, That Wine Place located at 416 SW 145th Terrace, Pembroke Pines Fl, 33027, inside the Shops at Pembroke Gardens provides a great example.

Average size: 1,000 sq. ft., Pembroke Gardens Town Center, Pembroke Pines

Chapter 3 - ALCOHOLIC BEVERAGES

FOOTNOTE(S):

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Editor's note— Ord. No. 1251, § 1, adopted February 26, 2008, repealed the former Ch. 3, §§ 3-1—3-15, and enacted a new Ch. 3, §§ 3-1—3-18, as set out herein. The former Ch. 3 pertained to similar subject matter. See also the Code Comparative Table.

Cross reference— City clerk, § 2-231; buildings and building regulations, Ch. 5; finance, Ch. 7; licenses and business regulations, Ch. 11; miscellaneous offenses, Ch. 13; nuisances, Ch. 12; parks and recreation, Ch. 14; public places, Ch. 16; streets and sidewalks, Ch. 17; zoning, App. A.

State Law reference— Authority to locate and regulate hours of sale, F.S. §§ 562.14(1) and 562.45(2).

Sec. 3-1. - Construction of chapter.

It is intended that the provisions of this chapter shall apply solely to those beverages constituting alcoholic beverages under the laws of the state. Every violation of the laws of the state relating to the sale of alcoholic beverages is hereby specifically made a violation of this chapter, with the same force and effect as if the provisions of such laws were fully set forth herein. Notwithstanding any provision of this chapter that may appear to be contrary, this chapter shall in each instance be construed within the lawful confines of the authority of the city and shall be effective to the fullest extent authorized by the beverage law.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult entertainment business shall mean any premises within the city where members of the public, or any person for consideration, are offered any live or recorded performance, or any visual image tangibly fixed in any medium, which performance, image, or recording has as its primary or dominant theme subject matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, and which performance, recording, or visual image requires the exclusion of minors from the premises pursuant to F.S. Ch. 847.

Alcoholic beverages shall mean distilled spirits and all beverages containing one-half of one (0.5) percent or more by volume pursuant to F.S. § 561.01.

Bar, lounge or *tavern* shall mean any place of business where alcoholic beverages are sold or offered for sale for consumption on the premises and where the sale of food is incidental to the sale of such beverages or where no food is sold, and includes any establishment in receipt of a valid alcoholic beverage license from the state which permits the sale for consumption on the premises of alcoholic beverages as a principal use. Establishments where alcoholic beverages are permitted for consumption on the premises as an incidental or accessory use are not considered a bar.

Beer or *malt beverage* shall mean all brewed alcoholic beverages containing malt.

Beverages law shall refer to F.S. Chs. 561, 562, 563, 564, 565, 567 and 568.

Bottle club shall mean a commercial establishment wherein patrons consume alcoholic beverages which are brought onto the licensed premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the licensed premises. A bottle club can be a private club or a public business establishment in which the principal revenue would be derived from the sale of setups, mixers, ice and water, and charges for any entertainment provided. A bottle club does not include a civic, fraternal or veteran organization or association which only occasionally or intermittently provides facilities for on-premises consumption of alcoholic beverages by its members and their guests.

Civic, fraternal or *veterans organizations* or *associations* shall mean a vendor of alcoholic beverages whose character is that of a fraternal or social nature selling only to members and guests of the organization or association and which is not operated or maintained for profit.

Consumption off the premises or *package sales* permits only the sale of alcoholic beverages in their original sealed containers and consumption on the premises is not allowed.

Consumption on the premises or *COP* shall mean consumption of alcoholic beverages on the licensed premises where such beverages were purchased or the right to sell by the drink, bottle or can, alcoholic beverages for consumption only on the licensed premises.

Convenience store shall mean any retail business opened primarily for the sale of products other than alcoholic beverages and which may sell beer and wine in sealed containers only for consumption off the premises. Grocery stores and supermarkets are considered to be convenience stores for purposes of this chapter.

Corporation shall mean any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, professional association or any other public or private legal entity operated for profit or not for profit.

Licensed premises shall mean not only rooms where alcoholic beverages are stored, sold or dispensed by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit free passage from one (1) room or area to another over which the licensee has dominion or control.

Licensee shall mean a corporation, person, or persons holding an alcoholic beverage license issued by the state.

Liquor shall include all spirituous beverages created by distillation and the blending of distilled beverages into a mixture.

Nightclub shall mean a restaurant, dining room or other establishment, which operates after 11:00 p.m., where food and/or alcoholic beverages are licensed to be sold and consumed on the premises, and where music, dance, floor shows or other forms of entertainment are provided for guests and patrons with or without an admission fee.

Package store shall mean a vendor selling alcoholic beverages in sealed containers only for consumption off the premises.

Park or *recreation area* shall mean any lot, tract or parcel of land primarily devoted for the enjoyment of the public.

Public place shall mean streets, sidewalks, parkways, parks, playgrounds, ball fields, school buildings, school yards, and public buildings, facilities and stadiums owned or in the possession of the city, county or state, or other governmental agencies.

Restaurant or *cafeteria* shall mean a business holding a current city business tax receipt with a restaurant license issued by the state and which is advertised and held out to the public to be a place where food is prepared for consumption. The primary operation of the restaurant shall be the serving of food and the sale of alcoholic beverages is entirely incidental to the principal use of selling food.

Sale and *sell* shall mean any transfer of an alcoholic beverage with or without a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage, or the serving or dispensing of an alcoholic beverage by a licensee under the beverage law.

State alcoholic beverage retail licenses:

1-COP	Beer only, consumption on the premises.
2-COP	Beer and wine only, consumption on the premises.
4-COP	Beer, wine and liquor, consumption on the premises.
4-COP-SRX	Beer, wine and liquor, consumption on the premises, restaurant license.
1-APS	Beer only, consumption off the premises.
2-APS	Beer and wine only, consumption off the premises.
3-PS	Beer, wine and liquor, consumption off the premises.
11-C	Club license to sell to members and member's guests only.

Wine shall mean all alcoholic beverages made from fruits, berries, or grapes, created either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States and further includes all vinous beverages such as sparkling wines, champagnes, vermouths and like products.

(Ord. No. 1251, § 1, 2-26-08; Ord. No. 1337, § 1, 6-26-12)

Sec. 3-3. - Reserved.

Editor's note—

Ord. No. 1337, § 1, adopted June 26, 2012, repealed the former section 3-3 in its entirety, which pertained to alcoholic beverages in adult entertainment establishment business prohibited, and derived from Ord. No. 1251, § 1, adopted February 26, 2008.

Sec. 3-4. - Bottle clubs prohibited.

No bottle clubs will be licensed or authorized to do business within the city and they are prohibited.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-5. - Application to conduct business required.

(a) Any person desiring to obtain a state beverage license or a transfer of a state beverage license for the manufacture, distribution or sale of alcoholic beverages, shall first file under oath with the city clerk a written application. The application shall be on the form or forms provided by the city clerk. The application shall set forth the following information:
   (1) Applicant's date of birth if an individual person or date of organization if a firm, corporation or association;
   (2) Type of business to be engaged in;
   (3) Address at which the business is to be conducted;
   (4) Classification of state beverage license desired;
   (5) Applicant's present occupation;
   (6) Applicant's present residence address or address of its principal place of business;
   (7) Applicant's business address if different from item (3) above, and if a firm, corporation or association, the names and residence addresses of any and all officers, directors and managing agents thereof;
   (8) Names and addresses of any person, firm, corporation or association, interested directly or indirectly with the applicant in the business to be engaged in for which the beverage license is being applied;
   (9) Names and addresses of five (5) business operators or professionals, who are residents of Miami-Dade County, Florida, as references.

(b) Each application shall contain a certificate by the applicant or by the applicant's agent, that he has read this chapter, will comply with the provisions contained in this chapter, and that the applicant agrees that if the beverage license sought is issued, it shall always be subject to all terms and provisions of this chapter and any amendments hereto.

(c) The city clerk shall not file, but shall return to the applicant, any application which does not meet the requirements of this section or which does not supply the information as required on the application form.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-6. - Investigation of applicants.

(a) Upon the filing of an application by a prospective licensee, the city clerk shall cause an investigation to be made of the location of the business as to its compliance with the zoning ordinance of the city and with the distance requirement pursuant to this chapter.

(b) Review as to compliance with building, sanitary and zoning ordinances shall be made by the department or departments responsible for administration of these sections and the results of this review subsequently passed on to the city clerk's office.

(c) Within thirty (30) days from filing the application as provided herein, the city clerk shall recommend either approval or disapproval of the application and shall endorse such recommendation on the face of the application.

(d) Lack of cooperation on the part of the applicant as to the investigation of his qualifications and investigation of his application shall at be all times good and sufficient cause for disapproval thereof.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-7. - Nightclubs soundproofing required.

Nightclubs shall be soundproofed and their windows, doors and other openings kept closed in order that the noises therefrom may not disturb the peace and quiet of the surrounding neighborhood.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-8. - License required for music and entertainment; exception.

(a) Any vendor licensed to sell alcoholic beverages for consumption on the premises may provide music and entertainment for patrons upon approval of the board of adjustment and final approval of the city council, and by paying the city clerk a special regulatory license fee. Any licensee who provides music and entertainment without first obtaining the approval and paying the regulatory license fee is committing a violation subject to a code enforcement ticket or citation pursuant to chapter 2 of this Code and is subject to denial of the issuance of a license for a minimum of six (6) months from the date of the violation.

(b) Any vendor providing only one (1) musician or one (1) coin-operated machine and where no dancing or other forms of entertainment are provided for, shall not be required to obtain a music and entertainment license.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-9. - Standards for providing music and entertainment license.

(a) In reviewing an application for the provision of music and entertainment, the board of adjustment and city council shall determine whether the applicant meets the following standards:

(1) The granting of a music and entertainment license will not substantially injure or detract from the use of surrounding properties or from the character of the neighborhood;

(2) There is sufficient parking for patrons and appropriate access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion;

(3) Where the installation of outdoor floodlighting or spotlighting is intended, that such lighting will not have any detrimental effect on neighboring property or traffic; and

(4) Noise caused by the establishment shall be kept at such a level so as to conform with this Code.

(5) Whether or not there is adequate security provided by the establishment.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-10. - Hours during which sales are allowed; consumption.

(a) It shall be unlawful for any person to purchase and for any licensee and any manager, agent or employee of any licensee to sell, serve or distribute in any form or by any method any alcoholic beverage between the hours of 1:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday; and between the hours of 2:00 a.m. and 7:00 a.m. on Saturday and Sunday.

(b) It shall be unlawful for any person to consume and for any licensee and any manager, agent or employee of any licensee to permit a person to consume any alcoholic beverage, in any place of business between the hours of 1:30 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday; and between the hours of 2:30 a.m. and 7:00 a.m. on Saturday and Sunday.

(c) The provisions of subsections (a) and (b) of this section shall apply to any licensee under the state beverage law and to any premises licensed under such law. The city council may extend the above hours of sale for alcoholic beverages for consumption on or off the premises on special occasions by resolution.

(d) No alcoholic beverages shall be sold in restaurants or cafeterias after the hours of serving food.

(Ord. No. 1251, § 1, 2-26-08; Ord. No. 1374, § 1, 6-24-14)

Sec. 3-11. - Distance requirements.

(a) Unless a variance is obtained from the board of adjustment, no alcoholic beverage application or business tax receipt shall be approved when the place of business designated in the application does not satisfy the following distance separation requirements of alcoholic beverage establishments from schools, houses of worship, city parks and recreational areas, residential uses and similar uses:

	Distances (in feet)			**Required License**
Type of Establishment	**Schools,** House of **Worship**	**Similar Uses**	**Residential** District, Parks and Recreational **Areas**	**State** Beverage License **Issued**
Restaurants or cafeterias	No distance requirement			2-COP or 4-COP-SRX
Bars, lounges or taverns	1,500	1,500	1,500	2-COP or 4-COP
Nightclubs	1,500	1,500	1,500	4-COP or 4-COP-SRX
Motels and hotels	1,500	1,500	1,500	2-COP, 4-COP-SRX, or 4-COP
Banquet halls providing alcoholic beverages as part of event	No distance requirement			2-COP or 4-COP
Civic, fraternal or veterans organizations	No distance requirement			2-COP or 11-C

Convenience stores	No distance requirement			1-APS or 2-APS
Package stores selling alcoholic beverages (excluding convenience stores selling beer and/or wine only)	1,500	1,500	1,500	3-PS
Adult entertainment business	1,500	1,500	1,500	4-COP or 4-COP-SRX

(b) The distance limitations provided in this section for similar uses shall not apply to motels and hotels of not less than fifty (50) guestrooms which do not have any entrance from the street to the bar or room primarily devoted to the serving of alcoholic beverages and which do not exhibit any sign or display on the outside denoting that alcoholic beverages are sold or obtainable therein.

(c) The distance limitations provided in this section shall not apply to existing licensees and shall not be construed to prevent the renewal of a state alcoholic beverage license.

(d) The distance limitations provided in this section shall not apply to a licensee who had procured the beverage license prior to the establishment of a school, a house of worship, a city park or recreational area, or a residential use.

(e) The distances provided for in this section shall be measured in a straight line without regard to intervening structures or objects, from the nearest property line of the applicant's premises for which a state beverage license is sought to the nearest point of the lot, tract or parcel of land in use by an established house of worship, school, park or recreational area or other similarly licensed premises.

(Ord. No. 1251, § 1, 2-26-08; Ord. No. 1337, § 1, 6-26-12)

Sec. 3-12. - Licensee moving to new location.

A licensee may move the licensed place of business and operate at a new location upon making application for such change of location to the city clerk and upon such application being approved as to zoning, distance and other city requirements. The transfer procedure will be the same as outlined in sections 3-5 and 3-6. Approval of the new location must be obtained prior to manufacturing, distributing or selling alcoholic beverages at the new business location.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-13. - Change of beverage license series.

When a current alcoholic beverage licensee in the city applies to the state for a change of series, the zoning administrator is authorized to sign the certificate of zoning if the location is properly zoned for the operation applied for and all other city requirements, including the distance requirement are met.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-14. - Variances.

Variances relating to the provisions of section [3-10] (hours during which sales are allowed) and to section [3-11] (distance requirements) may be granted upon application to the board of adjustment, pursuant to section 29-25 of this Code.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-15. - Consumption restricted.

(a) Consuming alcoholic beverages in public places or in places solely licensed to sell alcoholic beverages for consumption off the premises is unlawful and prohibited. However, this prohibition shall not be construed to prohibit the sale of alcoholic beverages by a duly licensed concessionaire for individual events in public places, such as in public parks, at public functions, or on the premises of a municipal sports stadium located in the city, in accordance with applicable regulations governing such activities.

(b) It shall be unlawful for any person to sell or serve any alcoholic beverage for consumption on the premises except within a building on such licensed premises or at tables on a patio on the licensed premises.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-16. - Moonshine; ownership, possession, or control prohibited; penalties; seizure of apparatus.

(a) Any person who owns or has their possession or under their control less than one (1) gallon of liquor which was not made or manufactured in accordance with the laws in effect at the time shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.

(b) Any person who owns or has in their or under their control one (1) gallon or more of liquor which was not made or manufactured in accordance with the laws in effect at the time shall be guilty of a felony of the third degree, punishable as provided in F.S. §§ 775.082, 775.083 or 775.084.

(c) Any vehicle, vessel, or aircraft used in the transportation or removal of, or for the deposit or concealment of any illicit liquor still or stilling apparatus, or any mash, wort, wash, or other fermented liquids capable of being distilled or manufactured into an alcoholic beverage, commonly known and referred to as moonshine whiskey, where seized by a city police officer within the city, shall be forfeited, as provided for by the Florida Contraband Forfeiture Act.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-17. - Enforcement.

Unless otherwise provided, the provisions of this chapter may be enforced by:

(1) Code enforcement violations pursuant to chapter 2 of this Code; and/or

(2) A suit brought by the city in a court of competent jurisdiction for declaratory, injunctive or other appropriate relief.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 3-18. - Regulations to be supplemental to county and state laws.

The regulations contained within this chapter shall be deemed supplemental and additional to all county and state laws or regulations dealing with alcoholic beverages. All county and state laws and regulations shall have full force and effect within the corporate limits of the city.

(Ord. No. 1251, § 1, 2-26-08)

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 4, DIVISION 3, ENTITLED "NON-RESIDENTIAL DISTRICTS", SPECIFICALLY AT SECTION 4-302 ENTITLED "USES PERMITTED", TO ESTABLISH LIQUOR PACKAGE STORES IN C-1 COMMERCIAL ZONING DISTRICTS, TO ENCOURAGE THE RETENTION, ATTRACTION AND EXPANSION OF BUSINESS AND INDUSTRY CONSISTENT WITH THE INTENT OF THE NORTH MIAMI COMPREHENSIVE PLAN; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, on April 28, 2009, the Mayor and City Council adopted the City of North Miami ("City") Land Development Regulations under Chapter 29 of the City's Code of Ordinances; and

WHEREAS, Division 3 of Chapter 29, entitled "Non-Residential Districts," under Section 4-302 of the Land Development Regulations ("LDRs") currently allows *Liquor Package Stores*, with the Florida Alcoholic Beverage License '3PS', as a special exception use only in the C-2BE and C-2BW commercial zoning districts; and

WHEREAS, the City is desirous of amending Section 4-302 of the LDRs to also establish *Liquor Package Stores* as a special exception use in the C-1 commercial zoning district, to allow for the expansion and future creation of businesses in all applicable commercial zoning districts, providing the proposed location is greater than 1000 square feet in size; and

WHEREAS, Policy 9.4.6 of the City's Comprehensive Plan ("Comprehensive Plan") requires that the City "Create land use designations and zoning regulations that encourage the retention, attraction and expansion of business and industry"; and

WHEREAS, the proposed amendment is consistent with the Comprehensive Plan, promotes new business opportunities, and affirms the public health, safety and welfare of the City; and

WHEREAS, the proposed amendment furthers the orderly development of the City, appropriately diversifies commercial uses, encourages future economic growth and does not directly conflict with any goal, objective or policy of the Comprehensive Plan; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on October 7, 2014, found the proposed amendment inconsistent with the public health, safety and welfare, and thereby recommended to the Vice Mayor and City Council its denial; and

WHEREAS, the Mayor and City Council, find that the proposed amendment to the LDRs is consistent with the Comprehensive Plan, and is in the best interest of the City.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Amendment to Chapter 29 Code of Ordinances. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations", by amending Article 4, Division 3 entitled "Non-residential Districts", specifically at Section 4-302 entitled "Uses Permitted", to establish Liquor Package Stores in C-1 Commercial Zoning Districts, to encourage the retention, attraction and expansion of business and industry consistent with the intent of the North Miami Comprehensive Plan, as follows:

CHAPTER 29. LAND DEVELOPMENT REGULATIONS

* * * * * *

ARTICLE 4. ZONING DISTRICTS

* * * * *

DIVISION 3. NON-RESIDENTIAL DISTRICTS

* * * * *

Section 4-302. Uses Permitted.

The following chart establishes the uses permitted in the non-residential zoning district in the City. No use is permitted which is not listed as permitted on this chart. "P" indicates whether the use is permitted, subject to review and approval in accordance with Article 3 of this Code. "P*" indicates that the use is permitted with administrative site plan review. "SE" indicates that the use is permitted but only through special exception review. No use is permitted unless it complies with the provision of the zoning district in which it is located and the applicable development standard in Article 5 of this Code.

NON-RESIDENTIAL DISTRICTS					
PERMITTED USES	**C1**	**C2BE**	**C2BW**	**C3**	**M1**
ACCESSORY USES AND STRUCTURES	P	P	P	P	P
ADULT BUSINESSES					SE
ADULT DAY CARE (STAND ALONE BUILDING)	P*	P*	P*	P*	P*
ANIMAL BOARDING	P*	P*	P*		P*
ANIMAL GROOMING ESTABLISHMENT	P	P	P	P	
APPLIANCE, FURNITURE, ELECTRONIC RENTALS AND REPAIR	P				P
AUTO SERVICE STATION	SE				SE
BANQUET	P*				P*
BAR, LOUNGE OR TAVERN**	P	P	P	P	SE
PERMITTED USES	**C1**	**C2BE**	**C2BW**	**C3**	**M1**
BOAT REPAIR					P*
CATERING KITCHEN	P				P
CHECK CASHING STORE					P
CHILD CARE CENTERS	SE			SE	
COMMUNITY FACILITIES	SE*	SE*	SE*		

CONSIGNMENT SHOPS	P*	P*	P*	P*	
CONVENTION CENTER	SE			SE	
DAY SPA	P	P	P	P	
DRIVE THROUGH	SE	SE	SE	SE	
DRY CLEANING PLANT					P
EDUCATIONAL FACILITIES	SE*		SE*	SE*	
FUNERAL HOMES SE	SE				
GOVERNMENT USES	P	P	P	P	P
GUN SHOPS					SE
HOSPITALS	SE	SE	SE	SE	
HOTEL	P*	P*	P*	P*	
INDUSTRIAL					P
INSTITUTIONAL USES	P*	P*	P*	P*	
LIGHT INDUSTRIAL	SE				P
LIQUOR PACKAGE STORES (3PS)***	SE****	SE	SE		
MANUFACTURING					P
MARINAS		P*			
MECHANICAL CAR WASHING	SE				P
MEDICAL	P	P	P	P	
MUSEUMS				P*	P*
NIGHTCLUBS	SE	SE	SE	SE	SE
NURSING AND CONVALESCENT HOMES	P*		P*		
OFFICE	P	P	P	P	
OUTDOOR STORAGE (AS MAIN USE)					SE
PUBLIC FACILITIES	P	P	P	P	P
PUBLIC PARK	P	P	P	P	P
RECORDING AND TV/RADIO	P	P	P	P	P
RECREATION, INDOOR	P*	P*	P*	P*	P*
RELIGIOUS INSTITUTIONS	SE				
RESEARCH & TECHNOLOGY USES	P				P
RESTAURANTS	P	P	P	P	P*
RETAIL, SALES, SERVICES	P	P	P	P	
SCHOOLS	SE	SE	SE	SE	
SCHOOLS, SPECIAL &	SE	SE		SE	

TECHNICAL					
SELF-SERVICE LAUNDRIES	SE				
SELF STORAGE					P
STUDIOS (FINE ARTS)					P*
TEMPORARY USES	P	P	P	P	P
TOW TRUCK YARD					P*
VEHICLE SALES/DISPLAYS	SE				SE
VEHICLE SALES/DISPLAYS, MAJOR					SE
VEHICLE RENTAL	P*				P*
VEHICLE SERVICE, MAJOR					P*
VEHICLE SERVICE, MINOR	P*				P*
VETERINARY CLINICS	P*	P*	P*		P*
P = PERMITTED USE					
P* = ADMINISTRATIVE SITE PLAN REQUIRED					
SE = SPECIAL EXCEPTION					

* If a college/university dormitory was included in a master plan approved by the City prior to the adoption of these LDRs, administrative site plan shall be required.

** Subject to Chapter 3 of the City's Code.

*** Prohibited in the Arts, Culture and Design Overlay District (AOD) subject to Section 4-403E and Chapter 3 of the City's Code.

**** No liquor package store operating with a 3PS state beverage license, or requiring one under Florida law, shall be allowed to operate if the proposed location is 1000 square feet or less in size. No more than one (1) such liquor package store shall be allowed to operate along any major corridor within the city (e.g., NW 7th Avenue, NE 6th Avenue, West Dixie Highway, Biscayne Boulevard, 119th Street, 125th Street, or 135th Street). All liquor package stores are subject to applicable provisions of Chapter 3 of the City Code.

* * * * *

Section 2. Repeal. All ordinances or parts of ordinances in conflict or inconsistent are hereby repealed.

Section 3. **Conflicts.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by _____ vote of the Mayor and City Council on first reading this _____ day of _____, 2015.

PASSED AND ADOPTED by _____ vote of the Mayor and City Council on second reading this _____ day of _____, 2015.

_____
DR. SMITH JOSEPH
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: COUNCILPERSON PHILIPPE BIEN-AIME

Moved by: _____

Seconded by: _____

Vote:

Mayor Smith Joseph, DO	_____ (Yes)	_____ (No)
Vice Mayor Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.