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ORDINANCE NO. _____

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AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, AMENDING SECTION 4-6, "DEFINITIONS; HOURS OF OPERATION," OF CHAPTER 4, "ALCOHOLIC BEVERAGES," OF THE CITY CODE OF ORDINANCES TO ALLOW ISSUANCE OF REVOCABLE PERMIT FOR EXTENDED SERVICE HOUR FOR ALCOHOLIC BEVERAGES CONSUMED ON-PREMISES; PROVIDING FOR CORRECTIONS; SEVERABILITY; CONFLICTS; IMPLEMENTATION; AND AN EFFECTIVE DATE.

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WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, provides municipalities with the authority to exercise any power for municipal purposes, except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

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WHEREAS, the City Commission of the City of South Miami ("City") finds it periodically necessary to amend its Code of Ordinances ("Code") in order to update regulations and procedures to maintain consistency with state law, implement municipal goals and objectives, clarify regulations, and address specific issues and needs that may arise; and

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WHEREAS, pursuant to Section 562.14, Florida Statutes, a municipality may, by ordinance, establish hours of sale for alcoholic beverages; and

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WHEREAS, the City Commission adopted Ordinance No. 11-23-2462 prohibiting the sale of alcohol between the hours of 4:00 a.m. and 9:00 a.m. in order to protect the public health, safety, and welfare by decreasing the frequency of interactions between pedestrians and cyclists engaged in early morning activities and intoxicated individuals engaged in drunk driving or disorderly conduct, as well as reducing the frequency of disturbances that negatively impact the life, health, and peaceful enjoyment of others using public rights-of-way or private property in the vicinity of drinking establishments; and

WHEREAS, since adopting the Ordinance, late night calls for police service have generally decreased; and

WHEREAS, the City Commission finds that the decrease in late night calls is in part due to the restricted hours, but also to the internal enforcement of policies at the alcoholic beverage service establishments that operate during the late night/early morning hours; and

WHEREAS, the City Commission wishes to provide for a permit procedure to allow one hour of extend service based on continued enforcement of policies by the establishments that do not result in an increase in police involvement or negative interactions with the public; and

WHEREAS, the City Commission desires to amend Section 4-6(b) of the City Code to provide for the issuance of a revocable permit to allow an extend hour of service to 5:00 AM each day or on certain days, subject to compliance with all laws, adequate internal enforcement of

46 compliance policies by the permittee, and that avoid an increase in calls for police service or
47 unlawful activity; and

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49 **WHEREAS**, the City Commission finds that this Ordinance is in the best interest and
50 welfare of the City and approved it on first reading on _____; and

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52 **WHEREAS**, on _____, 2024, the Mayor and City Commission conducted a duly
53 noticed public hearing as required by law and approved the ordinance.

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55 **NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY**
56 **COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, AS FOLLOWS:**¹

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58 **Section 1. Recitals.** The above-stated recitals are true and correct and are incorporated
59 herein by this reference.

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61 **Section 2. Amending Chapter 4, Article I, Section 4-2. of the Code.** Chapter 4 –
62 “Alcoholic Beverages,” Article I. – “In General”, Section 4-6. “Definitions; hours of operation”
63 of the City Code of Ordinances, is hereby amended to read as follows:

64 **CHAPTER 4 – ALCOHOLIC BEVERAGES**

65 **ARTICLE I. – IN GENERAL**

66 * * *

67 **Section 4-6. Definitions; hours of operation.**

68 * * *

69 (b) *Hours of operation.* It shall be unlawful for any person who is licensed to sell alcoholic
70 beverages for on-premises consumption to sell or offer for sale alcoholic beverages between
71 the hours of 4:00 a.m. and 9:00 a.m. on all days of the week, except that the City Manager may
72 issue a monthly permit to serve alcoholic beverages between 4:00 a.m. and 5:00 a.m. upon
73 satisfactory demonstration by the permittee that police calls have not increased in the preceding
74 three months and the permittee has implemented and enforces internal policies to reduce
75 adverse impacts from the sale of alcoholic beverages. Such permit shall be fully revocable by
76 the City Manager or City Commission based upon an increase in calls for police service or a
77 determination by either the City Manager or City Commission that the internal policies of the
78 permittee upon which the permit was based are not being adequately enforced or have been
79 altered. Additionally, it is unlawful to sell or offer for sale alcoholic beverages for off-premise
80 consumption, or to be open for business to sell or offer to sell alcoholic beverages for off-

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Modifications proposed by the Planning Board are shaded in grey. Changes between first and second reading are indicated with ~~double-strikethrough~~ and double underline. Modifications made at second reading are shaded in dark grey.

81 premise consumption during the hours from 11:00 p.m. to 5:00 a.m. during all days of the
82 week.

83 **Section 3. Corrections.** Conforming language or technical scrivener-type corrections
84 may be made by the City Attorney for any conforming amendments to be incorporated into the
85 final Ordinance for signature.

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87 **Section 4. Severability.** If any section, clause, sentence, or phrase of this Ordinance
88 is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding
89 shall not affect the validity of the remaining portions of this Ordinance.

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91 **Section 5. Conflicts.** That all ordinances or parts of ordinances, resolutions or parts
92 of resolutions, in conflict herewith, are repealed to the extent of such conflict.

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94 **Section 6. Implementation.** The City Manager is hereby authorized to take any and
95 all necessary action to implement the purposes of this Ordinance.

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97 **Section 7. Effective Date.** This Ordinance shall become effective immediately upon
98 adoption.

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100 **PASSED** on first reading on the ____ day of _____, 2024.

101 **PASSED AND ADOPTED** on second reading on the ____ day of _____, 2024.

102 ATTEST:

APPROVED:

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104 _____

105 CITY CLERK

MAYOR

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107 READ AND APPROVED AS TO FORM,
108 LANGUAGE, LEGALITY AND
109 EXECUTION THEREOF

COMMISSION VOTE:
Mayor Javier Fernández:
Vice Mayor Lisa Bonich:
Commissioner Steve Calle:
Commissioner Joshua Liebman:
Commissioner Brian Corey:

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113 WEISS SEROTA HELFMAN COLE

114 & BIERMAN, P.L.

115 CITY ATTORNEY