

What Real Estate Brokers Need to Know About Alcohol-Related Uses:

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We get a lot of questions from commercial real estate brokers about Miami liquor licenses and whether alcohol establishments can be located at particular properties. When brokers are faced with a proposed use that will require a liquor or beer and wine license (restaurants, bars, nightclubs, breweries, brewpubs, lounges, liquor package stores, convenience stores selling beer and wine, or any other type of business selling or serving beer, wine or spirits), it is advisable to conduct some in-depth due diligence to be sure that the alcohol use is allowed. Here are some common areas that require careful consideration when an alcohol use is being considered:

1. Determine what type of alcohol license your client will need.

The Division of Alcoholic Beverages and Tobacco (“DABT”) issues several types of retail alcohol beverage licenses, including:

- **Type 2COP:** Beer and wine for on-premise consumption. This license is typically held by restaurants, delis, and cafés. This license also allows package sales of beer and wine in sealed containers. In Miami-Dade County, the yearly licensing fee is \$392.
- **Type 2APS:** Beer and wine for off-premise consumption only. This license is typically held by convenience stores, supermarkets, and gas stations. In Miami-Dade County, the yearly licensing fee is \$196.
- **Type 4COP-SFS:** Restaurants selling beer, wine and spirits. For more information on the requirements for this license type, see “[Recent Legal Changes Make it Easier to Qualify for a Miami Restaurant Liquor License.](#)” In Miami-Dade County, the yearly licensing fee is \$1,820.
- **Type 4COP (Quota):** Beer, wine, and sprits for on-premise consumption or package sales in sealed containers. This license type is typically held by bars, nightclubs, taverns, or other establishments that do not meet the 4COP-SFS restaurant license requirements. Unlike the licenses described above, the number of 4COP licenses is determined by a population-based quota system. A new quota license is created when a county’s population increases by 7,500 residents. These licenses can either be purchased on the open market from an existing license holder, with prices varying based on the market factors of supply and demand, or won through a yearly lottery process.

For general information on license types, see “[South Florida Liquor Licensing – A Snapshot.](#)”

2. Identify the property’s municipality.

Identifying whether a property is zoned for an alcohol-related use is oftentimes the most challenging, step. Miami-Dade County is divided into 34 different municipalities, and each regulates properties within its boundaries differently. Finding out what municipality a property is located in can be challenging. For example, properties in Wynwood, Coconut Grove or the Design District fall within the jurisdiction of the City of Miami. Just because an address says

“Doral” or “South Miami” does not necessarily mean that the property actually falls within the jurisdiction of that municipality. Click [here](#) for a link to a map of Miami-Dade County’s various municipalities.

3. Identify the zoning district.

The next step is figuring out the zoning designation of the property. This can often be achieved by calling the Planning & Zoning or Development Services department of the particular municipality to inquire about a property’s zoning designation. Alternatively, some municipalities have online search functions. For example, you can identify the zoning designations of properties within the jurisdictional limits of the City of Miami by using this [link](#).

4. Determine whether the property is zoned for an alcohol-related use.

Before your client signs a lease or purchases a property, it is important to figure out whether the client’s proposed alcohol-related use is going to require special approval from a local government, a public hearing, or will ultimately be prohibited. As a simple example, if a property falls within a residential zoning district, it is less likely that the municipality will allow a bar or a nightclub at that property.

Land development regulations in each municipality dictate where particular uses are allowed. For example, property uses within the jurisdiction of the City of Miami are regulated by the [Miami 21 Zoning Code](#). Article 4, Table 3 of the Miami 21 Zoning Code lists various uses, and indicates whether they are allowed by right, allowed only after an administrative approval process called a “warrant,” allowed only by “exception (after public hearing), or whether the use is prohibited. Certain new alcohol beverage uses in the City of Miami such as bars, taverns, cocktail lounges, nightclubs and supper clubs are only allowed by exception, which can be a lengthy process and requires a public hearing before the City’s Planning, Zoning and Appeals Board. Other alcohol-related uses like restaurants are allowed by right only in certain zoning districts, and subject to other regulations and requirements.

5. Determine whether the property meets distance separation requirements.

Many local governments in Florida require that certain alcohol uses be located a specified distance away from residentially-zoned or community uses like churches, schools, parks or government property. Some even require that one alcohol use be spaced a certain distance apart from another alcohol use. These distance separation requirements are generally intended to limit the potential adverse impact that alcohol sales and consumption could have on a surrounding neighborhood.

Navigating these requirements can be confusing, particularly in a jurisdiction like the City of Miami. [Chapter 4](#) of the City of Miami Code of Ordinances regulates alcohol beverage uses (in conjunction with Miami 21), and generally requires that an alcohol beverage establishment be located at least 1,500 feet away from another business holding an alcohol beverage license, 500 feet from a residential district, 300 feet from a church, and 1,000 feet from a school. Then, the City of Miami Code provides multiple exceptions to these distance separation requirements for

certain areas of the City and for certain types of establishments or liquor licenses. Some municipalities require that you submit a signed and sealed radial survey before they will allow an alcohol-related establishment.

6. Determine whether local licenses are required.

Oftentimes a municipality will not approve an State of Florida Division of Alcoholic Beverages and Tobacco (“DABT”) alcohol beverage licensing application until the applicant has met certain local requirements. For example, the City of Miami, which includes Wynwood, Little Haiti, Coconut Grove, Downtown Miami, the Miami Design District, and Midtown, requires that you obtain a local Certificate of Use and Business Tax Receipt before you seek the City’s approval on the DABT alcohol application. The Certificate of Use process requires several City inspections, and can be time-consuming. Moreover, the City may not allow this process to start until a construction-related Certificate of Occupancy has been issued. These local processes sometimes come as a surprise to clients, and can cause delays in opening dates and bottom lines. It is therefore important to identify state and local licensing requirements, and time those approvals carefully alongside construction-related approvals.

Note that several geographical areas, like Wynwood and portions of Little Havana, allow only a limited number of alcohol establishments. It is imperative to determine whether there is an available local license or local approval before your client signs a lease.

7. Reach out for help.

There are multiple other factors that come into play when a tenant will sell alcohol. Given the complexities surrounding highly regulated uses like alcohol uses, we recommend doing an exhaustive zoning and land use due diligence analysis before signing a lease or purchasing real property. We have seen many businesses sign a lease and start construction on a space, only to later find out that they cannot sell alcohol at that particular location.

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