



**Legislation
11.3.**

City of North Miami Beach
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North Miami Beach, FL 33162
305-947-7581
www.citynmb.com

MEMORANDUM

TO:	Mayor and City Commission
FROM:	Commissioner Lynn Su
VIA:	Darvin Williams, City Manager
DATE:	February 17, 2026

RE: Ordinance No. 2026-04 (First Reading) Noise Ordinance (Commissioner Lynn Su)

Description

BACKGROUND

ANALYSIS:

RECOMMENDATION:

FISCAL/ BUDGETARY

IMPACT:

ATTACHMENTS:

Description

- Ordinance
- Memo
- Exhibit B - Sunny Isles Beach Ordinance
- Ordinance No. 2017-15

ORDINANCE NO. 2026-XX

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER IX OF THE CITY OF NORTH MIAMI BEACH CODE OF ORDINANCES, “OFFENSES AND MISCELLANEOUS PROVISIONS,” SECTION 9-4 “NOISE CONTROL,” TO ESTABLISH SPECIFIC NOISE REGULATIONS FOR OUTDOOR POWER TOOLS AND LANDSCAPING EQUIPMENT AT RESIDENCES, AND FOR OUTDOOR EVENTS AND TO CLARIFY ENFORCEMENT; PROVIDING FOR CONFLICTS; SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 9, Section 9-4 of the City of North Miami Beach Code of Ordinances (“Code”) sets forth standards for noise control within the City; and

WHEREAS, Section 9-4.2 of the Code prohibits loud, excessive, unnecessary or unusual noise and identifies specific types of noise that are declared to be unlawful; and

WHEREAS, Section 9-4.7 of the Code restricts noise from building, construction, manufacturing and similar activities, particularly the operation of heavy equipment, during certain hours, and Section 9-4.8 regulates vending vehicles; and

WHEREAS, the City has received complaints concerning recurring noise from lawn mowers, leaf blowers and other landscaping equipment operated outdoors at residences during nighttime and early-morning hours; and

WHEREAS, City staff, including Code Compliance and the Police Department, have determined that while such activities may in some circumstances be addressed under the general prohibition in Section 9-4.2, the Code does not expressly identify residential landscaping equipment or establish specific quiet hours for that type of noise; and

WHEREAS, the lack of express standards for outdoor landscaping equipment at residences makes enforcement less predictable for residents, property owners, and enforcement personnel; and

WHEREAS, Miami-Dade County’s noise regulations in Section 21-28 of the Miami-Dade County Code identify “power tools and landscaping equipment” used outside a residence as a specific source of noise and restrict the hours of operation; and

WHEREAS, the Mayor and City Commission find that creating a similar, clear standard for outdoor power tools and landscaping equipment at residences within North Miami Beach will improve quality of life, provide clearer expectations for residents and contractors, and assist enforcement personnel in applying the City’s noise regulations in a fair and consistent manner; and

WHEREAS, the Mayor and City Commission further find it appropriate to clarify enforcement authority, including coordination with the Police Department for violations occurring outside normal Code Compliance operating hours, and to authorize administrative civil fines to promote uniform and effective enforcement; and

WHEREAS, the Mayor and City Commission further find it appropriate to clarify the application of the existing penalty provisions in Section 9-4.6 to violations involving outdoor power tools and landscaping equipment at residences; and

WHEREAS, the Mayor and City Commission find that the amendments set forth in this Ordinance are in the best interests of the public health, safety, and welfare;

WHEREAS, the City regularly permits and hosts outdoor events that include amplified sound, including community events, cultural events, and special activities held on public and private property; and

WHEREAS, the Mayor and City Commission recognize that outdoor events permitted or approved by the City may include amplified sound that is appropriate for the event setting but must be managed in a manner that minimizes impacts on nearby residential areas; and

WHEREAS, noise associated with outdoor events remains subject to the City’s existing noise standards and enforcement authority under Chapter IX, Section 9-4 of the City Code, including Sections 9-4.2 and 9-4.6, as well as applicable permit conditions imposed by the City; and

WHEREAS, the purpose of this Ordinance is to clarify how existing noise standards apply to outdoor power tools and landscaping equipment at residences, and to confirm that permitted outdoor events remain subject to the City’s existing noise and enforcement framework.

WHEREAS, the Mayor and City Commission find that the amendments set forth in this Ordinance are in the best interests of the public health, safety, and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA:

SECTION 1.

The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are incorporated herein by this reference as the legislative intent of this Ordinance.

SECTION 2.

Amendment to Section 9-4.2, “Unnecessary and Excessive Noises Prohibited.” Chapter IX, “Offenses and Miscellaneous Provisions,” Section 9-4, “Noise Control,” Section 9-4.2, “Unnecessary and Excessive Noises Prohibited,” of the Code of Ordinances of the City of North Miami Beach, Florida, is hereby amended to add new subsections g and h. to read as

follows. Existing subsections a. through f. shall remain in full force and effect and are not amended except as expressly set forth below.

9-4.2 Unnecessary and Excessive Noises Prohibited.

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, excessive, unnecessary or unusual noise. The following acts, among others, are declared to be loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

a. – f. *[NO CHANGE]*

g. Outdoor power tools and landscaping equipment at residences. The operation of any noise-producing lawn mower, lawn edger, weed trimmer, blower, chipper, chain saw, power tool, or other similar noise-producing equipment outdoors at a residence between the hours of 8:00 p.m. and 8:00 a.m., when such operation is plainly audible within any other residential dwelling unit or at a distance of one hundred (100) feet from the property on which the equipment is operated.

For purposes of this subsection:

1. “Residence” means any property used or zoned for residential purposes, including single-family, duplex, townhouse, and multi-family dwellings.
2. “Outdoors” means any location outside of a fully enclosed building. A garage shall be considered “outdoors” if any vehicle door is open while the equipment is in use.
3. This subsection shall not apply to emergency work that is necessary to address an immediate threat to life, health, safety, or property, provided that such work is limited to the time needed to remove the emergency condition.
4. This subsection shall not apply to municipal operations conducted by or on behalf of the City of North Miami Beach, including but not limited to parks and athletic field maintenance, recreation facility groundskeeping, special events, or contractors performing work for the City in support of official municipal functions.
5. Enforcement by Police and Code Compliance. Violations of this subsection may be enforced by the Code Compliance Division and the Police Department. The Police Department is authorized to investigate and document violations occurring during restricted hours, including hours outside normal Code Compliance operating times. Code Compliance Officers may rely upon police reports, sworn statements, photographs, audio or video recordings, or other competent evidence gathered by law enforcement officers to issue warning notices and civil violation citations under this subsection.

h. Outdoor Events. Outdoor events not conducted by or on behalf of the City of North Miami Beach shall remain subject to the City’s existing noise standards and enforcement authority, which may be enforced, as appropriate, by Code Compliance Officers or by the Police Department.

SECTION 3.

Amendment to Section 9-4.6, “Violations; Penalties.” Chapter IX, “Offenses and Miscellaneous Provisions,” Section 9-4, “Noise Control,” Section 9-4.6, “Violations; Penalties,” of the Code of Ordinances of the City of North Miami Beach, Florida, is hereby amended to clarify its

application to the new subsections 9-4.2 g and h., as follows (additions shown as new text; sections not referenced remain unchanged):

9-4.6 Violations; Penalties.

- a. A first violation of subsections 9-4.2(b), (c), (f), (g), or (h), subsection 9-4.3, or subsection 9-4.5 shall result in the issuance of a warning citation,
- b. A second or subsequent violation of subsections 9-4.2(a), (d), (e), (b), (c), (f), (g) or (h), subsection 9-4.3, subsection 9-4.4, or subsection 9-4.5 shall be subject to a civil fine in an amount not to exceed five hundred dollars (\$500.00), as provided in the City’s Code of Ordinances.
- c. Each occurrence of a violation may be treated as a separate violation for enforcement purposes.
- d. Preset Civil Fine — Outdoor Power Tool and Landscaping Equipment Violations. Notwithstanding any other provision of this section, each violation of Section 9-4.2(g) or (h) shall be subject to a civil fine of five hundred dollars (\$500.00) per occurrence. Each separate incident and each separate date shall constitute a distinct violation. Such violations may be issued as administrative civil citations by Code Compliance Officers or Police Officers and shall be scheduled for hearing before the Special Magistrate.

SECTION 4.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5.

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall in no way affect the validity of the remaining portions of this Ordinance, which shall remain in full force and effect.

SECTION 6.

It is the intention of the City Commission of the City of North Miami Beach, Florida, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word “Ordinance” may be changed to “Section,” “Article,” or other appropriate word.

SECTION 7.

This Ordinance shall become effective immediately upon adoption.

APPROVED on first reading this ___ day of _____, 2026

APPROVED AND ADOPTED on second reading this ___ day of _____, 2026.

ATTEST:

ANDRISE BERNARD, MMC
CITY CLERK

MICHAEL JOSEPH
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

GREENSPOON MARDER
CITY ATTORNEY

SPONSORED BY: Commissioner Lynn Su



City of North Miami Beach, Florida

Date: January 20, 2026

To: Mayor and City Commission

Via: Andrew Plotkin, Interim City Manager

From: Tarik Rahmani, CFO & Interim Deputy City Manager

Subject: First Reading – Update to Noise Ordinance Addressing Residential Landscaping Equipment and Outdoor Amplified Sound

Purpose of the Ordinance Update

The purpose of this ordinance update is to provide clearer, more practical standards for noise that most often affects residential neighborhoods. The focus is not on expanding enforcement authority, but on clarifying expectations for residents, contractors, and event organizers so that noise issues can be addressed consistently and fairly.

Existing Ordinance and Identified Issues

The City's current noise ordinance was last substantially updated in 2017. It generally prohibits loud, excessive, or unusual noise and includes provisions addressing construction activity and other specific sources. However, the ordinance does not clearly regulate outdoor landscaping equipment used at residences, nor does it establish defined quiet hours for that activity.

As a result, early-morning and late-night use of lawn mowers, leaf blowers, and similar equipment has generated recurring complaints. While some of these situations can be addressed under the general noise provisions, the absence of a specific standard has made enforcement inconsistent and difficult to explain to residents.

In addition, the existing ordinance does not directly address how outdoor amplified sound at permitted events should be evaluated when distance and site layout reduce impacts on nearby homes. This has led to questions about when sound is noticeable but not disruptive, and when it crosses into a residential impact.

Summary of Proposed Ordinance Changes

The proposed ordinance amends Chapter IX, Section 9-4 of the City Code in two focused areas.

First, it establishes defined quiet hours for outdoor landscaping equipment used at residences. Under the ordinance, such equipment may not be operated outdoors between 8:00 p.m. and 8:00 a.m. if the noise is plainly audible within another residential dwelling unit or can be heard at a distance of one hundred (100) feet from the property where the equipment is being used. The ordinance includes clear definitions and allows limited exceptions for emergency work necessary to address immediate threats to life, health, safety, or property.

Second, the ordinance adds a new subsection addressing outdoor amplified sound associated with permitted events. This provision evaluates impact rather than volume alone. Amplified sound at an outdoor event is not allowed if it is plainly audible within a residential dwelling unit or can be heard at a distance of one hundred (100) feet or more from the source of the sound, unless the event permit specifically authorizes it. For this purpose, distance is measured from the source of the amplified sound to the nearest residential dwelling unit.

The ordinance also clarifies how existing penalty provisions apply and expressly exempts municipal operations carried out by or on behalf of the City, including park and athletic field maintenance, recreation facilities, special events, and City contractors performing official municipal work, to ensure essential City services are not restricted.

Basis for Distance-Based Standards

Florida municipalities commonly use a “plainly audible” standard tied to distance as an objective way to evaluate noise impacts without requiring specialized sound-measuring equipment. This approach focuses on the effect of sound on surrounding properties rather than subjective volume levels.

For reference, Exhibit B includes an example from the City of Sunny Isles Beach, which amended its noise ordinance to provide that amplified sound plainly audible at a distance of one hundred (100) feet constitutes prima facie evidence of a violation. This example is provided for context only and is not proposed for adoption by the City.

The proposed ordinance uses this enforcement concept in a limited and careful way. It does not introduce new penalties, does not require decibel meters, and does not prohibit permitted events. Instead, it provides a clear, consistent reference point that can be applied and explained in a straightforward manner.

Process and Next Steps

If approved on first reading, the ordinance will be advertised and returned to the City Commission for second reading in accordance with applicable legal requirements. Prior to second reading, staff will continue to coordinate with the City Attorney’s Office to ensure the ordinance is clear, enforceable, and aligned with existing City procedures.

Attachments

Exhibit A – Ordinance No. 2025-XX (Noise Ordinance Amendment – First Reading).

Exhibit B – Example of Florida Municipal Noise Ordinance Using a Distance-Based “Plainly Audible” Standard (City of Sunny Isles Beach).

ORDINANCE NO. 2022 - _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING CHAPTER 193 “NOISE” OF THE CITY OF SUNNY ISLES BEACH CODE OF ORDINANCES; PROVIDING FOR DEFINITION OF TERMS; PROVIDING FOR ADDITIONAL STANDARDS OF SOUND MEASUREMENT; REPEALING THE EXEMPTION FOR NOISE GENERATED WITHIN ANY EXISTING CONDOMINIUM; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 193 of the Code of Ordinances (“Code”) for the City of Sunny Isles Beach (“City”) was adopted with the stated purpose of limiting excessive noise that interferes with the comfortable enjoyment of life, property, recreation or conduct of business in the City; and

WHEREAS, the City Commission has determined a need to more effectively control and abate noise pollution throughout the City; and

WHEREAS, effectively controlling noise pollution and infractions of the City’s existing noise regulations has been a recurring issue for the City; and

WHEREAS, the creation of excessive noise is a condition which has existed for some time and is a hazard to the public health, welfare and safety, and the quality of life for the residents and visitors of the City; and

WHEREAS, the residents of the City have a right and should be insured an environment free from excessive sound that may jeopardize their health or welfare; and

WHEREAS, the purpose of this Ordinance is to provide for an enforcement mechanism which will include a “plainly audible” standard of sound measurement for violating noises; and

WHEREAS, this Ordinance shall promote and encourage the citizens and businesses of the City to comply with the City’s noise regulations as this Ordinance provides more clarity on the regulated activity and violations; and

WHEREAS, it is not the intent of the City Commission to interfere unduly with freedoms of speech, expression, or religion by enacting this Ordinance, and

WHEREAS, the City Commission believes the following amendments to the City’s Code are in the best interests of the health, safety, and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:¹

Section 1. Incorporation of Recitals. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Amending Chapter 193 of the Code of Ordinances. Chapter 193 of the City Code is hereby amended to read as follows:

Chapter 193 NOISE

ARTICLE I General Provisions

§ 193-1. Purpose and intent.

The purpose of this chapter is to limit excessive noise that interferes with the comfortable enjoyment of life, property, recreation or conduct of business in the City.

§ 193-2. 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:

AMBIENT SOUND LEVEL means the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds and those from the source under investigation. The ambient sound level is synonymous with background sound level. Ambient sounds are differentiated from extraneous sounds by the fact that the former are of a more steady state, although they may not be continuous. For purposes of this definition, the term "extraneous sound" means a sound of high intensity and relatively short duration which is neither part of the ambient sound, nor comes from the sound source under investigation.

AMPLIFIED SOUND — means the use of any loudspeaker, public address system, amplifier, or any other device which electronically or mechanically augments the volume of sound, including, by way of example, a radio, television set, electronic device, phonograph, bullhorn, or musical instrument.

CITY MANAGER — The City Manager of the City of Sunny Isles Beach or designee.

¹ Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~striketrough~~.

CONSTRUCTION — Any site preparation, assemble, erection, substantial repair, alteration, demolition, or similar action, or public or private rights-of-way, structures, utilities or property.

CONSTRUCTION TOOLS AND EQUIPMENT — Includes but is not limited to: material handling, earthmoving and digging equipment, power tools, generators, air compressors, hand tools, and radios and other sound equipment used by workers on a building site. This definition does not include interior work within a structure which does not generate excessive noise.

DAYLIGHT SAVING TIME — The time established by the federal government to make better use of the daylight.

DEPARTMENT — The Code Enforcement and Licensing Department.

EMERGENCIES — Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

MECHANICAL EQUIPMENT — Includes but is not limited to, air-handler units, exhaust fans, refrigeration equipment, pump stations and other sound equipment used in buildings.

SPECIAL MAGISTRATE — A person appointed by the City Commission to adjudicate code violations.

PLAINLY AUDIBLE — Means sounds or noise which can be measured or detected by the human ear without the benefit of a hearing aid by a reasonable person of ordinary sensibilities.

STANDARD TIME — The time established by the federal government for the calendar months that are outside of daylight saving time.

VIOLATOR — A person or entity responsible for violation of the Code.

ARTICLE II Prohibited Noise

§ 193-3. Prohibited activities.

It shall be unlawful for anyone to create, operate or cause to be operated on private property any source of sound in such a manner as to create a continuous airborne sound which (i) exceeds 60 decibels [dB(A)], or (ii) exceeds the ambient background noise sound level, (iii) is plainly audible at a distance of 100 feet from the source of the noise, or (iv) is plainly audible from any exterior edge of a building, structure or vehicle if the noise is emanating from a building, structure or vehicle whichever is greater, when measured from the affected real property line. Unlawful and excessive noise shall include, but is not limited to, the following:

A. ~~Radio and musical instruments~~ Amplified sound. ~~The playing of any radio, television, phonograph, musical electronic device, or any musical instruments in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any person in the vicinity; The making of amplified sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, chamber, or outdoor private property in which such machine or device is operated and who are voluntary listeners thereto. The making of any such sounds between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 100 feet from the source of the noise, or if the noise is emanating from a building, structure or vehicle, from any exterior edge of that building, structure or vehicle, shall be prima facie evidence of a violation of this section;~~

B. Animal and bird noises. The keeping of any animals or birds which by causing frequent or long continued noise shall disturb the comfort of any person;

C. Whistle or siren. The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger;

D. Engine exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which effectively prevents loud explosive noises therefrom.

E. Limitations on construction. As defined by Article III of this chapter.

F. Handling merchandise. The creating of a loud and excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

G. Devices that attract attention. The use of any drum, loudspeaker, amplifier or other instrument or device for the purpose of attracting attention for any purpose.

~~H. Noise or sound amplification. Any amplified sound, or unnecessarily loud noises whereby the peace and good order of the neighborhood is disturbed or persons owning or occupying property in the neighborhood are disturbed.~~

† H. Sound trucks. To operate or cause to be operated a sound truck with radio or amplifier within the City without first having obtained a permit from the City Commission.

‡ I. Mechanical equipment as defined above.

§ 193-4. Exemptions.

The terms and prohibitions of this chapter shall not be applied to or enforced against:

- A. Any motor vehicle, boat or other vehicle of the City, the county or the state or licensed public utility vehicle within the City while engaged in necessary emergency or public business.
- B. Emergency work of public service utilities by or on behalf of the City, the county, or the state, or performance of such work during the night if the public welfare and convenience renders it impossible to perform such work during the day.
- C. Noise generated for the purpose of alerting persons to the existence of an emergency or noise generated in the performance of emergency work. Noise created by mechanical ventilation systems with carbon monoxide monitors as approved by the City.
- D. Routine landscaping and other yard maintenance activities. However, the operation of landscaping equipment, including but not limited to lawn mowers, lawn edgers, weed trimmers and blowers, is permitted during the following hours: 7:30 a.m. to 8:00 p.m. Monday through Friday and Saturday between the hours of 9:00 a.m. and 8:00 p.m. Any debris from landscaping or lawn maintenance activities must be maintained on the property from which it originated and not blown or otherwise left in the street or any adjoining property. Any violation of this Section will be processed as a public nuisance pursuant to Chapter 194.
- ~~E. Noise generated within any existing condominium located in the City, except as otherwise provided in Article III of this chapter. For the purpose of this exemption, noise is defined as any noise described in § 193-3.~~

Section 3. Repealer. All ordinances, or parts of ordinances in conflict herewith be, and the same, are hereby repealed.

Section 4. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 5. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the City of Sunny Isles Beach; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word, as required.

Section 6. Effective Date. This Ordinance will become effective ten (10) days after adoption at second reading.

PASSED AND ADOPTED on first reading this _____ day of May 2022.

PASSED AND ADOPTED on second reading this _____ day of June 2022.

Dana Robin Goldman, Mayor

ATTEST:

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

Mauricio Betancur, CMC, City Clerk

Edward A. Dion, City Attorney

First Reading

Second Reading

Motion: _____

Motion: _____

Second: _____

Second: _____

Vote on First Reading:

Mayor Goldman
Vice Mayor Viscarra
Commissioner Joseph
Commissioner Lama
Commissioner Stuyvesant

____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)

Vote on Second Reading:

Mayor Goldman
Vice Mayor Viscarra
Commissioner Joseph
Commissioner Lama
Commissioner Stuyvesant

____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)

ORDINANCE NO. 2017-15

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION AMENDING CHAPTER IX OF THE CITY OF NORTH MIAMI BEACH CODE OF ORDINANCES, "OFFENSES AND MISCELLANEOUS PROVISIONS", SECTIONS 9-4 "NOISE CONTROL", 9-19 "BUSINESSES AND OCCUPATIONS PROHIBITED", CHAPTER XII "LOCAL BUSINESS TAX RECEIPTS & REGULATIONS", ARTICLE II "ALCOHOLIC BEVERAGES", SECTION 12-2 "REGULATING THE LICENSING OF THE SALE OF ALCOHOLIC BEVERAGES", TO DELETE ANTIQUATED REGULATIONS REGARDING ALCOHOLIC BEVERAGE ESTABLISHMENTS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami Beach ("City") Code of Ordinances contains regulations for restaurants, bars and lounges and other similar types of establishments, adopted in the 1950's and 1960's; and

WHEREAS, many of the regulations are either antiquated, overly restrictive or addressed by alternate methods within the code (such as setbacks, distance separation, etc.) and maintaining the antiquated and overly restrictive regulations is inconsistent with the City's Strategic Plan, the City's Comprehensive Plan, and the City's Zoning and Land Development Code; and

WHEREAS, the City would like to modernize and update these regulations to be consistent with the City's Strategic Plan, Comprehensive Plan and Zoning and Land Development Code which all seek to encourage restaurants, microbreweries, wineries and distilleries and increase the desirability of the commercial and retail areas within the City; and

WHEREAS, the proposed changes include removing a prohibition on drive-in and curb service restaurants and where liquor is sold, removing design requirements, the ability to have live or juke box music after 11:00pm, the use of pool tables, and pin-ball amusement machines; and

WHEREAS, many of the requirements proposed to be removed from Chapter IX and XII are addressed more appropriately, by the City's Zoning and Land Development Code; and

WHEREAS, the Mayor and City Commission find it to be in the best interests of the City to approve and adopt the amendments to the City's Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of North Miami Beach, Florida:

Section 1. The foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Chapter IX of the City of North Miami Beach Code of Ordinances, "OFFENSES AND MISCELLANEOUS PROVISIONS", Section 9-4 "NOISE CONTROL" is amended as follows:

CHAPTER IX OFFENSES AND MISCELLANEOUS PROVISIONS

* * *

9.4.9 NOISE CONTROL

~~9-4.9—Juke Boxes or Music on Premises Holding a Business Tax Receipt.~~

~~It shall be unlawful for any person to play any music or juke box within any place of business holding a business tax receipt after the hour of 11:00 p.m. if such place of business holding a business tax receipt is within five hundred (500) feet of any occupied residence either now constructed or hereafter to be constructed.~~ **Reserved.**

Section 3. Chapter IX of the City of North Miami Beach Code of Ordinances, "OFFENSES AND MISCELLANEOUS PROVISIONS", Section 9-19 "BUSINESSES AND OCCUPATIONS PROHIBITED" is amended as follows:

9-19 - BUSINESSES AND OCCUPATIONS PROHIBITED.

~~9-19.1—Drive-in or Curb Service Restaurants Prohibited.~~

~~a.—Prohibited. Henceforth there is prohibited within the confines of the City the operation of any business which in whole or in part provides that service which is commonly known as curb or drive in service, wherein food and/or beverage is conveyed by any means, either mechanical or by human agency, from the structure wherein the food and/or beverage is prepared or maintained and kept to the consumer, whether the consumer be seated in an automobile, trailer, vessel, or to any table or any other place of consumption.~~

~~b.—Exception. This section is in nowise to be interpreted as prohibiting the sale of food for consumption off the premises for "take-home" purposes.~~ **Reserved.**

Section 4. Chapter XII of the City of North Miami Beach Code of Ordinances, "Local Business Tax Receipts & Regulations", Article II "ALCOHOLIC BEVERAGES", Section 12-2 "REGULATING THE LICENSING OF THE SALE OF ALCOHOLIC BEVERAGES" is amended as follows:

Chapter XII Local Business Tax Receipts & Regulations

Article II Alcoholic Beverages

Section 12-2 Regulating the Licensing of the Sale of Alcoholic Beverages

12-2.1 Definitions.

* * *

~~Distillery shall mean and include any place and premises wherein any liquor is manufactured for sale.~~

* * *

Microbrewery, winery or distillery: A small-scale, licensed manufacturing establishment which produces, processes, ferments, rectifies or blends craft brews, ciders, wines or distilled spirits; may or may not offer tastings, and may or may not provide on-site sale and consumption of the products.

* * *

~~12-2.6 — Music Between 11:00 p.m. and 7:00 a.m. Prohibited; Nightclubs Excepted.~~

~~No person holding a business tax receipt under this chapter shall allow or permit between the hours of 11:00 p.m. and 7:00 a.m., instrumental music, music reproduced from records, singing or other forms of entertainment, in any room where beer, wine, liquor, or any alcoholic beverage is sold or offered for sale, in any room or other enclosure connected directly or indirectly thereto by or through any stairway, hallway, doorway, or other means of ingress or egress. Exceptions to this section may be permitted by written authority of the Chief of Police on festival occasions, such as New Year's night; provided, however, "nightclubs" as defined in subsection 12-2.1 shall be excepted. Reserved.~~

* * *

~~12-2.10 — Regulation of Premises Where Liquor is Sold.~~

~~No licensed wholesale or retail liquor or alcoholic beverage dealer shall permit or allow on his premises where such liquor or alcoholic beverages are sold:~~

- ~~a. — Any screen, blind, curtain, partition, article or thing in the windows or upon doors which shall prevent a clear view into the interior of such licensed premises from the sidewalk at all times;~~
- ~~b. — Any booth, screen, partition or other obstructions in the interior of the licensed premises;~~
- ~~c. — Any swinging entrance doors;~~
- ~~d. — Any box, stall partition, or any obstruction which prevents a full view of the entire room by every person present therein;~~
- ~~e. — Any opening or means of entrance or passageway for persons or things between the licensed premises and any other room or place in the building containing the licensed premises, or any adjoining or abutting premises. All glass in any window or door on the licensed premises shall be clear and shall not be opaque, colored, stained or frosted.~~
- ~~f. — The congregating or loitering of any lawless, vicious or immoral persons, nor the solicitation of any female as hostess or otherwise to encourage the purchase of drinks by customers, or to meet or make engagements with men. Reserved.~~

* * *

~~12-6 — Amusement Equipment Pool Table, etc., on Business Premises.~~

- ~~a. — *Permitted in B-3 Zone Only.* It is prohibited and unlawful to install, use or maintain any pool table, pinball machine or other game or amusement equipment or paraphernalia in any bar and grill, restaurant or other business premises hereinafter established in a zoning district other than B-3, except as hereinafter provided in paragraph f.~~
- ~~b. — *Continuation.* Any bar and grill, restaurant, campground or movie theater located in a zoning district other than B-3, which presently uses and maintains pool tables, pinball machines or~~

~~other game and amusement equipment and paraphernalia, may continue to use and maintain same to that extent only up until such time as that establishment or their successors in interest ceases operation or goes out of business. No existing use of such equipment may be expanded in zoning districts other than B-3. The City Clerk shall note the number and type of equipment on each business tax receipt affected. All such equipment shall be located within the confines of a building.~~

- ~~e. It shall be permitted and lawful to use and maintain pool tables, pinball machines and game and amusement equipment and paraphernalia located in a game and amusement establishment, if any, presently located in a B-3 zoning district, and it shall be permitted and lawful to hereafter install the equipment and paraphernalia in any new game and amusement establishment to be located in a B-3 zoning district.~~
- ~~d. It shall be permitted and lawful to install, use and maintain pool tables, pinball machines and other game and amusement equipment and paraphernalia, not exceeding four (4) in number, in a bar and grill, restaurant or other business establishment as a subsidiary, adjunct and ancillary use, provided the establishments are located in a B3 zoning district.~~
- ~~e. The Community Development Department and/or the City Clerk's Office shall enforce this section and issue citations and notices of violations returnable before the Code Enforcement Board in appropriate cases.~~
- ~~f. Game or amusement equipment may be allowed in B-1 and B-2 zoning districts as a special limited conditional accessory use in movie theaters, lounges, clubs, bars and grills, restaurants or other similar businesses, within the discretion of the City Manager or his designee, and based upon a reasonable and logical nexus to the main business use, the appropriateness of the location, square footage and other safety considerations.~~

~~An application for this amusement equipment special limited conditional accessory use shall be submitted to the City Manager or designee together with an application fee of one hundred (\$100.00) dollars, prior to the applicant's filing a business tax receipt application. The approved special limited conditional accessory use application shall be submitted to the City Clerk upon the filing of the business tax receipt application.~~

~~The determination of the City Manager regarding an amusement equipment special limited conditional accessory use application shall be appealable directly to the City Commission.~~

~~**Reserved.**~~

* * *

Section 5. The Director of Community Development is hereby directed to make all necessary changes to the City of North Miami Beach Zoning and Land Development Code to implement the intent of this Ordinance.

Section 6. All ordinances or parts of ordinances in conflict therewith be and the same are hereby repealed.

Section 7. If any section, subsection, clause or provision of this Ordinance is held invalid, the reminder shall not be affected by such invalidity.

Section 8. It is the intention of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the

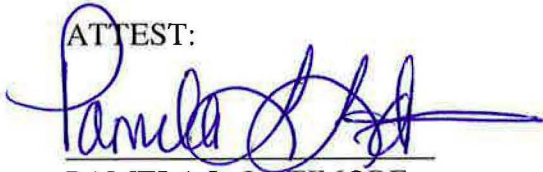
City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article", or other appropriate word as the Codifier may deem fit.

Section 9. This Ordinance shall become effective ten days after adoption on second reading.

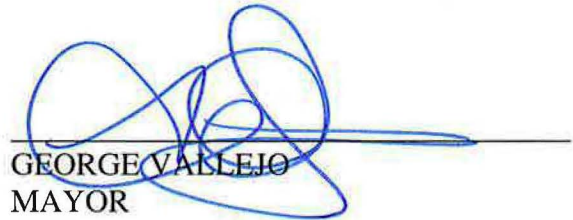
APPROVED on first reading this 19th day of December, 2017.

APPROVED AND ADOPTED on second reading this 16th day of January, 2018.

ATTEST:



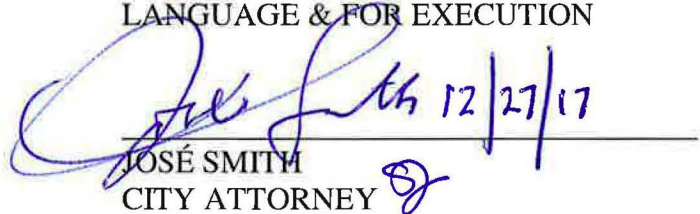
PAMELA L. LATIMORE
CITY CLERK



GEORGE VALLEJO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION



JOSÉ SMITH
CITY ATTORNEY

Note: Proposed additions to existing City Code text are indicated by underline.