

ORDINANCE NO. 2026-_____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, REPEALING SECTIONS 15-24, 15-25, 15-26, 15-27, AND 15-27.1 TO COMPLY WITH SECTION 790.33, FLORIDA STATUTES WHICH PREEMPTS LOCAL REGULATION OF FIREARMS AND AMMUNITION, INCLUDING THE PURCHASE, SALE, TRANSFER, TAXATION, MANUFACTURE, OWNERSHIP, POSSESSION, STORAGE, AND TRANSPORTATION THEREOF; AMENDING SECTIONS 2-44, 14-5, 14-9, 15-15, AND 15-18 TO DELETE REFERENCES TO FIREARMS; PROVIDING FOR CORRECTIONS; SEVERABILITY; CONFLICTS; IMPLEMENTATION; AND AN EFFECTIVE DATE.

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

WHEREAS, the City of South Miami (“City”) finds it periodically necessary to amend its Code of Ordinances (the “Code”) 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

WHEREAS, Section 790.33, Florida Statutes, was adopted in 1987 and preempts to the State the entire field of regulation of “firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof”; and

WHEREAS, by letter dated July 23, 2026, from Florida Carry, Inc., the City was recently notified of certain ordinances in its Code of Ordinances that may conflict with state law and are therefore preempted by Sec. 790.33, F.S.; and

WHEREAS, specifically, the City was notified of the following potential conflicting regulations:

1. Sec. 2-44 of the Code, which provides for emergency measures that provide for temporary suspension of, among other limitations, the possession and sale of firearms, was adopted in 1968, which limitation on firearms is not enforced by the City Police Department (the “Department”);
2. Sec. 14-5 of the Code, which provides for emergency measures that provide for temporary suspension of, among other limitations, the sale of firearms, was adopted in 1993; which limitation on firearms is not enforced by the Department;

3. Sec. 14-9 of the Code, which provides for police emergency measures that provide for temporary suspension of, among other limitations, the sale of firearms, was adopted in 1993; which limitation on firearms is not enforced by the Department;
4. Sec. 15-15 of the Code, which prohibits the carrying of concealed weapons was adopted in 1981; and is not enforced by the Department, which instead enforces Sec. 790.01 and 790.013, F.S.;
5. Sec. 15-18 of the Code, which deems disorderly conduct to include the carrying of concealed weapons and firearms, was adopted in 1954; which limitation on concealed weapons and firearms is not enforced by the Department;
6. Sec. 15-24 of the Code, which prohibits discharging of firearms except in certain circumstances, was adopted in 1954 and is not enforced by the Department, which instead enforces Sec. 790.115 and 790.15, F.S.;
7. Sec. 15-25 of the Code, which provides for local firearms registration requirements applicable be to purchasers, was adopted in 1954 and is not enforced by the Department;
8. Sec. 15-26 of the Code, which provides for local firearms registration requirements applicable to sellers, was adopted in 1954 and is not enforced by the Department;
9. Sec. 15-27 of the Code, which prohibits the sale of firearms to minors, was was adopted in 1954 and is not enforced by the Department, which instead enforces Sec. 790.17, F.S.;
10. Sec. 15-27.1 of the Code, which prohibits the same of certain projectiles, was was adopted in 1982 and is not enforced by the Department, which instead enforces Sec. 790.31, F.S.; and

WHEREAS, Sec. 790.33(3), F.S., purports to impose penalties on any local government or “any person acting in an official capacity” including the “elected or appointed local government official or officials or administrative agency head,” for “enacting or causing to be enforced any local ordinance or administrative regulation impinging upon” the regulated field; and

WHEREAS, Sec. 790.33(3), F.S. further purports to authorize “a person or an organization, affected by any ordinance . . . promulgated or caused to be enforced” to file a lawsuit seeking declaratory and injunctive relief, and any actual damages, with the prevailing party entitled to attorneys fees which are to be awarded even if the local government repeals the complained of ordinance following the filing of the complaint; and

WHEREAS, the City Commission finds it in the best interest of the City and its residents to repeal Sec. 15-24, 15-25, 15-26, 15-27, and 15-27.1 of the Code to comply with Sect 790.33, F.S., which preempts local regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof; and to amend Sec. 2-44, 14-5, 14-9, 15-15, and 15-18 to delete references to firearms; and

WHEREAS, on _____ the City Commission approved the ordinance on first reading; and

WHEREAS, on _____, the City Commission conducted a duly noticed public hearing as required by law and approved the ordinance on second reading; and

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

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

Section 2. Repealing Sections 2-44, 15-24, 15-25, 15-26, 15-27, and 15-27.1 of the Code to comply with Section 790.33, Florida Statutes. Sections 2-44, 15-24, 15-25, 15-26, 15-27, and 15-27.1 of the Code are hereby repealed in their entirety.

Section 3. Amending Sections 2-44, 14-5, 14-9, 15-15, and 15-18 of the Code to delete references to firearms. Sections 2-44, 14-5, 14-9, 15-15, and 15-18 of the Code are amended in the manner set forth in Exhibit "A" attached hereto.

Section 4. Corrections. Conforming language or technical scrivener-type corrections may be made by the City Attorney for any conforming amendments to be incorporated into the final Ordinance for signature.

Section 5. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Conflicts. That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith or with Sec. 790.33, F.S., are repealed to the extent of such conflict.

Section 7. Implementation. The City Manager and City Attorney are hereby authorized to take any and all necessary action to implement the purposes of this Ordinance including identifying other laws in conflict with Sec. 790.33, F.S., and take such steps as necessary to ensure compliance with state law.

Section 8. Effective Date. This Ordinance shall become effective immediately upon adoption.

PASSED on first reading on the ___ day of _____, 2026.

PASSED AND ADOPTED on second reading on the _____ day of _____, 2026.

ATTEST:

APPROVED:

CITY CLERK

MAYOR

135
136 READ AND APPROVED AS TO FORM,
137 LANGUAGE, LEGALITY AND
138 EXECUTION THEREOF
139
140
141 _____
142 WEISS SEROTA HELFMAN COLE
143 & BIERMAN, P.L.
144 CITY ATTORNEY

COMMISSION VOTE:
Mayor Javier Fernández:
Vice Mayor Brian Corey:
Commissioner Lisa Bonich:
Commissioner Steve Calle:
Commissioner Danny Rodriguez: