

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.~~

- ~~c. 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

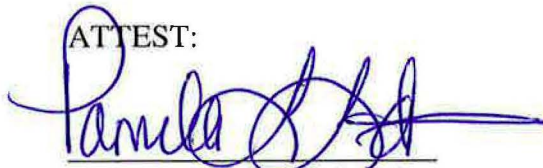
City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article", or other appropriate word as the Codifier may deem fit.

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

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

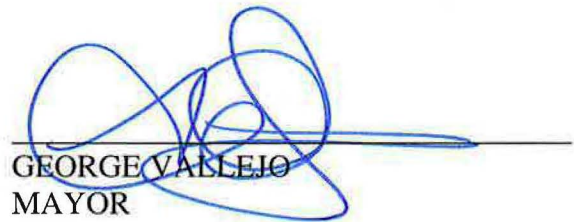
APPROVED AND ADOPTED on second reading this 16th day of January, 2018.

ATTEST:



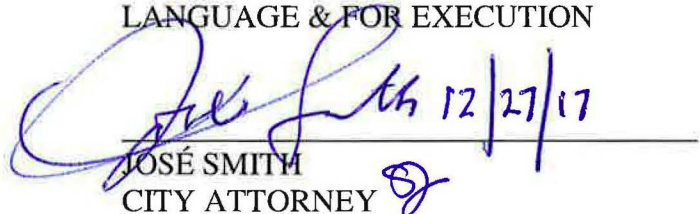
PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)



GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION



th 12/27/17

JOSÉ SMITH
CITY ATTORNEY

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