

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES ENTITLED, "BUILDING STANDARDS AND REGULATIONS", TO CREATE SECTION 5-35 ENTITLED, "PERMITTED BUILDING CONSTRUCTION HOURS" AND SECTION 5-36 ENTITLED, "CONSTRUCTION SITE MAINTENANCE", TO INCLUDE CONSTRUCTION REGULATIONS; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") is desirous of updating its building standards and regulations to facilitate the enforcement thereof and enhance the health, safety, and welfare of the community; and

WHEREAS, the City' existing building standards and regulations not address construction site maintenance or construction hours; and

WHEREAS, the City is desirous of creating Section 5-35 entitled "Permitted Building Construction Hours" and Section 5-36 entitled "Construction Site Maintenance" to implement construction hours for residential and commercial zones and to create construction regulations requiring security and maintenance of constructions sites; and

WHEREAS, the Mayor and City Council of the City of North Miami have determined that the proposed amendments to Chapter 5 of the Code of Ordinances is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Chapter 5 of the City Code of Ordinances, entitled "Building Standards and Regulations" is hereby amended to create Section 5-35 entitled "Permitted Building Construction Hours" and Section 5-36 entitled "Construction Site Maintenance" to provide construction regulations as follows:

CHAPTER 5. BUILDING STANDARDS AND REGULATIONS

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ARTICLE V. CONSTRUCTION FEES AND PENALTIES REGULATIONS

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Section 5-32. Building Permits.

- (a) It shall be unlawful to start any construction in the city without first obtaining a permit, which shall be prominently and conspicuously displayed on the premises or property, and paying the required fee.
- (b) Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the building official's approval or the necessary permits shall be subject to a penalty of one hundred (100) percent of the required permit fee, in addition to the required permit fees, plus any penalties assessed by the code enforcement special magistrate under code enforcement proceedings or civil violation tickets for the first, second and subsequent offenses.

Section 5-33. Application for permits.

All applications for permit shall be accompanied by a nonrefundable application fee and such drawings and information required by the Florida Building Code.

Section 5-34. – Building permit fees.

The building and zoning division shall charge fees for permits and services and are subject to change by resolution of the city council.

Section 5-35. – Permitted building construction hours.

This section shall not be construed to prohibit construction work that does not generate noise. It is intended to solely regulate the hours that construction which generates noise due to operations may take place.

- (a) Construction. Construction shall have the same meaning given to that term in Chapter 1 of the current Florida Building Code under Scope and Application.
- (b) Interior Construction. Construction contained within an enclosed structure where all noise originates within the exterior walls of a building and no noise is transmitted past the exterior walls shall not be subject to the construction hours contained within this section.
- (c) Construction Hours. The construction, demolition, alteration or repair of any building, structure, excavation of streets and highways shall be prohibited before the hour of 7:00 a.m. or after 8:00 p.m., seven (7) days a week.
- (d) Construction Hours in Residential Zones. The construction, demolition, alteration or repair of any building structure, excavation of streets and highways in areas zoned for residential use or in a zone which abuts or is adjacent to a single-family home, shall be prohibited

before the hour of 7:00 a.m. or after 7:00 p.m., Monday through Friday; nor shall work be performed on any Saturday or Sunday or Nationally Recognized Holiday before the hour of 9:00 a.m. and after the hour of 5:00 p.m.

- (e) Equipment. All construction equipment shall be operated in accordance with the manufacturer's specifications, shall be in good repair and shall utilize all noise baffling methods as specified by the manufacturer.
- (f) Special Permits. The City Manager or his/her designee is hereby authorized to permit an extension to construction hours when a request for extended hours is submitted in writing and when a noise management minimization plan has been provided and approved by the City Manager or his/her designee. The approval of the special permit shall be based upon necessity, good cause shown by the applicant, in the interest of public health and safety or if there are no reasonable alternatives. In the issuance of such permit, the City Manager or his/her designee shall weigh all facts and circumstances and shall determine whether the reasons given for the necessity are valid and reasonable.
- (g) Prohibited Practices. The following practices or procedures shall be prohibited outside of normal construction hours unless required due emergency or public safety and with the approval of the City Manager and/or his designee:
 - (1) Pile Driving;
 - (2) Use of augering equipment;
 - (3) Use of vibratory hammers;
 - (4) Use of equipment to break or cut concrete;
 - (5) Heaving equipment used for moving material.
- (h) Houses of Worship and Schools. Any construction permit for a property that abuts a house of worship or school shall take into consideration their operating hours and schedule construction to prevent disturbance during their peak hours of use or operation.
- (i) Penalties. Any violations of this section shall be subject to civil penalties pursuant to chapter 21 of this Code. Additionally, no final inspection shall be granted until such time as all code violations have been abated.

Section 5-36. Construction site maintenance.

This section shall govern site conditions of any and all properties performing any types of construction.

- (a) Site Maintenance. The property shall be maintained in an orderly, neat and clean condition at all times.
- (b) Construction Fencing. Construction sites shall provide temporary fencing with screening to secure the site during the construction process to mitigate the effects of vagrant activity and dust and debris upon the surrounding community.

- (c) Construction Debris. Dumpster shall be onsite to contain any and all debris or shall be hauled from the site on a daily basis. No accumulation of debris shall be permitted on the construction site.
- (d) Hazardous Weather Conditions. During such periods of time as the National Weather Service has issued a severe weather advisory that is in effect for Miami-Dade County, all construction sites shall be secured and the following conditions adhered to:
- (1) Dumpster shall be removed from the site or secured in a way to prevent debris from becoming a nuisance to the surrounding community.
 - (2) All material shall be secured inside any structure or removed from the site.
 - (3) No material shall be delivered to the site if a weather warning of any kind has been declared.
 - (4) All roofing material that has not been installed shall be removed from the roof and secured as detailed above.
 - (5) All fence screening shall be dropped and any fence sections whose poles are not securely installed into the ground shall be removed from the property or secured on the property.
- (e) Penalties. Any violations of this section shall be subject to civil penalties pursuant to chapter 21 of this Code. Additionally, no final inspection shall be granted until such time as all code violations have been abated.

ARTICLE VI. FORTY-YEAR BUILDING RECERTIFICATION

Section 5-357. - Forty-year building recertification.

Miami-Dade County requires that all buildings and structures, except single-family residences, duplexes and minor structures as defined in the Miami-Dade County Code, shall be inspected for recertification, certifying that each building or structure is structurally and electrically safe, in conformity with the minimum inspection procedural guidelines as issued by the county.

- (1) An application fee shall be assessed for the forty-year building recertification and for each subsequent recertification at ten-year intervals thereafter in accordance with subsection 8-11(f) of Miami-Dade County Code, as may be amended from time to time.
- (2) If the building has not been recertified within the specified deadline provided by the County Code section referenced in subsection (1), the property owner shall pay a late compliance fee per building or structure, in addition to the recertification application fee. In the event a building is declared unsafe by the city building official, enforcement fines may also apply until such time as the violation is abated.
- (3) Whenever a property owner fails or refuses to comply with the forty-year building recertification requirement, or the property is deemed unsafe by the city's building

official, the city may initiate enforcement proceedings through the city's special magistrate as provided in chapter 21 of this Code.

Sec. 5-368. – Penalties and enforcement.

Any person who violates any provisions of this chapter shall be punished by a fine as set forth in the schedule of civil penalties and fines in ~~section 2-110~~ chapter 21 of this Code. Each day that a violation continues shall be deemed a separate violation.

This chapter shall be subject to enforcement by the Local Government Code Enforcement Boards Act, F.S. ch. 162, as amended, through the city special magistrate. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction.

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Section 2. **Repeal.** All ordinances or parts of ordinances in conflict or inconsistent are repealed.

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

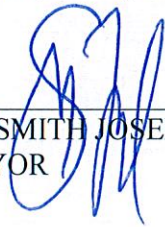
Section 4. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Codification.** It is the intention of the City Council of the City of North Miami 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, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a 4 - 1 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 11th day of April, 2017.


PASSED AND ADOPTED by a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 25th day of April, 2017.



DR. SMITH JOSEPH
MAYOR

ATTEST: 

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:


JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Keys

Sponsored by: Joseph

Vote:

Mayor Smith Joseph, D.O., Pharm. D.	<u> X </u>	(Yes)	<u> </u>	(No)
Vice Mayor Scott Galvin	<u> X </u>	(Yes)	<u> </u>	(No)
Councilwoman Carol Keys, Esq.	<u> X </u>	(Yes)	<u> </u>	(No)
Councilman Philippe Bien-Aime	<u> X </u>	(Yes)	<u> </u>	(No)
Councilman Alix Desulme	<u> X </u>	(Yes)	<u> </u>	(No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.

