

ORDINANCE NO. 1437

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 11 OF THE CITY OF NORTH MIAMI CODE ORDINANCE ENTITLED "LICENSES AND BUSINESS REGULATIONS" TO ESTABLISH ARTICLE XI, "CONTROLLED RESIDENTIAL PARKING AREAS" LIMITED TO THOSE WHO LIVE IN PROXIMITY TO THE ZONED AREA; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF NORTH MIAMI AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Mayor and City Council of the City of North Miami seek to protect the public safety and preserve the quality of life within the City; and

**WHEREAS**, residents of certain neighborhoods have expressed concerns that residential streets are being used for parking of vehicles by non-residents of those neighborhoods for non-residential purposes, such as storage of commercial vehicles; and

**WHEREAS**, it is necessary to restrict parking in residential areas in order to reduce hazardous traffic conditions resulting from the parking of vehicles in residential areas by persons not living in those areas; to protect residential areas from polluted air, excessive noise, trash and refuse caused by the entry of such vehicles; to protect the individuals living in residential areas from unreasonable traffic obstacles while attempting to access their residences; to preserve the residential character of residential areas; to promote efficiency in maintaining residential streets in a clean and safe condition; to preserve residential property values; and to preserve the safety of children, pedestrians and occupants of vehicles, and the peace, good order, comfort, convenience and welfare of the residents of the City generally; and

**WHEREAS**, the City deems it in its best interest to further amend Chapter 11 to of the Code of the City of North Miami to create residential controlled parking areas in designated neighborhoods to eliminate these hazards.

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

**Section 1. Recitals Adopted.** That the recitals set forth above are true and correct and incorporated herein by reference.

**Section 2. Article XI created.**

ARTICLE XI. CONTROLLED RESIDENTIAL PARKING AREAS

**Sec. 11-231. Declaration of necessity and purpose.**

(1) It is in the best interests of the residents of the city to reduce vehicular congestion on residential streets and to facilitate the efficient movement of traffic by providing for residential parking preference during certain hours of the day within certain areas meeting criteria set forth in this article;

(2) Controlled residential parking regulation is necessary to promote the health, safety, and welfare of the residents of the city by providing adequate parking spaces adjacent to or close by their places of residence;

(3) It is in the public interest to:

a. Reduce hazardous traffic conditions resulting from the use of streets located within congested residential areas for the parking of vehicles by persons using such residential areas to gain access to other places;

b. Protect those areas from excessive noise;

c. Protect the residents of those areas from unreasonable burdens in gaining access to their residences;

d. Preserve the character of those areas as residential;

e. Promote efficiency in the maintenance of these streets in a clean and safe condition;

f. Preserve the value of the property in those areas;

g. Preserve the safety of children and other pedestrians; and

h. Promote traffic safety, clean air, and the comfort, health, convenience, and welfare of the inhabitants of the city.

**Section 11-232. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Commuter vehicle* means a motor vehicle parked in a residential area by a person not a resident of the designated residential area.

*Impacted by commuter vehicles* means:

(1) A condition whereby an undue number of commuter vehicles are being driven into or left in a residential area regularly between the hours of 7:00 p.m. and 6:00 a.m. of the following day, parking therein for purposes unrelated to residential uses.

Controlled Parking Residential Area means a contiguous or nearly contiguous area containing public streets or parts thereof primarily abutted by residential property or residential and nonbusiness property such as cemeteries, parks, churches, hospitals, and nursing homes. A residential area shall contain at least a city block.

Residential area means a contiguous or nearly contiguous area containing public streets or parts thereof primarily abutted by residential property or residential and nonbusiness property such as cemeteries, parks, churches, hospitals, and nursing homes. A residential area shall contain at least half a city block.

Residential parking permit means a special permit issued under this division for the privilege of parking on a street designated as controlled parking residential area.

Resident means a person who owns or leases real property within a residential area and who maintains either a voting residence or a bona fide occupancy, or both, at that address and can provide one of the following proofs of residency:

- Proof of ownership of their residentially utilized property ownership within the City limits; or
- Current lease for their residentially utilized property within the City limits; or
- Voter registration demonstrating their residency within the City limits; or
- A utility bill for their residentially utilized property within the City limits.

### **Section 11-233. Creation of Controlled Parking Residential Area.**

(a) Whenever the city manager or his designee shall make a determination that a residential area is impacted by commuter vehicles in accordance with the criteria set forth herein, he may initiate the creation of a controlled residential parking area. A request for a determination by the city manager or his designee should be initiated through petition of a majority of the bona fide residents of a residential area which shall state the residents' names, addresses and the exact location and boundaries of the proposed residential parking permit area.

(b) After initiation of the creation of a controlled residential parking area by the city manager or his designee as set forth in subsection (a) of this section, the city council shall hold a public hearing on the matter. Such public hearing shall be held only after:

(1) Notices have been mailed or personally delivered to every household that can reasonably be established within the area under consideration; and

(2) Notice has been posted in the area under consideration 15 days prior to the hearing date. The notice shall clearly state the purpose of the hearing and the exact location and boundaries of the proposed residential parking permit area.

(c) The city council shall, by resolution, approve or disapprove the creation of the residential parking permit area.

(a) A residentially zoned area shall be deemed eligible for designation as a “controlled parking residential area” for controlled residential parking if parking there is impacted by commuter vehicles and/or commercial vehicle parking and off-street parking is limited.

(b) The following objective criteria are established to be used in evaluating the need for restricted parking in a residentially zoned area/street in accordance with this division. For an area/street to be eligible for controlled residential parking, that area must meet the following criteria:

(1) During peak periods, the number of vehicles parked or standing, legally or illegally, on streets in the area is equal to fifty percent (50%) or more of the on-street parking capacity of the area. For purposes of this criterion, a legal parking space shall be twenty (20) linear feet measured parallel to the curb or pavement edge; and

(2) During the same period, twenty-five percent (25%) or more of the vehicles parking or standing on the streets in the area are not registered in the name of a person residing in the area. For purposes of this criterion, the latest available information from the state department of motor vehicles regarding registration of motor vehicles shall be used.

(3) In determining whether an area identified as impacted and eligible for controlled residential parking shall be designated as a controlled parking residential area, the following factors shall be considered:

- a. The local needs with respect to clean air and environment in residential areas.
- b. The possibility of a reduction in total vehicle miles driven in the city.
- c. The likelihood of alleviating traffic congestion, illegal parking and related health and safety hazards.
- d. The proximity of public transportation to the residential area.
- e. The desire and need of the residents for controlled residential parking.
- f. The need for parking regulation to maintain the residential character of neighborhoods.

(c) When the city manager finds the criteria to designate have been met in a “controlled parking residential area”, the city manager shall cause the regulation to be recorded upon an appropriate map of the city and retained permanently in the office of the city clerk. In addition, the city manager shall cause parking signs to be erected upon public streets in the area, indicating the times, locations, and conditions upon which parking shall be by permit only. When an area has been approved, designated and posted as a “controlled parking residential area”, it shall be unlawful and a violation of this ordinance to park a commuter vehicle in an area restricted to permit parking only without having a valid residential parking permit affixed on the left rear window or bumper of the vehicle or license plate registered with the City.

**Section 11-234. Issuance of Permits; Placement of Signs**

(a) A permit shall be issued once the resident has completed the 'Residential Parking Permit' application, provided the required documentation, and paid the permit fees, if any, for the street they currently reside on. No more than two (2) 'Residential Parking Permits' per household.

(b) Permit fees, if any, shall be approved by the city manager. The city manager or their designee shall calculate the permit fees based on the actual cost of manufacture and installation of pertinent signs, applications, permits and administrative costs in connection with the issuance of permits and present recommended fees.

(c) The application for a permit shall contain the name of the owner or operator of the motor vehicle, a copy of their driver's license, and a photostatic copy of the vehicle registration. The applicant must also provide a current form of residency which can include a utility bill, lease agreement, property deed, voter's registration or any other form of documentation with the name of the applicant and the address they are applying for. The permittee shall apply in person for the initial permit and shall present all required documentation. Personal appearance shall not be required for permit renewals with the same information required each year prior to expiration of the permit. Permits will be available as of December 20th of each year.

(d) The permit must be displayed on the lower left corner of the outside rear window or on the left rear bumper of the vehicle or the license plate may be registered with the City. For the permit to be valid it must be displayed as such on the vehicle listed on the completed application. Permits not displayed properly or on a vehicle other than listed will be null and void.

(e) Guest/Service permits. Upon application by such owner, up to two Guest/Service permits may be issued and used by such owner for the sole purpose of providing parking on a temporary basis to service vehicles which are conducting work at such owner's premises or for guests of such owner's residence. The permits shall be used only for the period during which business is to be conducted by the service vehicles or for the duration of stay of a guest to the residence for which the permit is issued. The application for a Guest/Service permit or permits shall be completed by such owner.

The permit or permits shall be valid until the end of the current fiscal year and may be renewed in the same manner each successive year. A person must have a residential parking permit to be eligible to purchase a Guest/Service permit. These permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the guest or service vehicle observable through the front windshield of the vehicle or the license plate of the vehicle may be registered with the City. The permits shall be valid only for the period during which the service vehicle is conducting work at the premises or for the period of time a guest is at the premises.

#### **Section 11-235. Parking in Residential Permit Areas "Controlled Parking Residential Areas"**

(a) The holder of a residential parking permit that is properly displayed shall be permitted to stand or park a motor vehicle in the appropriately designated parking area. While a vehicle for which a residential parking permit has been issued is so parked, such permit shall be displayed to be clearly visible to enforcement personnel or the vehicle license plate may be registered with City. A residential parking permit shall not guarantee or reserve to the holder a parking space within the designated parking area.

(b) A residential parking permit shall not authorize the holder of the permit to park in spaces or areas designated by law as restricted or prohibited parking (loading zones, fire hydrants, disabled, or other such regulated areas), nor shall it exempt him from the observance of any traffic regulations, other than parking time limits.

(c) Time limits for parking in each controlled parking residential area shall be posted in plain view and shall be strictly enforced.

#### **Section 11-236. Enforcement**

Vehicles found within a controlled parking residential area during the time limits posted without a valid permit for that area:

- (1) Shall be issued a uniform parking citation pursuant to this article; and
- (2) May be towed pursuant to this article.

#### **Section 11-237. Parking Permit Violations**

It shall be unlawful for any person to represent that he is entitled to a residential parking permit when he is not entitled, or to hold or display such a permit at any time when he is not entitled.

#### **Section 11-238. Revocation of Permits and Penalties**

(a) The city manager or his designee is authorized to revoke the residential parking permit of any individual found to be in violation of the provisions of this division.

(b) Failure to surrender a revoked permit within ten working days of written notification from the parking department shall carry the following penalties:

- (1) The violator shall not be allowed to reapply for another permit for six months.
- (2) Once restored, if the permit holder should once again have his permit revoked by the department, the resident would be restricted from applying for one (1) year.

#### **Section 11-239 Removal of "Controlled Parking Residential Area"**

The city manager or his designee is authorized to remove a controlled parking residential area when sixty percent (60%) of residents in said area submit a signed petition requesting to dissolve the particular controlled parking residential area.

#### **Section 11-240. Exemptions**

Vehicles with valid handicapped license plates issued by the Florida Department of Motor Vehicles and displaying the internationally accepted wheelchair symbol, handicapped parking permit, or disabled veteran motor vehicle license plate are exempt from the requirements of this division.

#### **Section 12-241 Administrative Policy and Procedure**

The city manager is instructed to create a Residential Parking Program Policy Manual which shall be adopted by resolution of the City Council. The city manager is granted the authority to make amendments to said Policy Manual as the city manager finds necessary. Copies of the Residential Parking Program Policy Manual shall be available upon request.

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

**Section 3.** **Conflicts.** In the event that the provisions of this Ordinance are in conflict with any other ordinance, rule or regulation, the provisions of this Ordinance shall prevail.

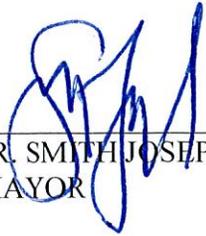
**Section 4.** **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity 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 re-lettered to accomplish such intentions; and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

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

**PASSED AND ADOPTED** by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 12th day of March, 2019.

**PASSED AND ADOPTED** by a 4-0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 26th day of March, 2019.

  
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: COUNCILMAN SCOTT GALVIN  
CO-SPONSORED BY: COUNCILWOMAN CAROL KEYS

Moved by: Galvin  
Seconded by: Bien-Aime

**Vote:**

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

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