

5:31:38:00 p.m.

5:48:40 p.m.

R5 I AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CITY CODE, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE IV, ENTITLED "NOISE," BY AMENDING SECTION 46-152, ENTITLED "NOISES; UNNECESSARY AND EXCESSIVE PROHIBITED," BY AMENDING THE HOURS PROHIBITING POWER TOOLS AND LANDSCAPING EQUIPMENT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

First Reading

Code Compliance

Commissioners Mark Samuelian & Michael Góngora

Deferred from July 17, 2019 - R5 S

ACTION: Ordinance adopted on First Reading as amended. Title of the Ordinance read into the record. Motion made to adopt the Ordinance on First Reading, as amended, by Commissioner Góngora; seconded by Commissioner Samuelian; Ballot vote: 6-1; Opposed; Commissioner Malakoff. Second Reading Public Hearing scheduled for October 16, 2019. Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda, if received. **Hernan Cardeno to handle.**

AMENDMENT:

- Modify morning hours to 10:00 a.m., leaving the hours in the evening until 8:00 p.m.

REFERRAL:

September 25, 2019 Neighborhood/Community Affairs Committee between First and Second reading. **Eric Carpenter to place on the Committee agenda. Hernan Cardeno to handle. Topics of Discussion at the Neighborhood/Community Affairs Committee, include:**

- Discuss impact in single-family homeowners; and
- Discuss carving out language in the single-family home area on weekends. at least they can mow their own lawns

Commissioner Samuelian stated that this came out of discussion at the Neighborhood/Community Affairs Committee and all it does is take the hours for the use of power tools, maintenance equipment, and leaf blowers and puts it in line for the hours of construction.

Commissioner Alemán asked for an exclusion. This item has much to do with condominium dwellers; no one who lives in a single-family home and maintains their own lawn would want to do this. This Ordinance would force homeowners to work on their lawns from 10:00 a.m. to 4:00 p.m., which is the hottest part of the day. She suggested exempting single-family home neighborhoods on the weekends and keeping it from 8:00 a.m. to 8:00 p.m. on the weekends, because between the hot weather and the inability of being able to afford landscape services, it is inhumane to do the work in the middle of the day.

Commissioner Góngora hates leaf blowers and would like to eventually ban them. During his tenure in the City Commission, he passed three restrictions and he would like to make it as strict as possible. Commissioner Alemán raised a good point about single-family homes, but to him the morning hours are the more important rather than evening reductions. He receives complaints from people that state this equipment wakes them up, and on the weekends, they want the opportunity to sleep in without these noises from the machines; he suggested moving the time to 10:00 a.m. rather than reducing the evening hours.

Discussion held.

Commissioner Malakoff agreed with Commissioner Alemán and added that this is not enforceable. The City Commission should not pass laws that cannot be enforced; especially in single-family home neighborhoods this should not be enforced.

Mayor Gelber explained that this came out of the Neighborhood/Community Affairs Committee and asked if there is a will to pass the Ordinance on First Reading and then reach a compromise by Second Reading.

Discussion held.

Commissioner Góngora agreed that single-family homes want to work later in the evening and do not want to end the work at 4:00 p.m. What this Ordinance does is basically shift the hours from 8:00 a.m. to 10:00 a.m., but it moves four hours from 8:00 p.m. to 4:00 p.m. He is happy with the morning hours.

Commissioner Góngora moved the item with the modification to change the start time on weekends and holiday mornings to 10:00 a.m. and leave it until 8:00 p.m.; seconded by Commissioner Samuelian as amended.

Commissioner Steinberg, for clarification, explained that someone who lives in a single-family home reached out to her about this concern, and there is a distinction between the loud leaf blowers and someone using their lawnmower. She will support the item as amended between First and Second Reading, but wants to understand this better as well as the impact. She suggested tweaking those weekend hours or carve out language in the single-family home area on weekends so that at least they can mow their own lawn.

Discussion continued.

Commissioner Alemán reiterated that she has no problem in the multifamily area, but it is different in the single-family area. She cannot support the Ordinance unless it is 8:00 a.m. to 8:00 p.m., in the single-family home neighborhoods. Most of this is related to condominium owners. Single family homeowners must get up in the morning early to do this type of work. If the Commission only allow single-family homeowners to work on their lawns in the afternoon, then they must plan the entire day around it and it limits the activities they can do during the day. She asked for a single-family home zoning exclusion and she will be happy to vote for it.

Motion made to adopt the Ordinance on First Reading, as amended to modify the start time to 10:00 a.m., by Commissioner Góngora; seconded by Commissioner Samuelian; Ballot vote: 6-1; Opposed; Commissioner Malakoff.

Commissioner Steinberg clarified that the two amendments were the evening hours for First Reading which were extended, and secondly to allow single-family homeowners to be able to mow their lawn.

Chief Deputy City Attorney Boksner clarified that there was a motion made by Commissioner Góngora that was seconded by Commissioner Samuelian which only included modifying the start time to 10:00 a.m., and that is the motion they have now on the floor; no other amendment has been made.

Commissioner Góngora suggested passing this and sending back to the Neighborhood/Community Affairs Committee between First and Second Reading and take all concerns into consideration and find a way to make it happen.

Commissioner Samuelian agreed.

Rafael E. Granado, City Clerk, clarified that the next Neighborhood/Community Affairs Committee meeting is on September 25th, which means that Second Reading would have to occur on October 16, 2019.