

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ENVIRONMENT," BY CREATING ARTICLE X, ENTITLED "USE OF GAS-POWERED LEAF BLOWERS," TO CREATE DEFINITIONS, ADOPT REGULATIONS ON THE USE OF GAS-POWERED LEAF BLOWERS WITHIN THE CITY OF MIAMI BEACH, PROVIDE FOR A TEMPORARY SUSPENSION FOR STORM AND HURRICANE CLEANUP, ESTABLISH ENFORCEMENT AND PENALTY PROVISIONS, AND PROVIDE FOR A FINANCIAL HARDSHIP WAIVER; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Miami Beach ("City") declares that it is in the interest of the public health, safety, and welfare of its residents and visitors to reduce litter and pollutants on the land and in the air and waters of the City; and

**WHEREAS**, a leaf blower is a widely available gardening tool used to manage leaves, clippings, and other debris; and

**WHEREAS**, most gas-powered leaf blowers use two-stroke engines, which mix gas and oil; and

**WHEREAS**, about 30 percent of the gas the engine uses fails to undergo complete combustion, and as a result, the engine emits a number of specific air pollutants of concern, such as: hydrocarbons from both burned and unburned fuel, which combine with other gases in the atmosphere to form ozone; carbon monoxide; fine particulate matter; and other toxic air contaminants in the unburned fuel, including benzene, 1,3-butadiene, acetaldehyde, and formaldehyde; and

**WHEREAS**, a 2011 test by the car experts at Edmunds showed that "a consumer-grade leaf blower emits more pollutants than a 6,200-pound 2011 Ford F-150 SVT Raptor"; and

**WHEREAS**, during the test, the company subjected a truck, a sedan, a four-stroke leaf blower, and a two-stroke leaf blower to automotive emissions tests and found that under normal usage conditions — alternating the blower between high power and idle, for example — the two-stroke engine emitted nearly 299 times the hydrocarbons of the pickup truck, 93 times the hydrocarbons of the sedan, and many times as much carbon monoxide and nitrogen oxides as well; and

**WHEREAS**, the four-stroke engine performed significantly better than the two-stroke in most of the categories, but still far worse than the car engines; and

**WHEREAS**, in 2017, the California Air Resources Board ("CARB") issued a warning that by 2020, gas-powered leaf blowers, lawn mowers, and similar equipment in the state could produce more ozone pollution than all the millions of cars in California combined; and

**WHEREAS**, according to CARB's determination, running a gas-powered leaf blower for one hour emits the same amount of pollution as driving a light-duty passenger vehicle for approximately 1,100 miles; and

**WHEREAS**, in addition to environmental impacts, air emissions from gas-powered leaf blowers have adverse health effects on workers; and

**WHEREAS**, counties, cities and urban areas are in a unique position to combat climate change, because cities and urban areas are responsible for producing 70 percent of climate-changing greenhouse gas ("GHG") emissions worldwide; and

**WHEREAS**, the City has already taken steps to aggressively address climate change, promote the use of renewable energy, and reduce our community's emissions; and

**WHEREAS**, on October 14, 2015, the Mayor and City Commission adopted Resolution No. 2015-29156, joining the Global Covenant of Mayors for Climate & Energy and pledging to reduce GHG emissions, track progress towards GHG reduction goals, and enhance the City's resiliency to climate change; and

**WHEREAS**, on May 17, 2017, the Mayor and City Commission adopted Resolution No. 2017-29867, directing the City Administration to request all City landscape maintenance contractors to voluntarily transition to non-gas-powered leaf blowers for all City landscape maintenance operations, and for the City Administration to require non-gas powered leaf blowers in all future bids for City landscape maintenance work; and

**WHEREAS**, since the adoption of the Resolution No. 2017-29867, the Public Works - Greenspace Management Division has included language in its landscape maintenance contracts and internal operations to not allow the use of gas-powered leaf blowers, and the Public Works - Sanitation Division is in the process of transitioning to electric/battery powered blowers, and expect to replace their existing gas-powered inventory by Spring of 2022; and

**WHEREAS**, on February 10, 2021, the Mayor and City Commission adopted Resolution No. 2021-31575, endorsing several pledges (Under2 Coalition, United Nations (UN) Climate Change's Climate Neutral Now, and C40 Race to Zero) to further commit to GHG emissions reductions while planning for the challenges of climate change; and

**WHEREAS**, the City is also in the process of developing a Climate Action Plan which includes guidelines for actions that should be implemented to reduce GHG emissions, and further sets short-term GHG emissions reduction targets to achieve carbon neutrality by 2050; and

**WHEREAS**, at the September 17, 2021 City Commission meeting the Mayor and City Commission referred a discussion to the Land Use and Sustainability Committee on the status of the City's transition from gas leaf blowers and any potential opportunities to reduce usage; and

**WHEREAS**, on September 30, 2021, the resident Sustainability Committee held a discussion with City staff and representatives from Miami Beach United on gas leaf blowers, and subsequently passed a motion in support of further reducing the use of gas operated leaf blowers citywide to support the City's goal of reducing GHGs while improving quality of life (see LTC #423-2021); and

**WHEREAS**, on October 19, 2021, the Land Use and Sustainability Committee passed a motion recommending drafting an ordinance to regulate the use of gas-powered leaf blowers throughout the City; and



**WHEREAS**, the City Commission finds that the use of gas-powered leaf blowers to clear leaves, clippings, and other debris on public and private property affects air quality, water quality, contributes to GHG emissions, and impacts environmental health and noise levels throughout the City; and

**WHEREAS**, the City Commission also finds that a number of alternatives exist, such as portable or plug-in electric leaf blowers and non-motorized tools such as rakes; and

**WHEREAS**, the City Commission wishes to provide a reasonable phase-in period during which City staff can conduct outreach to inform and educate residents and landscape maintenance companies of the provisions of this Ordinance, and the availability of alternatives to gas-powered leaf blowers; and

**WHEREAS**, this Ordinance will preserve and enhance the environment of the City of Miami Beach.

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

**SECTION 1.** Article X of Chapter 46 of the Code of the City Miami Beach is hereby created as follows:

**CHAPTER 46  
ENVIRONMENT**

\* \* \*

**ARTICLE X. USE OF GAS-POWERED LEAF BLOWERS**

**Sec. 46-231. Definitions.**

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

*Leaf blower* means any air blowing device that uses a concentrated stream of air to push, propel or blow dirt, dust, leaves, grass clippings, trimmings, cuttings, refuse or debris.

**Sec. 46-232. Regulations on the use of leaf blowers.**

The use of gas-powered leaf blowers is prohibited within the city. Battery- and electric-powered leaf blowers may be used within the city, consistent with the regulations set forth in section 46-152 of the City Code. Private property owners and landscape maintenance companies are encouraged to operate leaf blowers in a manner that reduces noise generated by the equipment, including, without limitation, by not continuously running equipment and by using equipment that operates at a low decibel range (i.e. 65 dB or less).

**Sec. 46-233. Temporary suspension for storm and hurricane cleanup.**

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In the event of a hurricane, tropical storm, or similar extreme weather event, the City Manager, in the City Manager's sole discretion, may temporarily suspend provisions of this article to permit the use of gas-powered leaf blowers for debris cleanup.

**Sec. 46-234. Enforcement; penalties.**

- (a) Beginning on February 1, 2022, and extending through October 31, 2022, the city shall engage in public education efforts to inform residents and landscape maintenance companies of the provisions of this article and to provide assistance with identifying alternatives to gas-powered leaf blowers.
- (b) Beginning on November 1, 2022, the city shall provide for a nine-month warning period through and including July 31, 2023, during which the code compliance department shall issue written warnings for violations of this article.
- (c) Beginning on August 1, 2023, the code compliance department shall fully enforce the provisions of this article.
- (d) If a code compliance officer finds a violation of this article, the code compliance officer shall issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.
- (e) A violator who has been served with a notice of violation must elect to either:
  - (1) Pay the following civil fine:
    - a. First violation within a 12-month period .....\$250.00;
    - b. Second violation within a 12-month period ..... \$500.00;
    - c. Third or subsequent violation within a 12-month period ..... \$1,000.00;
  - or
  - (2) Request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.
- (f) Failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
- (g) A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After three months following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien for the amount of the lien plus accrued interest.



(h) The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation. The special master shall not have discretion to alter the penalties prescribed in this article. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

**Sec. 46-235. Financial hardship waiver.**

Any property owner or principal of a landscape maintenance company that reported a household annual gross income of 80% of the area median income, or less, on its income tax filing for the most recent tax year, may submit a written request to the city manager, on a form prepared by the city manager, for a financial hardship waiver of the requirements of this article. The city manager may grant a waiver if the property owner or landscape maintenance company provides evidence of the following:

- (a) There is no comparable alternative product that does not use gas to power up leaf blowers; or
- (b) The purchase or use of an alternative product would create an undue financial hardship.

Such financial hardship waiver shall be valid for 12 months and may be renewable upon application to the city manager. If an administrative hearing is requested pursuant to subsection 46-234(e)(2), a pending financial hardship waiver request shall be grounds for a continuance of the administrative hearing, but only if the notice of violation was issued after the submittal of the financial hardship waiver request.

**SECTION 2. REPEALER.**

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

**SECTION 3. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

**ATTEST:**

\_\_\_\_\_  
Dan Gelber, Mayor

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Rafael E. Granado, City Clerk

Underline denotes additions  
~~Strikethrough~~ denotes deletions

(Sponsored by Commissioner Mark Samuelian)

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney  
FA

11-30-21  
Date