

**ORDINANCE NO. 2024-4589**

**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 AMENDING ARTICLE X, ENTITLED "USE OF GAS-POWERED LEAF BLOWERS," TO CREATE DEFINITIONS; ELIMINATE THE FINANCIAL HARDSHIP WAIVER; PROHIBIT THE USE OF GAS-POWERED CHAINSAWS WITHIN THE CITY OF MIAMI BEACH, PROVIDE FOR A TEMPORARY SUSPENSION FOR STORM AND HURRICANE CLEANUP AND OTHER EXCEPTIONS, AND ESTABLISH ENFORCEMENT AND PENALTY PROVISIONS; AND FURTHER PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, on June 22, 2022, the Mayor and City Commission adopted Ordinance No. 2022-4495, prohibiting the use of gas-powered leaf blowers within the City of Miami Beach for well established environmental reasons and to mitigate excessive noise; and

**WHEREAS**, the Mayor and City Commission wish to extend the prohibition on the use of gas-powered leaf blowers by phasing out the use of gas-powered chainsaws for similar environmental reasons; and

**WHEREAS**, gas-powered chainsaws can produce a variety of pollutants that can be harmful to the environment, including carbon monoxide, hydrocarbons, and particulate matters; and

**WHEREAS**, the City Commission also finds that a number of alternatives exist, such as portable or plug-in electric chainsaws; and

**WHEREAS**, as with the 2022 Ordinance, the sponsor 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 chainsaws; and

**WHEREAS**, in view of the phase-in period and the environmental and quality of life benefits associated with the prohibition of gas-powered landscaping tools, the Mayor and City Commission also desire to eliminate the financial hardship waiver provisions of the Ordinance, as very few waiver requests have been received and/or granted to date.

**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 amended as follows:

## CHAPTER 46 ENVIRONMENT

\* \* \*

### ARTICLE X. USE OF GAS-POWERED LEAF BLOWERS AND CHAINSAWS

#### **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.

*Chainsaw* means a saw which is powered by a gasoline engine, an electric motor, or other means which can cut, buck and saw trees, logs, posts, poles and timbers.

#### **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.**

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 to the property owner or the landscape maintenance company. 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.~~

**Sec. 46-235. Regulations on the use of chainsaws.**

The use of gas-powered chainsaws is prohibited within the city. Battery- and electric-powered chainsaws may be used within the city, consistent with the regulations set forth in section 46-152 of the City Code. Large, gas-powered chainsaws are exempt from the provisions of this article if their use is required to accomplish a task for which smaller sized battery- or electric- powered chainsaws are not suitable.

Private property owners and landscape maintenance companies are encouraged to operate chainsaws 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. 46-236. Temporary suspension for storm and hurricane cleanup.**

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 chainsaws for debris cleanup.

**Sec. 46-237. Enforcement; penalties.**

(a) Beginning on March 1, 2023, and extending through October 31, 2024, the city shall engage in public education efforts to inform residents and landscape maintenance companies of the provisions of section 46-235 and to provide assistance with identifying alternatives to gas-powered chainsaws.

(b) Beginning on November 1, 2024, the city shall provide for a nine-month warning period through and including July 31, 2025, during which the code compliance department shall issue written warnings for violations of this article.

#### **Sec. 46-237. 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 section 46-235. 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 chainsaws; 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 46-238(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.

#### **Sec. 46-238. Enforcement; penalties.**

(a) Beginning on March 1, 2024, and extending through October 31, 2024, the city shall engage in public education efforts to inform residents and landscape maintenance companies of the provisions of section 46-235 and to provide assistance with identifying alternatives to gas-powered chainsaws.

(b) Beginning on November 1, 2024, the city shall provide for a nine-month warning period through and including July 31, 2025, during which the code compliance department shall issue written warnings for violations of this article.

(c) Beginning on August 1, 2025, 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 to the property owner or the landscape maintenance company. 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;

## **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 10 day of February 2024.

**PASSED AND ADOPTED** this 31 day of January, 2024.

**ATTEST:**

  
\_\_\_\_\_  
Rafael E. Granado, City Clerk

FEB 06 2024

  
\_\_\_\_\_  
Steven Meiner, Mayor



Underline denotes additions

~~Strikethrough~~ denotes deletions

Double underline denotes additions on second reading

~~Strikethrough~~ denotes deletions on second reading

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

(Sponsored by Commissioner Laura Dominguez)

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

1-22-24  
\_\_\_\_\_  
Date

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Rafael A. Paz, City Attorney  
DATE: January 31, 2024

2:35 p.m. Second Reading Public Hearing

SUBJECT: 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 AMENDING ARTICLE X, ENTITLED "USE OF GAS-POWERED LEAF BLOWERS," TO CREATE DEFINITIONS; ELIMINATE THE FINANCIAL HARDSHIP WAIVER FOR GAS-POWERED LEAF BLOWERS; PROHIBIT THE USE OF GAS-POWERED CHAINSAWS WITHIN THE CITY OF MIAMI BEACH, PROVIDE FOR A TEMPORARY SUSPENSION FOR STORM AND HURRICANE CLEANUP, AND ESTABLISH ENFORCEMENT AND PENALTY PROVISIONS; AND FURTHER PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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### BACKGROUND/HISTORY

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? \_\_\_ Yes X No

If so, specify name of lobbyist(s) and principal(s): N/A

### ANALYSIS

See attached Commission Memorandum.

### SUPPORTING SURVEY DATA

N/A

### FINANCIAL INFORMATION

N/A

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

No

Does this item utilize G.O. Bond Funds?

No

### Legislative Tracking

Office of the City Attorney

**Sponsor**

Commissioner Laura Dominguez

**ATTACHMENTS:**

**Description**

- BIE Published 01/12/2024, Supplemented 01/22/2024 to Attach 2nd Rdg. Commission Memorandum and Ordinance



# MIAMI BEACH

Rafael A. Paz, City Attorney

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMISSION MEMORANDUM

**TO:** Mayor Steven Meiner and Members of the City Commission  
Alina T. Hudak, City Manager

**FROM:** Rafael A. Paz, City Attorney

**SECOND READING**

**DATE:** January 31, 2024

**SUBJECT: 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 AMENDING ARTICLE X, ENTITLED "USE OF GAS-POWERED LEAF BLOWERS," TO CREATE DEFINITIONS; ELIMINATE THE FINANCIAL HARDSHIP WAIVER FOR GAS-POWERED LEAF BLOWERS; PROHIBIT THE USE OF GAS-POWERED CHAINSAWS WITHIN THE CITY OF MIAMI BEACH, PROVIDE FOR A TEMPORARY SUSPENSION FOR STORM AND HURRICANE CLEANUP AND OTHER EXCEPTIONS, AND ESTABLISH ENFORCEMENT AND PENALTY PROVISIONS; AND FURTHER PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

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The proposed Ordinance was prepared at the request of Commissioner Laura Dominguez. On December 13, 2023 the Mayor and City Commission approved the Ordinance on first reading.

On June 22, 2022, the Mayor and City Commission adopted Ordinance No. 2022-4495, prohibiting the use of gas-powered leaf blowers within the City of Miami Beach for well-established environmental reasons and to mitigate excessive noise.

The Mayor and City Commission wish to extend the prohibition on the use of gas-powered leaf blowers by phasing out the use of gas-powered chainsaws for similar environmental reasons. Gas-powered chainsaws can produce a variety of pollutants that can be harmful to the environment, including carbon monoxide, hydrocarbons, and particulate matters. The City Commission also finds that a number of alternatives exist, such as portable or plug-in electric chainsaws.

At first reading of the proposed Ordinance, the City Administration recommended to exempt removal of large trees or pruning of large branches from the requirements of the Ordinance due to the strain it would have on battery-operated chainsaws, which could create a safety hazard for the operator in the event a battery-operated chainsaw would run out of power mid-trim.

Accordingly, the revised Ordinance prohibits the use of gas-powered chainsaws within the City for pruning/trimming work as defined in Chapter 46 for both palms and trees, but the following activities are exempt from the provisions of the Ordinance:

- (a) the removal of a public nuisance tree (as defined in section 46-56 of this Code) conducted by or on behalf of the City of Miami Beach;

- (b) a tree/palm removal conducted pursuant to an approved City of Miami Beach Tree Removal Permit; and
- (c) any pruning that requires a chainsaw with a bar larger than 16" (typically required for branches larger than 10" in diameter).

As with the 2022 Ordinance, Commissioner Dominguez has proposed to provide a reasonable phase-in period of one year 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 chainsaws.

RAP/FA/ag

# MIAMI BEACH

City of Miami Beach, 700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

**TO:** Mayor Steven Meiner and Members of the City Commission

**FROM:** Alina T. Hudak, City Manager *Eric Carpenter for*

**MEETING DATE:** January 31, 2024

**SUBJECT: BUSINESS IMPACT ESTIMATE FOR:**

**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 AMENDING ARTICLE X, ENTITLED "USE OF GAS-POWERED LEAF BLOWERS," TO CREATE DEFINITIONS; ELIMINATE THE FINANCIAL HARDSHIP WAIVER; PROHIBIT THE USE OF GAS-POWERED CHAINSAWS WITHIN THE CITY OF MIAMI BEACH, PROVIDE FOR A TEMPORARY SUSPENSION FOR STORM AND HURRICANE CLEANUP, AND ESTABLISH ENFORCEMENT AND PENALTY PROVISIONS; AND FURTHER PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

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## Is a Business Impact Estimate Required?

☒ **Yes**      ☐ **No** (If no, please check one of the boxes below)

If one or more boxes are checked below, this means the City of Miami Beach has determined that a Business Impact Estimate for the above-referenced Ordinance is not required by State law.

- ☐ The proposed Ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed Ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed Ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed Ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the City;
- ☐ The proposed Ordinance is an emergency ordinance;
- ☐ The Ordinance relates to procurement; or
- ☐ The proposed Ordinance is enacted to implement the following:
  - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
  - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

If none of the above exceptions apply, this Business Impact Estimate is hereby provided in accordance with Section 166.041(4), Florida Statutes.

1. The summary of the proposed Ordinance and its purpose is more fully set forth in the Commission Memorandum accompanying the Ordinance, as well as in the recitals to the Ordinance itself, which are attached hereto.

2. The City of Miami Beach estimates that the proposed Ordinance will have a direct economic impact on private, for-profit businesses in the City of Miami Beach.

**Electric Chain Saw Conversion Business Impact Estimate**

The Business Impact Estimate reflects the anticipated direct costs a full landscape or tree trimming company will have to occur to transition 16" chain saws and pole pruners from gas-powered to electric-powered. The estimate assumes a company starts by acquiring (1) pole pruner chain saw and (2) 16" chain saws within their equipment inventory in the first year including one back-up for each chain saw for redundancy. Experience has shown that a gas-powered chain saw will need to be replaced once every 3-4 years and electric saws will require full chain saw replacement once per year and replace all battery/ battery charger equipment once within a 3-year period. No fuel or electricity charges are provided with this estimate. Below is the 3-year expected equipment cycle cost for both gas- and electric-powered chain saws.

GAS CHAIN SAWS	Year 1	Year 2	Year 3		CYCLE COST
New Chain Saw Purchase	\$3,379.94	\$ -	\$ -		
YEARLY COST (CUMULATIVE)	\$3,379.94	\$ 3,379.94	\$ 3,379.94		\$ 3,379.94

ELECTRIC SAWS	Year 1	Year 2	Year 3		CYCLE COST
New Chain Saw Purchase	\$3,159.92	\$ 3,159.92	\$ 3,159.92		\$ 9,479.76
Battery Charger	\$ 719.96		\$ 719.96		\$ 1,439.92
Batteries	\$4,559.88		\$ 4,559.88		\$ 9,119.76
YEARLY COST (CUMULATIVE)	\$8,439.76	\$11,599.68	\$20,039.44		\$ 20,039.44

COST RATIO PER YEAR	2.50	3.43	5.93
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Initially, the expected transition cost for new equipment is \$5,059.82 more expensive or \$2.50 more for every dollar spent for gas powered chain saw purchases. Year 4 is when the business will replace their gas-powered chain saws. By Year 4, the electric-powered chain saws will have additional direct costs (saws, battery charger, and batteries) of \$11,599.68. The final cost ratio through Year 3 is that the electric saws will cost \$5.93 more for every dollar spent on Year 1 gas powered chain saw purchases.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed Ordinance:

The City does not know how many contractors are working city-wide on private commercial and residential accounts.

4. Additional comments:

**2-Gas powered Pole pruner**

\$769.99 each

Total = \$1,539.98

**2-Battery powered Pole pruners (battery not included)**

\$639.99 each (\$1,279.98)

2 Chargers @ \$179.99 each (\$359.98)

4 Batteries @ \$379.99 each (\$1,519.96)

Total = \$3,159.92

**4-Gas powered 16" Chainsaws**

\$459.99 each

Total = \$1,839.96

**4-Battery powered 16" Chainsaws (battery not included)**

\$429.99 each (\$1,719.96)

2 Chargers @ \$179.99 (\$359.98)

8 Batteries @ \$379.99 each (\$3,039.92)

Total = \$5,119.86