

ORDINANCE NO. 2012-36

AN ORDINANCE AMENDING CHAPTER XXIV OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "ZONING AND LAND DEVELOPMENT CODE" BY AMENDING SECTION 24-147.2, ENTITLED "TEMPORARY SIGNS ALLOWED"; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances of the City of North Miami Beach, Florida, regulates all signage allowed in the City to promote the health, safety and welfare of its citizens and residents; and

WHEREAS, temporary signs advertising a candidate for public office or a political campaign, measure or issue scheduled for an election, i.e. political signs, are subject to limited regulation; and

WHEREAS, the City of North Miami Beach recognizes the First Amendment rights of those wishing to express their views on certain issues and candidates; and

WHEREAS, political signs are afforded a higher level of constitutional protection than other temporary signs arising from First Amendment considerations; and

WHEREAS, the Mayor and City Council of the City of North Miami Beach desire to better conform the City's regulations of political signage with the currently applicable body of law regarding these constitutional protections, while maintaining all necessary and allowable regulations providing for the health, safety and welfare of the citizens and residents of the City; and

WHEREAS, courts have recognized the right of jurisdictions to enact reasonable time, place and manner restrictions related to signs while not restricting the First Amendment rights of

groups and individuals wishing to express their views by placing political or campaign signs in their yards, *City of Ladue v. Gilleo*, 512 U.S. 43, 114 S. Ct. 2038 (1994); and

WHEREAS, the Mayor and City Council of North Miami Beach believe that the manner of erection, location and maintenance of signs affects the public health, safety, morals and welfare of the citizens of North Miami Beach; and

WHEREAS, the Mayor and City Council of North Miami Beach recognize that the safety of motorists, cyclists, pedestrians, and other users of public streets is affected by the number, size, location, lighting and movement of signs that divert the attention of drivers; and

WHEREAS, the City of North Miami Beach wants to promote public safety by avoiding visual clutter, reducing conflicts between and among signs, and requiring removal of signs in a timely manner; and

WHEREAS, this item was originally heard and unanimously recommended by the City's Planning & Zoning Board by a vote of 6-0 on December 10, 2012; and

WHEREAS, at the City Council meeting of December 18, 2012, the Mayor and City Council tabled this Ordinance and directed, in the best interest of North Miami Beach citizens and potential candidates, that amendments be made and brought back for first reading; and

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. Section 24-147.2 of the Code of Ordinances of the City of North Miami Beach entitled "Temporary Signs Allowed" is hereby amended as follows:

Sec. 24-147.2 Temporary Signs Allowed

(D) *Political Signs.*

(1) Temporary signs advertising a candidate for public office, or a political campaign, measure or issue scheduled for an election are only permitted subject to the following ~~restrictions~~ requirements:

(a) ~~Standards. No sign, poster, banner or placard of any type shall be permitted in the City of North Miami Beach advertising any political campaign, issue or candidate for public office with the following exceptions:~~

~~1. Residential Zoning Districts. Temporary Ppolitical Ssigns of a size shall not to exceed six hundred sixteen (616) square inches per sign may be displayed on any residential property. Furthermore, signs shall only be displayed with the consent of the owner or tenant. No more than one (1) sign per candidate per residential property shall be allowed, unless the property is on a corner, then the property may have up to two (2) signs per candidate. Double-sided signs shall be considered as one (1) sign. No sign shall exceed three (3) feet from the ground. The maximum height to the top of the sign, including posts, other sign membranes or appendages shall not be more than three (3) feet above the ground in residential areas.~~

~~2. Nonresidential Districts. Temporary political signs displayed in any nonresidential area shall not exceed sixteen (16) square feet per sign. A candidate for public office may display signs of a size not to exceed sixteen (16) square feet per sign on nonresidential private property with the consent of the owner or tenant. No more than one (1) sign per candidate per nonresidential private property shall be allowed, unless the property is on a corner. Corner properties may have up to two (2) signs per candidate. No more than twenty-five (25) such signs of any size exceeding six hundred sixteen (616) square inches per sign feet signs per candidate shall be allowed in nonresidential areas citywide, including signs placed on nonresidential private property, bus benches, bus shelters or street furniture. Double-sided signs shall be considered as one (1) sign. No sign shall exceed six (6) feet from the ground. The maximum height to the top of the sign, including posts, other sign membranes or appendages shall not be more than six (6) feet above the ground in commercial areas.~~

~~3. Placement on Utility Poles, Trees, Fences, Buildings, or in Public Right-of-Way. No sign, poster, banner or placard of any type shall be affixed, painted, tacked, or nailed to any utility poles, trees, fences, or structures buildings, or otherwise displayed, placed or located on any state, County or City rights-of-way and/or median strips within the City limits.~~

~~4. Signs on Vehicles. Bumper strips or stickers affixed to vehicles shall be safely and securely attached.~~

~~5. Prohibited Signs. Except for pole signs, which are permitted as provided in this section, all signs prohibited by Section 24-143 of the Code of Ordinances of the City of North Miami Beach remain prohibited for all purposes.~~

~~6. Illumination Prohibited. Signs or sign posts shall not be illuminated or constructed of a reflective material and shall not contain any signs, streamers, movable items, fluttering, spinning, totaling or similar attention attractors or advertising devices.~~

~~(b) Location of Signs. No sign shall be placed within five (5) feet from the property line, and no sign shall block corner visibility or be located in a required sight visibility triangle. All signs shall be placed and erected in a safe and appropriate manner.~~

~~(b)(c) Procedures.~~

1. *Removal of Illegal and/or Improper Political Signs.* ~~Any signs found to be in violation of the above subsections shall be removed immediately and without discretion by the City Manager and/or designee. Political campaign signs not posted in accordance with these regulations shall be subject to removal by the candidate, the property owner or the City. If the City removes the sign, the City shall deduct the cost and expense of removal from the posted cash bond.~~

2. *Bond.* Every candidate for public office, except those who qualify to run by the alternative method, who wishes to display signs on real property located in the City of North Miami Beach must post a cash bond or a performance bond in the amount of two hundred fifty (\$250.00) dollars with the City of North Miami Beach before posting any such sign in the City. Failure to post a bond shall result in a citation being issued for fifty (\$50.00) per day against the candidate. This requirement is not applicable to signs and bumper stickers affixed to or located in or on automobiles.

3. *Date of Installation.* No political sign shall be displayed, erected or installed prior to the ~~February~~ March 1 immediately preceding any election which is the subject matter of such sign.

4. *Date of Removal.* Each and every sign posted by said candidate or his supporters must be removed within ten (10) days from the day of the election in which said candidate's victory or defeat is actually determined.

5. *Responsibility for Removal.* For purposes of this chapter, each political candidate is responsible for each sign advertising his or her candidacy, regardless of who posted the sign or whether the sign is posted with authorization from the political candidate. The person or persons posting a political candidate's campaign sign shall be regarded as an agent of said candidate.

6. *Forfeiture of Bond.* Any violation of this section will result in the forfeiture of the bond posted, regardless of the number or size of signs remaining. Said forfeiture shall be automatic, without notice, on the eleventh day following the election in which the political candidate's victory or defeat is actually and finally determined for that election.

Additionally, each candidate shall be liable to the City for the actual cost of sign removals.

(2) *Violation; Penalty.* For signs on commercial property only.

(a) The person(s) to be charged with violation of Section 24-147.2(D) shall be the candidate(s) whose name(s) appears and is advertised on the prohibited sign, poster, banner or placard or the campaign treasurer and sponsors of any other type of political campaign or issue which campaign or issue appears and is advertised on the prohibited sign, poster, banner or placard. Notice shall be given to the person(s) described herein of violation of Section 24-147.2(D). After notice is given, unless access to the sign is restricted, compliance must be achieved within forty-eight (48) hours. If compliance is not achieved within forty-eight (48) hours, a civil citation may be issued by a Code Enforcement Officer pursuant to Section 14-8.22 of this Code.

(b) In addition to the bond forfeiture specified in Section 24-147(D)(b)(6) above, violation of any of the provisions of Section 24-147.2(D) shall be punishable by a fine of fifty dollars (\$50.00) per violation. Each prohibited sign shall constitute a separate offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(c) Any and all outstanding fines for violating this section assessed against a candidate must be satisfied prior to his or her qualification to run in any future city election. (Ord. No. 2005-2, 3/15/05; Ord. No. 2009-15 § 2, 7/21/09)

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

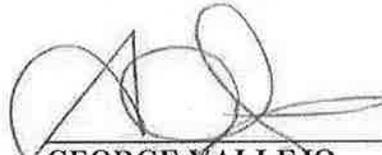
Section 5. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this **2nd day of January, 2013.**

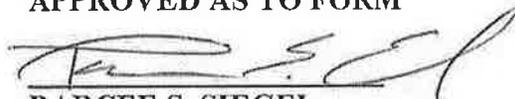
APPROVED AND ADOPTED on second reading this **15th day of January, 2013.**

ATTEST:


PAMELA L. LATIMORE
CITY CLERK
(CITY SEAL)


GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM


DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: **Councilwoman Barbara Kramer**
Mayor and City Council

Note: Proposed additions to existing City Code text are indicated by underline; proposed deletions from existing City Code text are indicated by ~~strikethrough~~.