

ORDINANCE NO. 2021-001-431

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING CHAPTER 6, ARTICLE V, BY CREATING SECTION 6-2 “RESPONSIBLE RETAIL SALES” OF THE CODE OF ORDINANCES OF THE CITY OF MIAMI GARDENS; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, from Fall 2018 to Spring 2020, the City of Miami Gardens (“City”) Live Healthy Miami Gardens (“LHMG”) Sub-council Alcohol, Tobacco and Other Drugs (“ATOD”) spearheaded research to understand the current alcohol retail landscape in the City and identify policy solutions to reduce consequences associated with the sale and consumption of high risk alcohol products, and

WHEREAS, several community partners contributed to the work, including the Resource Room, the Florida Department of Health, the Florida Division of Alcoholic Beverages & Tobacco, the Miami Dade NAACP Youth Council, Miami Gardens Police Department, St. Thomas University, and others, and

WHEREAS, the partners’ research focused on retailers licensed as “off-premise” outlets such as liquor stores, grocery stores, convenience stores, gas stations and drugstores, which sell alcohol for consumption off-premises, and

WHEREAS, law enforcement personnel find alcohol is involved in many arrests, particularly assaults, robbery, drug offenses, and domestic violence and alcohol use is distributed throughout all community settings, including residences, retail alcohol outlets, streets/sidewalks, parking lots, and vehicles, and

WHEREAS, 12 months of 911 calls for service made to the Miami Gardens Police Department and analyzed by the Miami Gardens ATOD Sub-Council, shows 2,114 (31%) of the calls occurred within 250’ of an off-premise alcohol, and

WHEREAS, in an effort to reduce criminal activity related to off-premise alcohol outlets, the City desires to amend the City’s Code of Ordinances by creating a Responsible Retail Sales Section, and

WHEREAS, the City Council finds that it is the best interest of the City to adopt the following Code amendment,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. AMENDMENT: Chapter 6, Article, V, Section 6-2 entitled “Responsible Retail Sales” of the Code of Ordinances of the City of Miami Gardens is hereby created as follows:

Sec. 6-2. – Responsible Retail Sales.

1. Purpose.

To promote a healthy and safe business environment in the City of Miami Gardens through appropriate and consistent regulations and encourage the establishment of businesses that will benefit both the local economy and residents while not placing an undue strain on city resources, nearby neighborhoods and businesses.

2. Intent.

- (a) To place responsibility on retailers to operate in such a manner that they do not contribute to activity by individuals that results in calls for service to law enforcement officers.
- (b) To protect adjacent neighborhoods from the harmful effects attributable to problematic sales activity.
- (c) To provide opportunities for businesses to operate in a mutually beneficial relationship to each other and to other commercial and civic services.
- (d) To provide mechanisms to address problems often associated with irresponsible retail sales activity, such as, such as litter, loitering, graffiti, public urination, unruly behavior and escalated noise levels.
- (e) To ensure that sites retail locations are properly maintained so that negative impacts generated by these activities are not harmful to the surrounding environment in any way.
- (f) To monitor these retail activities to ensure that they do not substantially change their mode or character of operation.

3. Required.

Any food stores/grocery stores/retail drug stores, gas stations with under 10,000 square feet of sales floor space must meet the retail performance standards.

4. Retail Performance Standards.

The provisions of this section shall be known as the *Responsible Retail Performance Standards* and are required of retailers as specified in Section 6-2 (2). A retailer shall conform to the following performance standards:

(a) Comply with all provisions of local, state and federal laws, or regulations including compliance with annual City business taxes and fees.

(b) Maintain all signs and advertising in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises. This includes the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises. This latter requirement shall not apply to premises where there are no windows, or where existing windows are located at a height that precludes a view of the interior of the premises to a person standing outside the premises.

(c) That it does not result in three or more unrelated calls for service made at the premises within a six-month period for nuisance activities or crimes including, but not limited to, the following:

1. disturbance of the peace.
2. illegal drug activity.
3. disorderly conduct.
4. gambling.
5. prostitution.
6. sale of stolen goods.
7. public urination.
8. theft.
9. assaults.
10. batteries.
11. acts of vandalism.
12. excessive littering.
13. loitering.
14. graffiti.
15. illegal parking.
16. excessive loud noises, especially in the late night or early morning hours.
17. traffic violations.
18. curfew violations.
19. lewd conduct.

(d) That it does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area, including five calls for service within two-hundred and fifty feet of the retailer within a six-month period for nuisance activities or crimes described in this section;

(e) That its upkeep and operating characteristics are compatible with, and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood; and

- (f) A copy of these performance standards shall be posted in at least one prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the retailer and include contact information for reporting suspected violations.

5. Enforcement Procedures.

- (a) Code Officer and/or Police Officers may inspect any business that is the subject of a law enforcement call for service or public complaint for the purposes of determining whether a business is out of compliance with any provision of this ordinance.
- (b) Procedures for appeals, hearings, and payments of penalties shall follow the procedures stated in Chapter 8, Article III of the Code of Ordinances.

Section 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the section of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

Section 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 9th DAY OF DECEMBER, 2020.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON JANUARY 27, 2021.

RODNEY HARRIS, MAYOR

ATTEST:

MARIO BATAILLE, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, CITY ATTORNEY

SPONSORED BY: CAMERON D. BENSON, CITY MANAGER

Moved by: Vice Mayor Leon

Seconded by: Councilman Stephens

VOTE: 7-0

<i>Mayor Harris</i>	Yes
<i>Vice Mayor Leon</i>	Yes
<i>Councilwoman Campbell</i>	Yes
<i>Councilwoman Ighodaro</i>	Yes
<i>Councilwoman Julien</i>	Yes
<i>Councilman Stephens, III</i>	Yes
<i>Councilwoman Wilson</i>	Yes