

**ORDINANCE NO. 2012-18**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL AMENDING CHAPTER XII OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ENTITLED "LOCAL BUSINESS TAX RECEIPTS AND REGULATIONS" BY AMENDING SECTION 12-2.12 ENTITLED "NUDITY; SEXUAL CONDUCT PROHIBITED"; AND AMENDING CHAPTER XIII OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ENTITLED "ADULT ENTERTAINMENT CODE" BY AMENDING SECTIONS 13-43 AND 13-49(D) ENTITLED "PROSCRIPTIONS WHERE ALCOHOLIC BEVERAGES ARE SOLD, DISPENSED OR PERMITTED AND WHERE FOOD OR BEVERAGES ARE SOLD OR DISPENSED" AND "ENGAGED IN PROHIBITED ACTIVITY", RESPECTIVELY, BY REMOVING THE PROHIBITION OF THE SALE, DISPENSING, SERVING OR CONSUMPTION OF ALCOHOLIC BEVERAGES IN ADULT ENTERTAINMENT BUSINESSES AND FOLLOWING STATE LAW AS TO PROHIBITED ACTIVITY BY REMOVING THE PROHIBITION OF STRADDLE DANCES AND PRIVATE PERFORMANCES IN ADULT ENTERTAINMENT BUSINESSES; 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,** on April 5, 1994, the City Council passed Ordinance No. 94-6 creating a B-5, Distribution Business and Medium Industrial District, requiring that adult entertainment establishments be a permitted use in that District only within the City of North Miami Beach; and

**WHEREAS,** while the two existing adult entertainment establishments at that time, Solid Gold and Miami Gold, were grandfathered in as a non-conforming use, they were subject to all other provisions of the City of North Miami Beach's Code of Ordinances; and

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**WHEREAS**, there are currently three adult entertainment businesses within the City of North Miami Beach providing total nude dancing and dealing in alcoholic beverages; and

**WHEREAS**, while the current City law prohibits such activity, it has come to the City's attention that all of the adult entertainment businesses in the City have not been operating in accordance with current City ordinance; and

**WHEREAS**, while the City has failed to enforce its laws regarding nude dancing within adult entertainment establishments dealing with alcoholic beverages, such businesses have proven to be good corporate citizens; and

**WHEREAS**, the Mayor and City Council believe that yearly license renewals are the best manner in which to regulate the activities occurring at adult entertainment establishments; and

**WHEREAS**, the Mayor and City Council have found that there has been no adverse effect upon the quality of life in the City of North Miami Beach by allowing the sale, dispensing, serving or consumption of alcoholic beverages within adult entertainment establishments.

**NOW, THEREFORE,**

**BE IT ORDAINED** by the City Council of the City of North Miami Beach, Florida that:

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** Section 12-2.12 of Chapter XII of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

**12-2.12 Nudity; Sexual Conduct Prohibited.**

~~a. No person shall expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage or buttocks or any simulation thereof in an establishment dealing in alcoholic beverages.~~

~~b. No female person shall expose to public view any portion of her breasts below the top of the areola or any simulation thereof in an establishment dealing in alcoholic beverages.~~

~~e. No person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any person to expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage or buttocks or simulation thereof within the establishment dealing in alcoholic beverages.~~

~~d. No person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any female person to expose to public view any portion of her breasts below the top of the areola or any simulation thereof within the establishment dealing in alcoholic beverages.~~

e. No person shall engage in and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages adult entertainment establishment shall suffer or permit any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act which is prohibited by law, touching, caressing or fondling of the breasts, buttocks, anus or genitals or the simulation thereof within an that establishment. ~~dealing in alcoholic beverages.~~

~~f. No person shall cause and no person maintaining, owning or operating an establishment dealing in alcoholic beverages shall suffer or permit the exposition of any graphic representation, including pictures or the projection of film, which depicts human genitals, pubic area, vulva, anus, anal cleft or cleavage, buttocks, female breasts below the top of the areola, sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act prohibited by law, touching, caressing or fondling of the breasts, buttocks, anus, or genitals, or any simulation thereof within any establishment dealing in alcoholic beverages. (1957 Code § 4-18; Ord. No. 89-5 § 2, 8-15-89)~~

**Section 3.** Section 13-43 of Chapter XIII of the Code of Ordinances of the City of North

Miami Beach, is hereby amended as follows:

**13-43 Proscriptions where Alcoholic Beverages are Sold, Dispensed or Permitted and where Food or Beverages are Sold or Dispensed.**

(a) The human genitals or pubic region, the areola of the female breast, and the cleavage of the human buttocks shall not be

displayed or exposed on a licensed premises where alcoholic beverages are sold, dispensed or permitted, unless the premises has a valid City adult entertainment license.

(b) It shall be unlawful for any employee to exhibit specified anatomical areas while selling or dispensing any form of food or beverage unless the premises has a valid City adult entertainment license. ~~The provisions of this chapter are in addition to and not in place of the provisions of subsection 17-5.10 of the Code of Ordinances.~~ (Ord. No. 94-9 §2A-43, 4-5-94)

**Section 4.** Section 13-49 of Chapter XIII of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

**13-49 Engaging in Prohibited Activity.**

It shall be unlawful for any employee of an adult entertainment establishment, regardless of whether it is licensed under this Code:

~~a. To engage in a straddle dance with a person at the establishment.~~

~~b. To contract or otherwise agree with a person to engage in a straddle dance with a person at the establishment;~~

~~e. a.~~ To engage in any specified sexual activity at the establishment.

~~d. b.~~ To ~~where the employee knows or should know that alcoholic beverages are sold, offered for sale, or consumed, display or expose at the establishment less than completely and opaquely covered human genitals or pubic region, less than completely and opaquely covered cleavage of the human buttocks, less than completely and opaquely covered areola and nipple of the human female breast, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.~~ human male or female genitals when in a state of sexual stimulation or uncovered human genitals or pubic region in a lewd or lascivious manner.

~~e. c.~~ To engage in the display or exposure of any specified anatomical area while simulating any specified sexual activity with any other person at the establishment, including with another employee;

~~f. To engage in a private performance;~~

~~g. d.~~ To, while engaged in the display or exposure of any specified anatomical area, intentionally touch any person at the adult entertainment establishment, excluding another employee; or

~~h. e.~~ To touch the clothed or unclothed body of any person at the adult entertainment establishment, excluding another employee, at any point below the waist and above the knee of the person or to touch the clothed or unclothed breast of any female person.(Ord. No. 94-9 § 2A-49, 4-5-94)

**Section 5.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 6.** If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

**Section 7.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of the 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 codifier may deem fit.

**APPROVED BY TITLE-ONLY** on first reading this **21st day of August, 2012.**

**APPROVED AND ADOPTED** on second reading this **4th day of September, 2012.**

ATTEST:  
  
PAMELA L. LATIMORE  
CITY CLERK

  
GEORGE VALLEJO  
MAYOR

APPROVED AS TO FORM:  
  
DARCEE S. SIEGEL  
CITY ATTORNEY

Sponsored by: Mayor George Vallejo  
City Council