

R5 V MASSAGE THERAPY CENTERS – NORTH BEACH USE REGULATIONS
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF
MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF
MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS
AND REGULATIONS,” ARTICLE 3, ENTITLED “OVERLAY DISTRICTS,” AT
SECTION 7.3.10, ENTITLED “NORTH BEACH COMMERCIAL CHARACTER
OVERLAY,” TO ESTABLISH REGULATIONS AND REQUIREMENTS FOR
MASSAGE THERAPY CENTERS WITHIN THE OVERLAY; AND PROVIDING FOR
REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.
Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: November 20, 2024 5:01 p.m. Second Reading Public Hearing

TITLE: MESSAGE THERAPY CENTERS – NORTH BEACH USE REGULATIONS
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” ARTICLE 3, ENTITLED “OVERLAY DISTRICTS,” AT SECTION 7.3.10, ENTITLED “NORTH BEACH COMMERCIAL CHARACTER OVERLAY,” TO ESTABLISH REGULATIONS AND REQUIREMENTS FOR MESSAGE THERAPY CENTERS WITHIN THE OVERLAY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the City Commission adopt the ordinance.

BACKGROUND/HISTORY

On September 14, 2022, at the request of Commissioner Alex Fernandez, the City Commission referred a proposed amendment regarding commercial district use regulations in North Beach (C4 X) to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On March 1, 2023, the LUSC discussed a proposed ordinance regulating certain uses in North Beach and moved it to the Planning Board.

The LUSC also bi-furcated and continued the discussion pertaining to potential regulations for massage therapy centers to the May 10, 2023 LUSC meeting. On May 10, 2023, the LUSC endorsed the proposed ordinance pertaining to the regulation of massage therapy centers in North Beach and recommended that the Planning Board transmit the ordinance to the City Commission with a favorable recommendation.

ANALYSIS

Massage therapy centers are defined as follows under the Land Development Regulations (LDRs) of the City Code:

Massage therapy center means an establishment that offers, sells, or provides manipulations of the tissues or other tactile stimulation of the human body with the hand, foot, arm, leg, elbow, or part of the torso, whether or not aided by any electrical or mechanical device; and may include bathing, hydrotherapy, thermal therapy, or application of chemicals, oils, lotions, or similar preparations to the human body.

The current regulations in the Art Deco/MiMo Commercial Character Overlay incorporate regulations that are applicable to the Ocean Terrace/Harding Town Site area of the overlay which limit the hours of massage therapy centers from 7:00 a.m. to 9:00 p.m., in order to minimize potential negative impacts from such establishments.

The proposed ordinance would make the restrictions on hours applicable to the entire North Beach Commercial Character Overlay. In addition, the ordinance provides additional regulations regarding the permitted locations of massage therapy centers as follows:

Permitted Use Locations

1. State certified schools for obtaining a massage therapy license.
2. Multi-family residential buildings, apartment hotels, suite hotels or hotels with at least 50 rooms, as an accessory use.
3. Fitness centers, gyms and wellness centers, as a component of the main use.
4. State licensed medical offices and clinics, such as physical therapy centers.

Conditional Use Locations

1. Within office buildings located in a commercial district, TC district, or TC-C district.
2. Within multi-family residential buildings, apartment hotels, suite hotels or hotels with less than 50 units.

In all other locations in North Beach, massage therapy centers would be prohibited.

When properly regulated and operated, massage therapy centers provide beneficial services to the community, and the proposed regulations are intended to better define locations for massage therapy centers to operate.

PLANNING BOARD REVIEW

On June 27, 2023, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (6-0).

UPDATE

On July 26, 2023, the City Commission approved the subject ordinance at First Reading, with no changes, and scheduled Second Reading / Adoption for September 13, 2023. The City Commission also waived the applicable fees based on the proposed amendment implementing best practices in urban planning.

On September 13, 2023, the item was deferred to December 13, 2023, with no discussion. On December 13, 2023, the item was deferred to January 31, 2024, with no discussion, and on January 31, 2024, the item was deferred to April 3, 2024, with no discussion. The item was not reached at the April 3, 2024, meeting and was moved to the May 15, 2024 meeting.

On May 15, 2024, at the request of the item sponsor, the City Commission referred the item to the LUSC (R5 G). On June 10, 2024 the item was deferred to a future LUSC meeting. On September 5, 2024, the LUSC discussed the proposal and recommended that the City Commission adopt the ordinance at Second Reading, with an amendment to allow massage therapy centers at the first floor in commercial districts, subject to CUP approval. This amendment is included in the revised ordinance for Second Reading.

FISCAL IMPACT STATEMENT

No Fiscal Impact

Does this Ordinance require a Business Impact Estimate? Yes
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on: 9/27/2024.
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

Not Applicable

CONCLUSION

The Administration recommends the City Commission adopt the ordinance.

Applicable Area

North Beach

**Is this a "Residents Right to Know" item,
pursuant to City Code Section 2-17?**

Yes

**Is this item related to a G.O. Bond
Project?**

No

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

If so, specify the name of lobbyist(s) and principal(s):

Department

Planning

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Condensed Title

5:01 p.m. 2nd Rdg, Massage Therapy Centers - North Beach Use Regs. (Fernandez) PL

Massage Therapy Centers - North Beach Use Regulations

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE 3, ENTITLED "OVERLAY DISTRICTS," AT SECTION 7.3.10, ENTITLED "NORTH BEACH COMMERCIAL CHARACTER OVERLAY," TO ESTABLISH REGULATIONS AND REQUIREMENTS FOR MASSAGE THERAPY CENTERS WITHIN THE OVERLAY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the North Beach area of the City includes all properties to the north of 63rd Street; and

WHEREAS, a large portion of the North Beach area is located within the North Shore National Register District and the Normandy Isles National Register District; and

WHEREAS, a large portion of the North Beach area is located within the Normandy Isles Historic District, North Shore Historic District, Harding Townsite Historic District, Altos Del Mar Historic District, and the North Beach Resort Historic District, all of which are locally designated; and

WHEREAS, properties fronting Ocean Terrace and Collins Avenue between 73rd and 75th Streets are within the Harding Townsite historic district and the North Shore National Register historic district; and

WHEREAS, properties fronting Harding Avenue between 73rd and 75th Streets are within the North Shore National Register historic district; and

WHEREAS, the City of Miami Beach has undertaken a master planning process for North Beach, in order to encourage the revitalization of the area by improving cultural, retail, and dining experiences for residents and visitors to the area; and

WHEREAS, the Mayor and City Commission desire to adopt additional regulations on massage therapy centers to ensure public safety, establish minimum requirements, and mitigate impacts to neighborhoods in the North Beach area; and

WHEREAS, the City Commission finds that it is in the best interest of its residents, businesses, and visitors to adopt regulations to protect the public health, safety, welfare, and morals; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. Chapter 7, entitled "Zoning Districts and Regulations, Article 3, entitled "Overlay Districts," at Section 7.3.10, "North Beach Commercial Character Overlay District," is hereby amended as follows:

CHAPTER 7
ZONING DISTRICTS AND REGULATIONS

* * *
ARTICLE 3. OVERLAY DISTRICTS
* * *

7.3.10 NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICT

* * *

7.3.10.2 Compliance with regulations (North Beach Commercial Character Overlay District).

The following regulations shall apply to the overlay district. There shall be no variances allowed from these regulations. All development regulations in the underlying zoning district and any other applicable overlay regulations shall apply, except as follows:

a. The following limitations shall apply to the commercial uses listed below:

* * *

v. Massage therapy centers shall ~~comply with~~ be subject to the following regulations:

1. Such establishments shall not operate between 9:00 pm and 7:00 am in the Ocean Terrace/Harding Townsite Overlay Area.
2. Such establishments shall only be considered a permitted use in accordance with the following as part of the following developments:
 - a. State certified schools for obtaining a massage therapy license, as a component of the main use.
 - b. Multi-family residential buildings, apartment hotels, suite hotels or hotels, with at least 50 units, as an accessory use.
 - c. Fitness centers, gyms and wellness centers, as a component of the main use.
 - d. State licensed medical offices and clinics, such as physical therapy centers, as a component of the main use.
3. Such establishments shall only be only permitted as a conditional use as follows:
 - a. Within office buildings located in a commercial district, TC district, or TC-C district, provided the massage therapy center is located above the first floor.

- b. Within multi-family residential buildings, apartment hotels, suite hotels, or hotels, with less than 50 units.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 3. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, as amended; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 2024.

ATTEST:

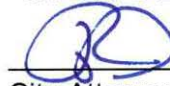
Steven Meiner, Mayor

Rafael E. Granado, City Clerk

First Reading: July 26, 2023

Second Reading: October 30, 2024

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK

10/18/2024
Date

Verified By: _____
Thomas R. Mooney, AICP
Planning Director



Market Basket Brie.



Supreme Oval, 7-ounce hunk.



Aldi Emporium Selection Brie.



La Bonne Vie Brie.



La Bonne Vie Camembert.

Food facility listeria gets cheese sold by Aldi and other chains recalled in 12 states

BY DAVID J. NEAL
dneal@miamiherald.com

Soft cheeses sold under several brands have been recalled from California, Texas, Missouri and nine other states after listeria was found in the manufacturing facility.

Savencia Cheese USA is based in New Holland, Pennsylvania, but said in its FDA-posted recall notice that the problem was in the company's Lena, Illinois, facility.

"Through routine testing, it was identified that processing equipment at the site may have been contaminated with *Listeria monocytogenes*," the notice said. "While finished product testing has not identified contaminated product, we have

initiated a voluntary recall to retrieve the potentially affected product."

All of the cheeses recalled have a best by date of 12/24/2024.

- **Aldi Emporium Selection Brie**, 8-ounce wheel, UPC Nos. 004149811132 and 041498111328.

- **Market Basket Brie**, 8-ounce wheel, UPC Nos. 004970566630 and 049705666302.

- **Supreme Oval**, 7-ounce hunk, UPC Nos. 07144850421 and 071448504214.

- **La Bonne Vie Brie**, 8-ounce wheel, no UPC number.

- **La Bonne Vie Camembert**, 8-ounce wheel, no UPC number.

- **Industrial Brie**, 8-ounce hunk, UPC No. 077901005229.

The cheeses went to stores in California, Texas, Missouri, Illinois, Indiana, Massachusetts, Connecticut, Iowa, New Jersey, Oregon, Colorado and Washington.

Listeria infects about 1,600 people each year in the United States, according to the CDC, killing about 260. The most likely to get the worst of listeria's effects are adults over 65, children under 5 and people with damaged immune systems. Pregnant women can suffer miscarriages and stillbirths. Most people will deal with fever, muscle aches, headaches, flu-like symptoms, possibly confusion and seizures.

David J. Neal:
305-376-3559,
@DavidJNeal

CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARING

MASSAGE THERAPY CENTERS - NORTH BEACH USE REGULATIONS

ORDINANCE AMENDING THE NORTH BEACH COMMERCIAL CHARACTER OVERLAY TO ESTABLISH REGULATIONS AND REQUIREMENTS FOR MASSAGE THERAPY CENTERS WITHIN THE OVERLAY

NOVEMBER 20, 2024
CITY COMMISSION MEETING

NOTICE IS HEREBY GIVEN that on November 20, 2024, at 5:01 p.m., or as soon thereafter as the matter can be heard, the Mayor and City Commissioners of the City of Miami Beach will hold a Second Reading/Public Hearing on the following proposed Ordinance:

MASSAGE THERAPY CENTERS - NORTH BEACH USE REGULATIONS

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE 3, ENTITLED "OVERLAY DISTRICTS," AT SECTION 7.3.10, ENTITLED "NORTH BEACH COMMERCIAL CHARACTER OVERLAY," TO ESTABLISH REGULATIONS AND REQUIREMENTS FOR MASSAGE THERAPY CENTERS WITHIN THE OVERLAY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. This Ordinance is being heard pursuant to Chapter 2, Article IV of the Resiliency Code. Inquiries may be directed to the Planning Department at 305.673.7550.

During the November 20, 2024, Commission Meeting, the City of Miami Beach will host a Hybrid Commission Meeting. During the Hybrid Commission Meeting, the City Commission will be physically present in the Commission Chamber, located at 1700 Convention Center Drive, 3rd Floor, Miami Beach, Florida 33139.

Members of the public who wish to attend this Commission Meeting or provide public comment in person may appear at the Commission Chamber. Applicants and members of the public who wish to participate or provide comment virtually during the Commission Meeting may join the webinar at: <https://miamibeachfl.gov/zoom-us/j/81392857671> or via telephone at: 1.305.224.1968 (U.S.) or 888.475.4499 (Toll-Free). Webinar ID: 81392857671#. Members of the public wanting to speak virtually on an item during the meeting must click the "raise hand" icon if using the Zoom app or press "9" on the telephone to raise their hand.

INTERESTED PARTIES are invited to take part in this meeting or be represented by an agent. The public may submit written comments on Commission Meeting Items by either submitting an eComment through the agenda page at <https://www.miamibeachfl.gov/city-hall/city-clerk/agenda> and clicking the comment bubble icon in the "Current and Upcoming Meetings" section or by emailing CityClerk@miamibeachfl.gov with the Agenda Item Number in the subject line. Comments received, in either format, will be accepted until 5:00 p.m. the day before the meeting. All submissions will be forwarded to the Mayor and Commissioners and included in the meeting record.

Copies of Agenda Items are available for public inspection at: <https://www.miamibeachfl.gov/city-hall/city-clerk/agenda>. This meeting, or any item therein, may be continued, and under such circumstances, additional legal notice need not be provided.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that if a person decides to appeal any decision made by the City Commission concerning any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in an alternate format, sign language interpreter (five-day notice required), information on access for persons with disabilities, and/or any accommodation to review any document or participate in any City-sponsored proceedings, call 305.604.2489 and select 1 for English or 2 for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

The City Commission Meeting will be broadcast live on Miami Beach TV (MBTV), viewable on the City's website at <https://www.miamibeachfl.gov/government/mbtv/>, as well as on Breezeline Cable channel 660 or 2004 (HD), AT&T U-verse channel 99, Hotwire Communications channel 395, and ROKU device on PEG.TV channel, and on social media at <https://www.facebook.com/cityofmiamibeach>.

To review the Business Impact Estimates for the above proposed Ordinance, please visit <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>.

Parking

Meeting attendees can park at the City Hall Garage, 1755 Meridian Avenue, Miami Beach, Florida 33139.

MIAMI BEACH

Rafael E. Granado, City Clerk
City of Miami Beach
CityClerk@miamibeachfl.gov

AD: 11202024-09