



To: Walter Foeman; Billy Urquia

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in blue ink, appearing to be "C. Leen", is written over the end of the "From:" line.

RE: Legal Opinion Regarding Deleting Chapter 38 of the City Code as Superseded and Repealed

Date: March 14, 2016

Pursuant to section 2-201(e)(9) of the City Code, authorizing the City Attorney to delete superseded provisions of the City Code, I hereby direct that Chapter 38 of the City Code be deleted as having been superseded by Chapter 34 of the City Code (which is supported by the express wording of Ordinance No. 2006-04).

The legal analysis in the attached opinion from Assistant City Attorney Yaneris Figueroa is incorporated into this City Attorney Opinion.

This City Attorney Opinion is issued pursuant to sections 2-201(e)(1), (8), and (9) of the City Code.

CITY OF CORAL GABLES
CITY ATTORNEY'S OFFICE

M E M O R A N D U M

TO: Craig Leen, City Attorney
Miriam Ramos, Deputy City Attorney

FROM: Yaneris Figueroa, Assistant City Attorney

RE: Deletion of Chapter 38, Article II, "Noises," as Superseded, pursuant to City Code Section 2-201(e)(9).

DATE: February 16, 2016

Craig,

Presently, the City Code contains two provisions addressing noise within the City, specifically, Chapter 34, Article V, entitled "Noise," enacted in 2006 and Chapter 38, Article II, also entitled "Noise," enacted in 1958. Of these two provisions, the provisions in Chapter 38 were superseded and repealed by the enactment of Chapter 34. Accordingly, pursuant to your authority under City Code Section 2-201(e)(9), Chapter 38, Article II, should be deleted from the City Code.

Specifically, Chapter 38, Article II, was expressly repealed through the passage of Chapter 34, enacted through Ordinance Number 2006-04 (the "Ordinance"), passed and adopted on the twenty-eighth day of March 2006. Indeed, the Ordinance, in Section 2, stated that "the Code of the City of Coral Gables, Chapter 16, Article V, entitled 'Noises,' is hereby repealed and a new ordinance is created."¹ Therefore, Chapter 38, which was Chapter 16 at the time the Ordinance passed, was expressly repealed and should, therefore, be deleted from the City Code.

Moreover, Chapter 38, Article II, should be deleted because it was superseded by the Ordinance. Indeed, Chapter 38, Article II was encoded in 1958 while Chapter 34, Article V was encoded in 2006. Additionally, Chapter 34, Article V, fully incorporated the provisions of Chapter 38, and, therefore, rendered Chapter 38 superseded.

¹ Historically, Chapter 38, Article II, was encoded under Chapter 16, as evidenced by the editorial notes contained in the City Code.

Accordingly, based on the foregoing, and pursuant to your authority under City Code Section 2-201(e)(9), which expressly grants the City Attorney the authority to “to delete provisions that have been superseded,” it is my opinion that Chapter 38, Article II, “Noise” should be deleted from the City Code.

From: [Leen, Craig](#)
To: [Paulk, Enga](#); [Chen, Brigette](#)
Subject: FW: City Attorney Opinion Deleting Chapter 38 of the City Code as Superseded and Repealed
Date: Monday, March 14, 2016 11:54:44 PM
Attachments: [image001.png](#)
[Memorandum from Assistant City Attorney - Chapter 38 - Deleted as Superseded.pdf](#)
Importance: High

Please publish the opinion below, including the attached memorandum.

Craig E. Leen, City Attorney

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City, County and Local Government Law*
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Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Monday, March 14, 2016 11:54 PM
To: Foeman, Walter; Urquia, Billy
Cc: Ramos, Miriam; Figueroa, Yaneris; Chen, Brigette; Paulk, Enga
Subject: City Attorney Opinion Deleting Chapter 38 of the City Code as Superseded and Repealed
Importance: High

Mr. Clerk,

Pursuant to section 2-201(e)(9) of the City Code, authorizing the City Attorney to delete superseded provisions of the City Code, I hereby direct that Chapter 38 of the City Code be deleted as having been superseded by Chapter 34 of the City Code (which is supported by the express wording of Ordinance No. 2006-04).

The legal analysis in the attached opinion from Assistant City Attorney Yaneris Figueroa is incorporated into this City Attorney Opinion.

This City Attorney Opinion is issued pursuant to sections 2-201(e)(1), (8), and (9) of the City Code.

Please inform the Municipal Code Corporation.

Craig E. Leen, City Attorney

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City, County and Local Government Law*

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