

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CITY CODE, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE IV, ENTITLED "NOISE," BY AMENDING SECTION 46-152 THEREOF, ENTITLED "NOISES; UNNECESSARY AND EXCESSIVE PROHIBITED," BY SPECIFYING THAT CERTAIN NOISE REGULATIONS APPLY TO NOISE EMANATING FROM A VESSEL OR FLOATING STRUCTURE, AND CLARIFYING THAT ENGINE OR EXHAUST NOISE EMITTED FROM VESSELS MAY BE ENFORCED AS PROVIDED IN SECTION 7-26.1 OF THE MIAMI-DADE COUNTY CODE; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, residents and visitors enjoy operating boats, jet skis, and other vessels on the City's waters; and

WHEREAS, in the past few years, the City has seen a surge in recreational and commercial vessel activity on its waters, as well as recreational and commercial activities conducted on or with floating structures; and

WHEREAS, while this increase in activity may lend some support to the economy, the City must ensure that vessel operators are not undermining the health and quality of life of other boaters or residents whose homes border City waters; and

WHEREAS, there has also been an increasing number of boaters on City waters who are playing music from their boats at unreasonably high volumes; and

WHEREAS, section 46-152 of the City Code, along with section 21-28 of the Miami-Dade County Code, generally prohibit unreasonably loud, excessive, unnecessary, or unusual noises; and

WHEREAS, sections 46-152 and 21-28 also set forth a non-exhaustive list of specific acts that are declared to be unreasonably loud, excessive, unnecessary, or unusual noises and that thus violate the City and County Codes; and

WHEREAS, those prohibited acts include, among others, "[t]he using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto"; and

WHEREAS, that prohibition, as set forth in the City and County Codes, further provides that "[t]he operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section"; and

WHEREAS, the Mayor and City Commission desire to specify that this prohibition can be violated when noise is emitted not only from a "room, vehicle or chamber," but also from a vessel or floating structure; and

WHEREAS, Fla. Stat. 327.60 governs the regulation of vessels and preempts local governments from "[r]egulating engine or exhaust noise, except as provided in Fla. Stat. 327.65"; and

WHEREAS, Fla. Stat. 327.65 allows counties to adopt an ordinance regulating engine and exhaust noise of vessels under certain circumstances, and Miami-Dade County adopted such an ordinance in Ordinance No. 89-30, as codified in section 7-26.1 of the County Code, which prohibits the operation of vessels in such a manner as to exceed the sound level of 90 dBA at a distance of 50 feet from the vessel; and

WHEREAS, the Mayor and City Commission wish to clarify that, although section 46-152 of the City Code, and section 21-28 of the County Code, may be applied to noise (typically, music) emitted from vessels and floating structures, engine or exhaust noise emitted from vessels should be enforced as provided in section 7-26.1 of the County Code and Fla. Stat. 327.65.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Section 46-152 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

CHAPTER 46

ENVIROMENT

* * *

ARTICLE IV. NOISE

* * *

Sec. 46-152. Noises; unnecessary and excessive prohibited.

It shall be unlawful for any person to make, continue or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

- (a) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, bus or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time.
- (b) *Radios, televisions, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants,

or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in or on the room, vehicle, vessel, floating structure, or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 100 feet from the building, structure, vessel, floating structure, or vehicle in or on which it is located shall be prima facie evidence of a violation of this section.

- (c) *Animals, birds, etc.* The owning, harboring, possessing or keeping of any dog, animal or bird which causes frequent, habitual or long continued noise which is plainly audible at a distance of 100 feet from the building, structure or yard in which the dog, animal or bird is located.
- (d) *Whistles.* The blowing of any locomotive whistle or whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of the proper municipal authority.
- (e) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustible engine, or motor vehicle except through a muffler or other device which will effectively prevent unreasonably loud or explosive noises therefrom. Notwithstanding the foregoing, engine or exhaust noise from vessels may be enforced as provided in section 7-26.1 of the Miami-Dade County Code and section 327.65, Florida Statutes.
- (f) *Defect in vehicle or load.* The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or motor vehicle so out of repair, so loaded or in such manner as to create unreasonably loud or unnecessary grating, grinding, rattling or other noise within a residential area.
- (g) *Schools, courts, hospitals.* The creation of any excessive or unreasonably loud noise on any street adjacent to any school, institution of learning, house of worship or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the working of such institutions, or which disturbs or unduly annoys the patients in the hospital, provided conspicuous signs are displayed in such streets indicating that it is a school, hospital or court street.
- (h) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.
- (i) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.
- (j) *Loudspeakers, etc.* The use or operation on or upon the public streets, alleys and thoroughfares anywhere in this city for any purpose of any device known as a sound truck, loudspeaker or sound amplifier or radio or any other instrument of any kind or character which emits therefrom loud and raucous noises and is attached to and upon any vehicle operated or standing upon such streets or public places aforementioned. It is provided, however, that this subsection is not intended to be construed in a manner that would interfere with the legitimate use of the foregoing loudspeaker type devices in political campaigns.
- (k) *Power tools and landscaping equipment.* The operation of noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chain saws, power tools and

other noise-producing tools which are used to maintain or at a residence out-of-doors between the hours of 8:00 p.m. and 8:00 a.m. on weekdays, and 8:00 p.m. and 10:00 a.m. on weekends and national holidays. The limitations on operation of noise-producing power tools and landscaping equipment on weekends and national holidays do not apply to single-family homes located in the RS-1, RS-2, RS-3 RS-4, RM-1, RM-2, RM-PRD, RM-PRD-2, RO, RO-2, RO-3, and TH zoning districts.

- (l) *Shouting.* Any unreasonably loud, boisterous or raucous shouting in any residential area.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

Underline denotes additions.

~~Strikethrough~~ denotes deletions.

(Sponsored by Commissioner David Suarez)

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

City Attorney *MAF*

12-4-23

Date