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COMMITTEE MEMORANDUM

TO: **Public Safety and Neighborhood Quality of Life Committee Members**

FROM: **Ricardo J. Dopico, City Attorney**

DATE: **May 22, 2024**

SUBJECT: **Discussion Regarding the Potential Adoption of an Ordinance Regulating Excessive Vessel Noise Within a Certain Distance of Residential Areas.**

HISTORY:

On November 16, 2022, then-Commissioner Steven Meiner referred an item to the Public Safety and Neighborhood Quality of Life Committee to discuss the potential adoption of an Ordinance regulating excessive vessel noise.

ANALYSIS

As more fully set forth herein, the City of Miami Beach (the "City") generally has the legal authority to adopt and enforce a local sound regulation (ordinance) that would include the application of such ordinance to amplified noise (typically, loud music) emanating from vessels within its jurisdictional waters.

Presently, the City has the authority to enforce excessive vessel noise pursuant to Section 7-26.1 of the Miami-Dade County Code, which prohibits any person from operating a vessel on the waters of Miami-Dade County emitting noise in excess of ninety (90) decibels, measured at a distance of fifty (50) feet. However, the Miami Beach Police Department (the "MBPD") has indicated that its ability to accurately measure sound levels on the water is quite challenging and is compromised for several reasons. As a result, the MBPD has generally been unable to take enforcement action pursuant to Section 7-26.1, although the MBPD has had a substantial measure of success based upon voluntary compliance by vessel operators.

Moreover, the County recently amended Section 21-28 of the Miami-Dade County Code, which regulates various types of noise, to specifically include amplified sound (music) emanating from a vessel. Likewise, the City subsequently amended Section 46-152 of the City Code, which also regulates various noises, to specifically include amplified sound (music) emanating from a vessel. These two (2) amendments now provide MBPD with additional enforcement options as Miami-Dade County Code Section 21-28 provides for the arrest of any violator and City Code Section 46-152 provides a civil fine schedule with increasing penalties for repeat violators.

In 2022, the City was receiving complaints from residential waterfront property owners expressing their concern and frustration regarding the negative impact upon their peace, solitude, and quality of life as a result of excessively loud music played by vessels around the vicinity of their homes.

The music was nearly always amplified by speakers and, as such, the residents pleaded with the City to control this disturbing nuisance noise, by enacting a noise ordinance applicable to vessels within the City's jurisdictional boundaries, or at least within a certain distance of any residential property in the City.

Pursuant to Fla. Stat. 327.60(2)(c), the City is preempted from regulating any vessel upon the Florida Intracoastal Waterway (the "Intracoastal Waterway"). Further, while Fla. Stat. 327.60(g) prohibits the City from regulating *engine or exhaust noise* from vessels, there is no such prohibition pertaining to the City adopting an ordinance regulating excessive amplified vessel noise (typically, loud music).

Accordingly, it is the opinion of the City Attorney's Office that, with the exception of the Intracoastal Waterway, the City Commission may adopt (which the City and County have now done), and the MBPD may enforce, a noise ordinance establishing maximum thresholds for music and other non-motorized, amplified noise emanating from vessels within its jurisdictional waters.

Applicable Area
Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?
No

Does this item utilize G.O. Bond Funds?
No