

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE IV, ENTITLED "NOISE," BY AMENDING SECTION 46-157, ENTITLED "EXEMPTIONS," WHICH MODIFIES THOSE IDENTIFIED EXEMPTIONS THAT WOULD CONSTITUTE UNNECESSARY AND EXCESSIVE NOISE THAT IS PROHIBITED WITHIN SECTION 46-152; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, noise has been a topic of concern within the City of Miami Beach for many years, and has recently been the subject of Commission discussion and community meetings to address modified enforcement and legislative solutions; and

WHEREAS, the noise disturbances along Ocean Drive, between 5th Street and 15th Street, have culminated in the overwhelming degradation of this iconic stretch of the City, and has caused far-reaching implications upon the City's emergency services and responders; and

WHEREAS, the Mayor and City Commission have identified the need to more effectively addressing noise disturbances along this portion of Ocean Drive, which noise disturbances are predominately generated by radios, televisions, musical instruments, phonographs, and other machines or devices which produce or reproduce sound; and

WHEREAS, this provision herein is deemed necessary to protect the public health, safety and welfare, and to address the actual, material and on-going disruptions caused by amplified sound in the City by persons or entities violating the Noise Ordinance; and

WHEREAS, the amendment to this Ordinance will serve to further minimize the noise concerns of the City, its residents and visitors along this iconic stretch of Ocean Drive.

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 46-157 of Article IV, entitled "Noise," of Chapter 46, entitled "Environment," of the Code of the City of Miami Beach, Florida, is hereby amended as follows:

CHAPTER 46

ENVIRONMENT

* * *

ARTICLE IV. NOISE

* * *

Sec. 46-157. Exemptions.

The following uses and activities shall not constitute unnecessary and excessive noises prohibited in section 46-152:

- (1) Cries for emergency assistance and warning calls.
- (2) Radios, sirens, horns and bells and other sounds created by police, fire and other emergency response vehicles.
- (3) Parades, fireworks displays, and other activities for which a permit has been obtained from the city, pursuant to section 46-156, within such hours and in accordance with such restrictions as may be imposed as conditions for the issuance of the permit.
- (4) Authorized activities on or in municipal or publicly owned properties and facilities, except where such publicly owned properties or facilities are under private operation or use, unless the city manager or the city manager's designee has specifically authorized an exemption from this section, which exemption will be subject to specific requirements consistent with the administrative guidelines approved by separate resolution of the city commission.
- (5) Fire alarms and burglar alarms, bells and chimes of churches or other religious institutions; however, false burglary alarms shall be subject to enforcement procedures and penalties as set forth in article II of chapter 42.
- (6) Locomotives and other railroad equipment and aircraft, to the extent that city regulation is preempted by federal law.
- (7) Noises resulting from emergency work.
- (8) Any noise resulting from activities of a temporary duration permitted pursuant to section 46-156.
- (9) Noise generated by motor vehicles as defined in F.S. § 320.01 when operated and equipped in accordance with requirements set forth in the Florida Statutes.
- (10) Noise resulting from the operation of vessels when operated in compliance with the decibel limitations in F.S. § 327.65. However, noise exceeding the limitations set forth in F.S. § 327.65 shall be subject to enforcement and penalties as set forth in F.S. ch. 327.
- (11) Live or amplified sound projecting east of the east property line from each property from 1st Street to 5th Street on the east side of Ocean Drive, from 5th ~~9th~~ Street and ~~15th~~ to 11th Street on the west side of Ocean Drive, from 15th Street to 73rd Street on the east side of Collins Avenue, from 73rd to 75th Streets on the west side of Ocean Terrace, and from 76th to 87th Streets on the east side of Collins Avenue. This exemption shall only apply to noise that is received in that area located east of the violating property and between the north and south projections of its property boundaries and where there is no part of any residential building or structure on any property to the east of the violating

property unless the building or structure to the east is owned by the violator. Any noise received by a property that is outside of this area shall subject the violator to the enforcement provisions of this article.

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 ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2018.


ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Mayor Dan Gelber)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 for 7/17/18
City Attorney Date