

Chapter 46 - Noise Exemptions

ORDINANCE NO. 2021-_____

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," TO MODIFY IDENTIFIED EXEMPTIONS FROM THE PROHIBITION ON UNNECESSARY AND EXCESSIVE NOISE SET FORTH IN SECTION 46-152; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, City Code Section 46-152 provides that "[i]t shall be unlawful for any person to make, continue or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise," and, further, identifies a list of acts that are "declared to be unreasonably loud, excessive, unnecessary, or unusual noises"; and

WHEREAS, City Code Section 46-157, entitled "Exemptions," enumerates uses and activities that "shall not constitute unnecessary and excessive noises prohibited in section 46-152," including the following:

(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 9th Street 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 . . . ; and

WHEREAS, on January 13, 2021, the Mayor and City Commission adopted Ordinance No. 2021-4389, which amended Section 46-157 to provide that "live or amplified music projecting east of the east property line from each property from 9th Street to 11th Street on the west side of Ocean Drive shall only be exempt from the prohibition on unnecessary and excessive noises . . . between the hours of 7:00 a.m. and 2:00 a.m. each night"; and

WHEREAS, recently, noise disturbances along Ocean Drive, between 9th Street and 11th Street, have impacted this iconic stretch of the City, and have placed significant demands upon the City's emergency services, first responders, and code compliance resources; and

WHEREAS, the Mayor and City Commission have identified the need to more effectively address noise disturbances along this portion of Ocean Drive, which noise disturbances are predominately generated by alcoholic beverage establishments and/or entertainment venues (including from loudspeakers, radios, televisions, musical instruments, and other machines or devices which produce or reproduce sound); and

WHEREAS, in light of these disturbances, the Mayor and City Commission now desire to repeal the noise exemption for live or amplified sound projecting eastward of the east property

line from each property between 9th Street and 11th Street along the west side of Ocean Drive; and

WHEREAS, the amendments set forth herein are necessary to protect the public health, safety and welfare, and to address the actual, material and on-going disruptions caused by excessive noise; and

WHEREAS, this Ordinance will serve to reduce negative impacts of noise to residents, business operators, and visitors along this iconic stretch of Ocean Drive and throughout the MXE mixed use entertainment district.

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**

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ARTICLE IV. NOISE

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Sec. 46-157. - Exemptions.

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

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(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 9th Street 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. ~~Notwithstanding the foregoing, live or amplified sound projecting east of the east property line from each property from 9th Street to 11th Street on the west side of Ocean Drive shall only be exempt from the prohibition on unnecessary and excessive noises in section 46-152 between the hours of 7:00 a.m. and 2:00 a.m. each day.~~

SECTION 2. REPEALER.

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

