

MEMORANDUM

Agenda Item No. 4(F)

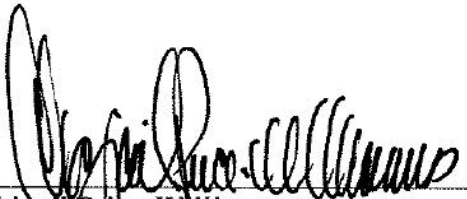
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: August 31, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to noise regulation; amending section 21-28 of the Code; establishing additional restrictions related to noise with respect to decibel sound levels in relation to certain residential properties; revising provisions related to intent, applicability, and enforcement; providing for countywide applicability; providing for opt out by municipalities; making technical changes

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.



Abigail Price-Williams
County Attorney

APW/smm

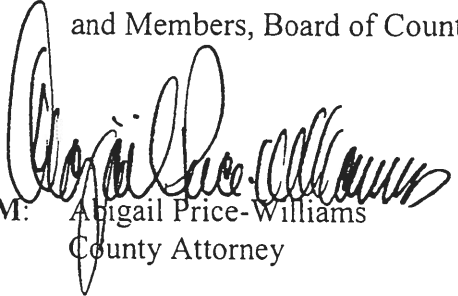


MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: August 31, 2020

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 4(F)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☒ 6 weeks required between first reading and public hearing
- ☒ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(F)

8-31-20

ORDINANCE NO. _____

ORDINANCE RELATING TO NOISE REGULATION;
AMENDING SECTION 21-28 OF THE CODE OF MIAMI-DADE
COUNTY, FLORIDA; ESTABLISHING ADDITIONAL
RESTRICTIONS RELATED TO NOISE WITH RESPECT TO
DECIBEL SOUND LEVELS IN RELATION TO CERTAIN
RESIDENTIAL PROPERTIES; REVISING PROVISIONS
RELATED TO INTENT, APPLICABILITY, AND
ENFORCEMENT; PROVIDING FOR COUNTYWIDE
APPLICABILITY; PROVIDING FOR OPT OUT BY
MUNICIPALITIES; MAKING TECHNICAL CHANGES;
PROVIDING SEVERABILITY, INCLUSION IN THE CODE,
AND AN EFFECTIVE DATE

WHEREAS, excessive noise has been implicated in a variety of health problems,
including, but not limited to, permanent hearing loss; and

WHEREAS, according to the United States Centers for Disease Control and Prevention
(CDC), exposure for even a few minutes to high sound levels is dangerous and can cause hearing
loss; and

WHEREAS, for example, according to the CDC, a chainsaw generally has a sound level
of about 109 decibels, and exposure to that sound level for a mere two minutes can cause hearing
loss; and

WHEREAS, whether noise is dangerous depends on both the sound level and the length
of time of exposure; and

WHEREAS, as such, lower sound levels over longer periods of time can also be dangerous
and can cause hearing loss; and

WHEREAS, for example, 30 minutes of exposure to a sound level of 97 decibels, which is generally the sound level of a hand-held power drill, can be dangerous to the human ear and cause hearing loss; and

WHEREAS, two hours of exposure to the sound level of 91 decibels, which is generally the sound level of a tractor, can also cause hearing loss, as can eight hours of exposure to the sound level of 85 decibels; and

WHEREAS, according to the CDC, exposure to dangerous sound levels can also contribute to stress, anxiety, and fatigue; and

WHEREAS, excessive noise also can interfere with residents' quiet enjoyment of their own properties; and

WHEREAS, the National Institute for Occupational Safety and Health (NIOSH), which is a federal agency under the umbrella of the CDC, has issued recommendations for noise limits, based on time exposure and decibel level, and according to NIOSH, these recommendations are designed to prevent hearing loss; and

WHEREAS, Miami-Dade County (County) has existing regulations on excessive noise in section 21-28 of the Code of Miami-Dade County (Code); and

WHEREAS, this Board wishes to establish additional decibel limitations on noise related to residential properties, and these decibel limitations would create an additional, independent ground for enforcement of excessive noise; and

WHEREAS, this ordinance would provide that certain noise levels, as measured from residential property, would be a violation of the Code; and

WHEREAS, the noise limits in this ordinance are generally guided by the federal NIOSH recommendations and are designed to prevent hearing loss; and

WHEREAS, decibel measurements on noise would not be needed for enforcement of the remainder of the County's noise regulations, nor would the decibel limitations affect enforcement of those other regulations; and

WHEREAS, pursuant to this ordinance, the County's noise regulations in section 21-28 of the Code would apply countywide, in both the incorporated and unincorporated areas of the County, but would authorize municipalities to opt out of all or a portion of the County's noise regulations, or to establish and enforce more stringent regulations; and

WHEREAS, this ordinance also adds additional provisions related to intent, applicability, and enforcement of section 21-28, and renumbers the existing subsections; and

WHEREAS, this Board wishes to adopt all of these changes to the County's noise regulations in order to further prevent excessive noise and better protect the health and quality of life of residents of Miami-Dade County,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The foregoing recitals are incorporated into this ordinance and are approved.

Section 2. Section 21-28 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 21-28. Noises; unnecessary and excessive prohibited.

>>(a) Intent and applicability.

(1) The purpose of this section is to protect the health and quality of life of residents of and visitors to

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Miami-Dade County through the regulation of unreasonably loud, excessive, unnecessary, or unusual noise. Any enforcement of this section shall comport with state and federal preemption, including, but not limited to, those related to agricultural uses, blasting, and aviation noise, and any applicable federal statutory or regulatory requirements or limitations.

(2) This section shall apply to both the incorporated and unincorporated areas. In the unincorporated area, this section shall be enforced by the County, and in the incorporated areas, this section shall be enforced by the municipalities. It is provided, however, that if the provisions herein are not enforced within a municipality, and the municipality has not opted out of the applicable provisions in accordance with paragraph (3), the County may enforce such provisions.

(3) Any municipality may establish and enforce more stringent regulations as such municipality may deem necessary, or may opt out of all or a portion of this section. Any such opt-out by a municipality shall be effective only upon filing, with the Miami-Dade County Clerk of the Board, a municipal resolution or ordinance declaring the municipality's intent to opt out of all or particular portions of this section.

(b) Prohibition.<< 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.

>>(c) Penalties.<< Any person violating any of the provisions of this section shall be punished by (i) a fine not to exceed >>\$500.00<< ~~[[five hundred dollars (\$500.00)]]~~; (ii) imprisonment in the county jail for a period not to exceed >>60<< ~~[[sixty (60)]]~~ days; (iii) both such fine and imprisonment in the discretion of the court having jurisdiction over the cause; (iv) fines in accordance with >>chapter<< ~~[[Chapter]]~~ 8CC ~~[[of the Code of Miami-Dade County]]~~; ~~[[or]]~~ (v) >>remedies provided in section 1-5; or (vi)<< completion of the Miami-Dade County Diversion Program, pursuant to Implementing Order of the Board of County Commissioners.

>>(d) Acts presumed to be violations.<< The following acts ~~[[, among others,]]~~ are declared to be unreasonably loud, excessive, unnecessary >>₁<< or unusual noises in violation of this section, but this enumeration shall not be deemed to

be exclusive>>. It is further provided that all acts enumerated and prohibited herein shall be independent of each other, and the violation of any one of the following paragraphs herein shall be a separate violation of this section<<[[, namely]]:

[[~~(a)~~]]>>(1)<< 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 County, 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.

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>>(13) Sound Levels, as measured from any location at or within the boundaries of a residential property or property used in whole or in part for residential purposes, as follows:

- (i) Sound levels that exceed any of the following decibel levels for the allowable time, if any, during any 24 hour period:
 - a. 85 decibels (dBA) for 8 hours; or
 - b. 88 decibels (dBA) for 4 hours; or
 - c. 91 decibels (dBA) for 2 hours; or
 - d. 94 decibels (dBA) for 1 hour; or
 - e. 97 decibels (dBA) for 30 minutes; or
 - f. 100 decibels (dBA) for 15 minutes; or
 - g. 103 decibels (dBA) for 7 minutes; or
 - h. 106 decibels (dBA) for 3 minutes; or
 - i. 110 decibels (dBA). No allowable time; therefore, any amount of time at 110 decibels (dBA) shall be prohibited.
- (ii) These sound level limits shall not apply if the measured sound levels outside the property where the sound originates do not exceed the sound level limits in this paragraph.

- (iii) Notwithstanding anything stated to the contrary in this section, sound measurements shall only be required for enforcement of this paragraph and shall not be required for enforcement of any other provisions of this section or any other provision of law. In addition, enforcement of this paragraph, may be based on a combination of sound measurements and witness testimony, and no more than two sound measurements per hour are necessary to establish sufficient proof of a decibel level in excess of the allowable time, if any, if there is also witness testimony sufficient to establish that the sound level appeared to be the same or louder than the times when sound measurements were taken.
- (iv) It is further provided that decibel levels below the limits set forth in this paragraph shall not affect or limit in any way the enforcement of noise violations pursuant to any other provision of this section or other applicable law, nor shall sounds below the aforementioned decibel limits be construed as a presumption that such sound is not unreasonably loud, excessive, unnecessary, or unusual noise.<<

Section 3. The paragraphs within subsection (d) of section 21-28 shall be renumbered pursuant to the revisions in section 2 above.

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 6. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:




Prepared by:

Cristina M. Rabionet
Abbie Schwaderer-Raurell

Prime Sponsor: Commissioner Barbara J. Jordan