MEMORANDUM

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Agenda Item No. 1(G)4

TO:	Honorable Chairman Oliver G. Gilbert, III and Members, Board of County Commissioners	**DATE:**	April 11, 2023
FROM:	Geri Bonzon-Keenan County Attorney	**SUBJECT:**	Ordinance relating to noise regulation; amending section 21-28 of the Code; prohibiting operation of noise-producing construction equipment and machinery at or near residences during certain hours; revising provisions related to intent, applicability, and enforcement; clarifying Countywide applicability; authorizing municipal regulations; making technical changes

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Micky Steinberg.

For
Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum

MIAMI-DADE COUNTY

Date: May 2, 2023

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

Subject: Fiscal Impact Statement for Ordinance Relating to Operation of Noise-Producing Construction Equipment

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It is not anticipated that the implementation of this Ordinance will have a fiscal impact to Miami-Dade County.

Alfredo Ramirez III,
Chief of Safety and Emergency Response

Memorandum

Date: May 2, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Danielle Levine Cava
Mayor

Subject: Social Equity Statement for Ordinance Prohibiting the Operation of Noise-Producing Construction Equipment and Machinery at or Near Residences During Certain Hours

Unreasonably loud, excessive, unnecessary, or unusual noises can negatively impact the quality of life that residents of Miami-Dade County (the County) enjoy. The County therefore has existing noise regulations codified in section 21-28 of the County Code that prohibit "unreasonably loud, excessive, unnecessary, or unusual noise." Section 21-28 of the Code lists specific acts that are unreasonably loud, excessive, unnecessary, or unusual in violation of this section. This section, however, does not specifically prohibit the operation of noise-producing construction equipment and machinery.

The operation of such noise-producing construction equipment and machinery in residential areas during the early morning and late evening hours can cause significant disruption to the residents of the affected areas and diminish their quality of life. As such, this item proposes an amendment to section 21-28 that would prohibit the operation of noise-producing construction equipment and machinery at or near residences, including multi-family residences, between the hours of 8:00 p.m. and 7:00 a.m. The proposed amendment also provides exceptions for the operation of such equipment and machinery under emergency circumstances or for bona fide agricultural purposes.

The proposed amendment provides a social benefit for the affected residents, while the exception considers the burden this may have on construction/outdoor workers. The operation of construction equipment at 7 AM instead of 8 AM (as amended for 22-50) provides for the need to take advantage of the cooler part of the day for construction workers while providing for reasonable neighborhood protection from noise-producing construction equipment. [1]Outdoor workers are up to 35 times more likely to have a heat related illness than the general population. Regarding financial losses, [2]the construction industry contributes 22 billion dollars to Miami's economy and employs nearly 50,000 people. However, the sector currently loses over 7 percent of its potential output due to the impact of heat and humidity on labor productivity. Potential output losses are expected to rise to over 10 percent by 2050 without action to reduce emissions or adapt to the rising temperatures. No other social benefits or burdens can be identified at this time.

Alfredo "Freddy" Ramirez III
Chief of Safety and Emergency Response

[1] Kristina Dahl and Rachel Licker. Too Hot to Work Assessing the Threats Climate Change Poses to Outdoor Workers. https://www.ucsusa.org/resources/too-hot-to-work. Published Aug 17, 2021.

[2] Arsht-Rock Report. Hot Cities, Chilled Economies Miami, United States. https://onebillionresilient.org/hot-cities-chilled-economies-miami/

MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: February 7, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 4(C)

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(C)
2-7-23

ORDINANCE NO. _____

ORDINANCE RELATING TO NOISE REGULATION; AMENDING SECTION 21-28 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROHIBITING OPERATION OF NOISE-PRODUCING CONSTRUCTION EQUIPMENT AND MACHINERY AT OR NEAR RESIDENCES DURING CERTAIN HOURS; REVISING PROVISIONS RELATED TO INTENT, APPLICABILITY, AND ENFORCEMENT; CLARIFYING COUNTYWIDE APPLICABILITY; AUTHORIZING MUNICIPAL REGULATIONS; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, unreasonably loud, excessive, unnecessary, or unusual noises can negatively impact human health and welfare and diminish the premium quality of life that residents of Miami-Dade County enjoy; and

WHEREAS, the County therefore has existing noise regulations codified in section 21-28 of the Code of Miami-Dade County, Florida, which, among other restrictions, generally prohibits "unreasonably loud, excessive, unnecessary, or unusual noise"; and

WHEREAS, section 21-28 also sets forth a non-exhaustive list of specific acts that are declared to be unreasonably loud, excessive, unnecessary, or unusual noises and that thus violate section 21-28; and

WHEREAS, those prohibited acts, among others, involve horns and signaling devices on vehicles other than to signal danger, the operation of loudspeakers, animals that cause frequent, habitual, or long continued noises, and the operation of domestic power tools and landscaping equipment from late evening to early morning; and

WHEREAS, similar to the specifically enumerated acts, the operation of noise-producing construction equipment and machinery in residential areas during early morning and late evening hours can cause significant disruption to the residents of the affected areas and diminish their quality of life; and

WHEREAS, indeed, such operation of noise-producing construction equipment and machinery would violate section 21-28's general prohibition to the extent it results in unreasonably loud, excessive, unnecessary or unusual noise, but it is not one of the enumerated acts specifically deemed to violate section 21-28; and

WHEREAS, most recently, on May 3, 2022, this Board adopted Ordinance No. 22-50, which expanded the existing prohibition on noise-producing power tools and landscaping equipment to include the hours between 8:00 p.m. and 8:00 a.m.; and

WHEREAS, this Board now wishes to amend section 21-28 to similarly and expressly prohibit the operation of noise-producing construction equipment and machinery at or near residences, including multi-family residences, between 8:00 p.m. and 7:00 a.m., with exceptions for the operation of such equipment and machinery under emergency circumstances or for bona fide agricultural purposes as defined in section 193.461, Florida Statutes; and

WHEREAS, this Board also wishes to clarify that section 21-28 of the Code applies countywide, in both the unincorporated and incorporated areas of the County, but to authorize municipalities to establish and enforce their own regulations; and

WHEREAS, this Board further wishes to add additional provisions to section 21-28 related to intent, applicability, and enforcement, and to reorganize the existing provisions,

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

Section 1. The foregoing recitals are approved and incorporated herein.

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.

>>(1) *Intent, applicability, and enforcement.*

(a) The purpose of this section is to protect the health and quality of life of Miami-Dade County's residents and visitors 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.

(b) 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 this shall not be construed to limit the County's authority to enforce this section within a municipality that has not adopted its own regulations as provided in paragraph (c) below.

(c) Each municipality may establish and enforce its own noise regulations, whether more or less stringent than the provisions of this section. A municipality that adopts or has previously adopted its own noise regulations shall file the applicable legislation with the Miami-Dade County Clerk of the Board, but the enforceability of such municipal regulation shall not

[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.

be contingent on such filing.

(2) *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.

>>(3) *Penalties.*<< Any person violating any of the provisions of this section shall be punished by (i) a fine not to exceed five hundred dollars ($500.00); (ii) imprisonment in the county jail for a period not to exceed 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 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.

>>(4) *Acts declared to be violations.*<< 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>>. 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~~]]:

* * *

>>(m) *Construction equipment and machinery.* The operation of any noise-producing tools, equipment, or machinery used in construction, repair, alteration, or demolition work at, adjacent to or adjoining, or otherwise plainly audible at the exterior property line of a residence, including multi-family residences, between the hours of 8:00 p.m. and 7:00 a.m. It is provided, however, that the operation of tools, equipment, or machinery to perform emergency work to protect the public health, safety, or welfare or to perform work that would qualify for the issuance of a building permit on an emergency basis or that is used for bona fide agricultural purposes as defined in section 193.461, Florida Statutes shall not be considered a violation of this section.<<

Section 3. 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 4. 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 5. 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: EWM for

Prepared by: KMB

Keoki M. Baron
Dennis A. Kerbel

Prime Sponsor: Commissioner Micky Steinberg