

MEMORANDUM

Agenda Item No. 7(E)


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

DATE: (Second Reading: 10-3-23)
July 6, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to noise regulation; amending section 21-28 of the Code; clarifying that certain noise regulations apply to noise emitted from a vessel or floating structure; clarifying that engine or exhaust noise from vessels may be enforced as provided in section 7-26.1 of the Code and section 327.65, Florida Statutes

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



Geri Bonzon-Keenan
County Attorney

GBK/jp

MDC001

Memorandum



Date: October 3, 2023

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

From: Daniella Levine Cava 
Mayor

Subject: Fiscal Impact Statement for Ordinance Relating to Noise Regulation

The implementation of this Ordinance will not have a fiscal impact to Miami-Dade County.

A handwritten signature in blue ink, appearing to read "J.D. Patterson", written over a horizontal line.


J.D. Patterson
Chief Public Safety Officer

Memorandum



Date: October 3, 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 Clarifying Noise Regulations Providing that Noise Emitted From Vessels, Floating Structures, Engines, or Exhaust Noise From Vessels May Be Enforced Pursuant to Section 7-26.1 of the County Code

In the past few years, Miami-Dade County (County) has experienced a surge in recreational and commercial vessel activity on County waters, as well as recreational and commercial activities conducted on or with floating structures. While this increase in activity enlivens cultural life in the County and supports the County's economy, the County must ensure that boaters are not undermining the health and quality of life of other boaters or residents whose homes border County waters. As such, section 21-28 of the County Code generally prohibits "unreasonably loud, excessive, unnecessary, or unusual noise" and sets forth a non-exhaustive list of specific acts that are declared to be unreasonably loud, excessive, unnecessary, or unusual noises that violate section 21-28.

This ordinance amendment clarifies that this prohibition can be violated when noise is emitted not only from a "room, vehicle or chamber," but also from a vessel or floating structure. Additionally, Florida Statutes Section 327.60 governs the regulation of vessels and preempts local governments from "[r]egulating engine or exhaust noise, except as provided in s. 327.65." Moreover, Florida Statutes Section 327.65 allows counties to adopt an ordinance regulating engine and exhaust noise of vessels under certain circumstances. The County adopted such an ordinance in 1989, codified in section 7-26.1 of the County Code, prohibiting the operation of vessels in such a manner as to exceed the sound level of 90 dBA at a distance of 50 feet from the vessel.

Although section 21-28 of the County Code may be applied to noise emitted from vessels and floating structures, engine or exhaust noise from vessels may be enforced via section 7-26.1 of the County Code, as authorized in Florida Statutes Section 327.65.

The proposed amendment provides a social benefit for residents whose homes border County waters, as well as other boaters affected by the types of noise described herein. Animals such as manatees, birds, and other wildlife will benefit since loud noises can scare them off. No other social benefits or burdens can be identified at this time.



JD Patterson
Interim Chief of Public Safety



MEMORANDUM
(Revised)

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

DATE: October 3, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(E)

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. 7(E)
10-3-23

ORDINANCE NO. _____

ORDINANCE RELATING TO NOISE REGULATION; AMENDING SECTION 21-28 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CLARIFYING THAT CERTAIN NOISE REGULATIONS APPLY TO NOISE EMITTED FROM A VESSEL OR FLOATING STRUCTURE; CLARIFYING THAT ENGINE OR EXHAUST NOISE FROM VESSELS MAY BE ENFORCED AS PROVIDED IN SECTION 7-26.1 OF THE CODE AND SECTION 327.65, FLORIDA STATUTES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, residents and visitors enjoy riding jet skis, boats, and other vessels on the waters of Miami-Dade County, and particularly in Biscayne Bay; and

WHEREAS, in the past few years, Miami-Dade County has seen a surge in recreational and commercial vessel activity on County waters, as well as recreational and commercial activities conducted on or with floating structures; and

WHEREAS, while this increase in activity enlivens cultural life in the County and supports the County economy, the County must ensure that boaters are not undermining the health and quality of life of other boaters or residents whose homes border County waters; and

WHEREAS, there has been an increasing number of boaters on County waters who are playing music from their boats at unreasonably high volumes; and

WHEREAS, section 21-28 of the Code of Miami-Dade County, Florida (the “Code”) 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 include, among others, “[t]he using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto”; and

WHEREAS, that prohibition further provides that “[t]he operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section”; and

WHEREAS, this Board wishes to clarify that this prohibition can be violated when noise is emitted not only from a “room, vehicle or chamber,” but also from a vessel or floating structure; and

WHEREAS, section 327.60, Florida Statutes, governs the regulation of vessels and preempts local governments from “[r]egulating engine or exhaust noise, except as provided in s. 327.65”; and

WHEREAS, section 327.65, Florida Statutes, allows counties to adopt an ordinance regulating engine and exhaust noise of vessels under certain circumstances, and the County adopted such an ordinance in Ordinance No. 89-30, codified in section 7-26.1 of the Code, which prohibits the operation of vessels in such a manner as to exceed the sound level of 90 dBA at a distance of 50 feet from the vessel; and

WHEREAS, this Board wishes to clarify that, although section 21-28 of the Code may be applied to noise emitted from vessels and floating structures, engine or exhaust noise from vessels may be enforced as provided in section 7-26.1 of the Code and section 327.65, Florida Statutes,

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.

* * *

(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.

* * *

(4) *Acts declared to be violations.* The following acts 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:

* * *

(b) *Radios, televisions, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in

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.

such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in >>or on<< the room, vehicle>>, vessel, floating structure,<< or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure>>, vessel, floating structure,<< or vehicle in >>or on<< which it is located shall be prima facie evidence of a violation of this section.

* * *

- (e) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent unreasonably loud or explosive noises therefrom. >>Notwithstanding the foregoing, engine or exhaust noise from vessels may be enforced as provided in section 7-26.1 of the Code and section 327.65, Florida Statutes.<<

* * *

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:

EWJ for

Prepared by:

CJW

Christopher J. Wahl

Prime Sponsor: Commissioner Micky Steinberg