

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA, AMENDING THE CODE OF THE CITY OF CORAL GABLES, FLORIDA, BY REVISING ARTICLE V (“NOISE”) OF CHAPTER 34 (“NUISANCES”) TO ESTABLISH QUANTITATIVE NOISE LEVEL MEASUREMENTS WITH RESPECT TO CERTAIN CATEGORIES OF NOISE; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, in order to preserve the comfort, repose, health, and peace of the citizens of the City of Coral Gables, the City Commission wishes to amend the City Code to include metrics for enforcing the City Code’s noise provisions and provide law enforcement with quantitative measures to assess and properly evaluate certain categories of noise; and

WHEREAS, the City Commission finds that providing procedures and standards for regulating certain categories of noise will protect the citizens of the City of Coral Gables from unreasonable disturbance and annoyance due to noise that exceeds the appropriate levels for the applicable zoning district; and

WHEREAS, the City Attorney recently issued an Opinion noting that the repetitive and inconsistent provisions of Article II (“Noise”) of Chapter 38 (“Offenses and Miscellaneous Provisions”) are deemed stricken; and

WHEREAS, after notice duly published, a public hearing for First Reading was held before the City Commission on _____, 2016, at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the City Commission was presented with a text amendment to the City Code, and, after due consideration and discussion, (approved/denied) the amendment on First Reading (vote: __ - __).

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

SECTION 1. The foregoing “**WHEREAS**” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The City Code of the City of Coral Gables is hereby amended as follows (changes in ~~strike through~~ / underline format):

Chapter 34 - NUISANCES

ARTICLE V. - NOISE

Sec. 34-121. - Prohibitions.

~~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 which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others, within the limits of the city.~~

Sec. 34-121. - Definitions.

Ambient sound level. The summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds and those from the source under investigation. The ambient sound level is synonymous with background sound level. Ambient sounds are differentiated from extraneous sounds by the fact that the former are of a more steady state, although they may not be continuous. For purposes of this definition, extraneous sound means a sound of high intensity and relatively short duration which is neither part of the ambient sound, nor comes from the sound source under investigation.

Amplified sound. The use of any public address system, loudspeaker, amplifier or any other device which electronically or mechanically augments the volume of sound, including, by way of example, a radio television set, bullhorn, or musical instrument.

Person. Any individual, corporation, partnership, other legal entity, or any agent or employee thereof.

Real property line. Either (a) the boundary line of a parcel; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multifamily dwelling; or (c) on a mixed-use property, the interface between the two (2) portions of the property on which different categories of activity are being performed. For purposes of this definition, mixed-use property means more than one (1) type of use in a building or set of buildings with some combination of residential and non-residential use, and multifamily dwelling means any building occupied or intended to be occupied by more than two (2) families, living separately and with separate kitchens or facilities for cooking on the premises (which includes apartments, condominiums and coach homes, but does not include hotels, motels, bed and breakfasts, townhouses, or cluster dwellings).

Sound affected site or unit. The location or dwelling unit of a person making a noise complaint.

Sound level. The weighted sound pressure level obtained by the use of a sound level meter and frequency-weighting network, such as A, as specified in the latest revision of the ANSI Standard S1.4, "Specification for Sound Level Meters."

Sound level meter. An instrument that measures sound and conforms to ANSI S1.4-1983 or its successor publications.

Violator. Any person that has committed or is alleged to have committed a code violation or is legally responsible for a code violation including, but not limited to, a property owner or his agent, tenant, or entity on the premises or any combination thereof

~~Sec. 34-122. Declared a nuisance.~~

~~The making of unnecessary noises upon, near or adjacent to the streets, highways and other public places in the city is hereby declared to be a nuisance.~~

Sec. 34-122. - General Prohibition.

It shall be unlawful for any person to make, continue, cause to be made or continued, or permit to be made or continued (when the source of the amplified noise is within the reasonable control of that person) any unreasonably loud, excessive, unnecessary or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others, within the limits of the city.

~~Sec. 34-123. Definitions.~~

~~*Excessive noise.* Any noise which is hazardous to public health, welfare, safety or the quality of life within the city limits or of such character, intensity or duration which disturbs the public peace and welfare.~~

~~*Holidays,* as established by section 1-2 of the City Code.~~

~~*Person.* Any individual, corporation, partnership, other legal entity, or any agent or employee thereof.~~

~~*Violator.* Any person that has committed or is alleged to have committed a code violation or is legally responsible for a code violation including, but not limited to, a property owner or his agent, tenant, entity on the premises or any combination thereof.~~

Sec. 34-123. - Declared a nuisance.

The making of any noise that is in violation of this article is hereby declared to be a nuisance.

Sec. 34-124. - Enumerated Prohibited acts.

The following acts, among others, are declared to be loud, excessive, unnecessary or unusual noises in violation of this ~~section~~article, but this enumeration shall not be deemed to be exclusive, namely:

(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 in the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound or a siren, whistle or bell; and the sounding of any such device for any unnecessary and unreasonable period of time.

(2) *Bands, radios, televisions, and other amplified sounds. ~~phonographs, etc.~~* The playing of music by any band, orchestra, musician or group of musicians or 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 such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants 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. ~~The operation of any such set, instrument, phonograph, machine or device:~~making of any such sounds:

- a. ~~B~~etween the hours of 11:00 p.m. and 7:00 a.m. the following day on Sunday, Monday, Tuesday, Wednesday and Thursday;
- b. ~~B~~etween the hours of 12:00 midnight and 7:00 a.m. the following day on Friday and Saturday.

in such manner as to be plainly audible at a distance of 100 feet from the building, structure or vehicle from which the sound is originating ~~in which it is located~~ shall be prima facie evidence of a violation of this section.

(3) *Animals, birds, etc.* The owning, harboring, possessing or keeping of any animal or bird which causes frequent, habitual or continued noise thereby creating annoyance to the

inhabitants of the neighborhood in which the animal or bird is kept or to people passing to and from the public streets.

(4) *Exhausts.* The discharge into the open air of the exhaust of a steam engine, stationary internal combustion engine, flushing of boat motors, or motor vehicle that creates unreasonably loud or explosive noises.

(5) *Defect in vehicle or load.* The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or other motor vehicle so out of repair, so loaded or in such manner as to create unreasonably loud or unnecessary grating, grinding, rattling or other noise within a residential area.

(6) *Mufflers.* Every motor vehicle, motorcycle and motor-driven cycle muffler that creates unreasonably, excessive or unusual noise.

(7) *Schools, courts, hospitals.* The creation of any excessive or unreasonably loud noise on any street adjacent to any school, institution of learning, house of worship or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, or which disturbs or unduly annoys the patients in the hospital, provided conspicuous signs are displayed in such streets indicating that it is a school, hospital or court street.

(8) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.

(9) *Loudspeakers, etc.* The use or operation on or upon the public streets, alleys and thoroughfares anywhere in the city for any purpose of any device known as a sound truck, loudspeaker or sound amplifier or any other instrument of any kind or character which emits loud and raucous noises.

(10) *Power tools and landscaping equipment.* The operation of noise-producing lawn mowers, lawn-edgers, weed trimmers, blowers, chippers, chain saws, power tools and other noise-producing tools which are used to maintain or at a residence out-of-doors:

- a. Between the hours of 11:00 p.m. and 7:30 a.m. the following day on Sunday, Monday, Tuesday, Wednesday and Thursday;
- b. Between the hours of midnight and 9:00 a.m. the following day on Friday and Saturday.

(11) *Commercial maintenance equipment.* The use of commercial maintenance equipment which creates a loud, excessive, unnecessary or unusual noise in connection with the operation of said equipment within 100 feet of any residential area:

- a. ~~B~~etween the hours of 6:00 p.m. and 7:30 a.m. the following day on Monday, Tuesday, Wednesday, and Thursday;
- b. ~~B~~etween the hours of 6:00 p.m. on Friday and 9:00 a.m. on Saturday;
- c. ~~B~~etween the hours of 5:00 p.m. on Saturday and 7:30 a.m. Monday;
- d. ~~O~~n holidays, as established by section 1-2 of the City Code.

Commercial maintenance equipment includes, by way of example, noise-producing lawn mowers, lawn-edgers, weed trimmers, blowers, chippers, chain saws, power tools and other noise-producing tools, where that noise is generated by a third party commercial maintenance company, rather than by the lawful owner or tenant of the premise.

(12) *Construction noise.* Any site preparation, assembly, erection, substantial repair, alteration, delivery of materials, demolition or similar action, which disturbs the peace and quiet of the neighborhood, on public or private property, rights-of-way, structures, utilities or similar property:

- a. ~~B~~etween the hours of 6:00 p.m. and 7:30 a.m. the following day on Monday, Tuesday, Wednesday, and Thursday;
- b. ~~B~~etween the hours of 6:00 p.m. on Friday and 9:00 a.m. on Saturday;
- c. ~~B~~etween the hours of 5:00 p.m. on Saturday and 7:30 a.m. Monday;
- d. ~~O~~n holidays, as established by section 1-2 of the City Code, unless waived by the city manager or designee.

(13) ~~Air conditioner/electric motor/pool pump-~~ Steady, mechanical noise. The use of an air conditioner, electric motor, pool pump, ~~and/ exhaust fan, filter,~~ or similar noise-producing mechanical equipment which creates a loud, ~~excessive, unnecessary or unusual noise that exceeds the following sounds levels:~~ in connection with the operation of said equipment in any residential area.

TABLE 1: Maximum Permitted Sound Levels in Decibels (dBA)

<u>Receiving Zoning District</u>	<u>Between the hours of 11:00 p.m. and 7:30 a.m. the following day on Sunday, Monday, Tuesday, Wednesday and Thursday; and between the hours of midnight and 9:00 a.m. the following day on Friday and Saturday.</u>	<u>All other times.</u>
<u>Single-family Residential District</u>	<u>5 dBA above ambient sound level or maximum of 55 dBA</u>	<u>10 dBA above ambient sound level or maximum of 60 dBA</u>
<u>Multi-family 1 Duplex District, Multi-family 2 District, and Multi-family Special Area District</u>	<u>5 dBA above ambient sound level or maximum of 60 dBA</u>	<u>10 dBA above ambient sound level or maximum of 65 dBA</u>
<u>All Other Districts</u>	<u>5 dBA above ambient sound level or maximum of 65 dBA</u>	<u>10 dBA above ambient sound level or maximum of 65 dBA</u>

The sound levels in Table 1 above shall be measured from the real property line of the sound affected site or unit, and the zoning district where the sound-affected site or unit is located shall apply. The sounds levels shall be measured with a sound level meter manufactured according to standards prescribed by the American National Standards Institute. This Subsection 34-124 (13) shall not apply to noise generated pursuant to a valid construction permit.

(14) *Shouting.* Any unreasonably loud, boisterous or raucous shouting in any residential area.

Sec. 34-125. – Permits for special events.

~~Upon written application to the city manager or his or her designee submitted, in compliance with the city's special events ordinance and all other relevant sections of the City Code, prior to an event at which noise levels are expected to violate this chapter.~~

Sec. 34-125. - Exemptions.

The terms and prohibitions of this chapter article shall not be applied to or enforced against:

(1) Any motor vehicle, boat or other vehicle of the city, the county or the state or licensed public utility vehicle within the city while engaged in necessary emergency or public business.

(2) Emergency work of public service utilities by or on behalf of the city, the county, or the state, or performance of such work during the night if the public welfare and convenience renders it impossible to perform such work during the day.

(3) Noise generated in the course of a special activity or event, parade, or public assembly for which has obtained a valid permit has been obtained in accordance with Chapter 62, Article VI of the City Code. Noise generated in connection with such a permitted special event, parade, or public assembly shall be governed by Chapter 62, Article VI and by the terms and limitations imposed by the City in connection with the permit.. a permit; noise generated for the purpose of alerting persons to the existence of an emergency or noise generated in the performance of emergency work.

(4) Reasonable noise generated for the purpose of alerting persons to the existence of an emergency or to other dangers; reasonable noise generated in the performance of reasonable actions taken in response to an emergency or danger; and reasonable noise generated in the testing of devices used for purposes of alerting persons to the existence of an emergency.

(5) Sanitation operations which include the unloading, emptying or collection of any waste or recyclable container, provided that that operation is conducted between the hours of 7:00 a.m. and 10:00 p.m.

(6) Noise generated by any aircraft or generated in connection with the operation of any airport.

(7) Noise generated from igniting fireworks which comply with Sec. 42-26 ("Fireworks, explosives, missiles, etc.") of the City Code.

Sec. 34-126. - Exemptions.

The terms and prohibitions of this chapter shall not be applied to or enforced against:

~~(1) — Any motor vehicle, boat or other vehicle of the city, the county or the state or licensed public utility vehicle within the city while engaged in necessary emergency or public business.~~

~~(2) — Emergency work of public service utilities by or on behalf of the city, the county, or the state, or performance of such work during the night if the public welfare and convenience renders it impossible to perform such work during the day.~~

~~(3) — Noise generated in the course of a special activity or event which has obtained a permit; noise generated for the purpose of alerting persons to the existence of an emergency or noise generated in the performance of emergency work.~~

Sec. 34-126. - Enforcement.

This article shall be enforced by the city's police department or any code enforcement official of the city authorized to enforce this article.

~~Sec. 34-127. - Enforcement.~~

~~This division shall be enforced by the city's police department or any code enforcement official of the city authorized to enforce this division.~~

Sec. 34-127. - Penalties.

(a) A city police or code enforcement official who finds a violation of this article shall issue a verbal warning to the violator to immediately correct the violation.

(b) After a verbal warning, any person continuing to be in violation of the provisions of this article shall be deemed guilty of an offense and shall be assessed a fine of not less than \$150.00 and not more than \$500.00 per day until the person corrects the violation.

~~Sec. 34-128. - Penalties.~~

~~(a) — A city police or code enforcement official who finds a violation of this division shall issue a verbal warning to the violator to immediately correct the violation.~~

~~(b) — Any person in violation of the provisions of this division shall be deemed guilty of an offense and shall be assessed a fine of not less than \$150.00 and not more than \$500.00 per day until the person corrects the violation.~~

~~Secs. 34-129128—34-160. - Reserved.~~

SECTION 3. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 5. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the City Code, which provisions may be renumbered or re-lettered and the word ordinance be changed to “section,” “article,” or other appropriate word to accomplish such intention.

SECTION 6. If the City Code’s Tables of Contents, Supplemental History Table, or other reference portions are affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This Ordinance shall become effective upon adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D. 2016.

APPROVED:

JIM CASON
MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

CRAIG E. LEEN
CITY ATTORNEY