

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2021-39

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES AMENDING CHAPTER 34 “NUISANCES,” ARTICLE VI. “NOISE,” SECTION 34-170, “EXEMPTIONS,” OF THE CITY OF CORAL GABLES CODE TO ADDRESS THE OPERATION AND TESTING OF EMERGENCY BACKUP GENERATORS, PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, ENFORCEABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Section 34-167 of the City Code contains a general prohibition on “unreasonably loud, excessive, unnecessary or unusual noise,” and Section 34-169 of the City Code sets forth a series of prohibited acts that are declared to be loud, excessive, unnecessary, or unusual noise; and

WHEREAS, Section 34-170 of the City Code sets forth a series of exemptions to the City’s prohibitions regarding noise; and

WHEREAS, Section 34-170(3) currently exempts “reasonable noise generated in the performance of reasonable actions taken in response to an emergency or danger, including, but not limited to, the operation of emergency backup energy generators;” and

WHEREAS, in CAO 2019-028, the City Attorney opined that the routine testing of emergency backup generators falls within the exception set forth in Section 34-170(3); and

WHEREAS, staff has researched Occupational Safety and Health Administration standards relating to noise in the workplace and determined that a “reasonable” sound level for purposes of the exemption as it applies to the operation and testing of generators is either 70 or 80 dBA at the nearest property line, depending on type of property; and

WHEREAS, Section 34-170(3) is unclear as to where the dBA level should be measured from; and

WHEREAS, the City Commission wishes to codify CAO 2019-028, to specify that the exemption applies to the routine testing of emergency backup generators, establish appropriate sound levels, and clarify that the sound level shall be measured from the nearest property line; and

WHEREAS, the City Commission also wants to acknowledge the need to *grandfather* noise levels produced by emergency backup generators that have received a Certificate of Occupancy, Temporary Certificate of Occupancy, or in the case of single-family homes, have received a permit from the City and closed said permit;

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

SECTION 1. That the foregoing recital is hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. That Section 34-170, “Exemptions,” to Article VI, “Noise,” of Chapter 34, “Nuisances,” of the City Code is amended as follows:

Chapter 34 – Nuisances

* * *

Article VI – Noise

* * *

Sec. 34-170. – Exemptions.

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

* * *

(3) Reasonable noise generated for 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, including, but not limited to, the routine testing, if performed during the allowable hours of 11:00 a.m. to 2:00 p.m., Monday through Friday, and operation of emergency backup energy generators; and reasonable noise generated in the testing of devices used for purposes of alerting persons to the existence of an emergency. Reasonable noise generated from the routine testing and operation of emergency backup energy generators shall not exceed a sound level of 80 dBA, when measured from the nearest property line. Except that, for the routine testing and operation of emergency backup energy generators located in single-family residential properties or properties abutting a single-family residential lot, the sound level shall not exceed 70 dBA, when measured from the nearest property line. All emergency backup energy generators installed with appropriate permits in buildings that have received a Certificate of Occupancy, Temporary Certificate of Occupancy, or in the case of a single-family home, have been permitted by the City and the permit has been closed, prior to November 9, 2021, are grandfathered in and exempt from the maximum dBA sound levels set forth herein, but must comply with the hours for routine testing. The reasonable noise generated from the routine testing and operation of any emergency backup energy generators installed after November 9, 2021, whether as a new installation, a replacement, or as an additional emergency backup energy generator, must comply with the applicable sound levels set forth herein. Notwithstanding anything to the contrary in this subsection, reasonable noise generated from the operation of emergency portable generators during a weather-related state of emergency in effect in the city shall be exempt from the maximum sound levels set forth herein.

SECTION 3. SEVERABILITY.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 4. REPEALER.

This Ordinance is intended to provide authority to the City Attorney without limiting any other authority of the City Attorney or other City officers provided in other parts of the City Charter, City Code, and Zoning Code. Accordingly, any other ordinances or parts of ordinances that provide authority to the City Attorney or other City officers are not repealed by this Ordinance.

SECTION 5. CODIFICATION.


It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances; and that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention, and the word “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall become effective upon the date of its passage and adoption herein.


PASSED AND ADOPTED THIS NINTH DAY OF NOVEMBER, A.D., 2021.
(Moved: Menendez / Seconded: Anderson)
(Yeas: Fors, Jr., Mena, Menendez, Anderson, Lago)
(Unanimous: 5-0 Vote)
(Agenda Item: F-3)

APPROVED:


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VINCE LAGO
MAYOR

ATTEST:

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BILLY Y. URQUIA
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

DocuSigned by:

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MIRIAM SOLER RAMOS
CITY ATTORNEY