

ORDINANCE NO. 11-25-2524

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, AMENDING SECTION 15-82 “PROHIBITED NOISE,” OF ARTICLE III “NOISE,” OF CHAPTER 15 “OFFENSES AND MISCELLANEOUS PROVISIONS,” OF THE CITY CODE OF ORDINANCES TO REVISE THE NOISE REGULATIONS WITHIN THE CITY; PROVIDING FOR CORRECTIONS, SEVERABILITY, CONFLICTS, IMPLEMENTATION, AND AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, provides municipalities with the authority to exercise any power for municipal purposes, except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

WHEREAS, the City Commission of the City of South Miami (“City”) finds it periodically necessary to amend its Code of Ordinances (“Code”) to update regulations and procedures to maintain consistency with state law, implement municipal goals and objectives, clarify regulations, and address specific issues and needs that may arise; and

WHEREAS, Article III “Noise,” of Chapter 15, of the City’s Code addresses noise regulations within the City, including the intensity of noise and allowable hours; and

WHEREAS, on October 15, 2024, the City Commission adopted Ordinance No. 34-34-2509 comprehensively amending Article III “Noise,” of Chapter 15, of the City’s Code to revise and update noise regulations within the City, including enforcement procedures and penalties, and to repeal outdated provisions; and

WHEREAS, on January 21, 2025, the City Commission discussed further amendments to Section 15-82 “Prohibited Noises”, including re-evaluating the maximum noise limitations and addressing exemptions to the noise restrictions within the Transit Supportive Development District (TSDD); and

WHEREAS, the City Commission wishes to amend Section 15-85 to update regulations relating to noise within the Transit Supportive Development District (TSDD) Sub-Districts; and

WHEREAS, the City Commission considered the ordinance on February 4, 2025 and approved the ordinance on first reading with modifications; and

WHEREAS, on April 1, 2025, the City Commission conducted a duly noticed public hearing as required by law and approved the ordinance on second reading; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, AS FOLLOWS: ¹

Section 1. **Recitals.** The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. **Amending Section 15-82 “Prohibited Noise,” of Article III “Noise” of Chapter 15, “Offenses and Miscellaneous Provisions” of the City Code.** Section 15-82 “Prohibited Noise,” of Article III “Noise,” of Chapter 15, “Offenses and Miscellaneous Provisions,” of the City Code of Ordinances, is hereby amended to read as follows:

Sec. 15-82. Prohibited Noise.

- (a) Noise prohibition. It shall be unlawful for any person owning, occupying or having charge of any building or premises or any part thereof, in the city, at any time to make, continue, cause to be made or continued, or allow any noise, sound, or amplified sound, so as to disturb the peace, quiet and comfort of the neighboring inhabitants, where the noise, sound, or amplified sound exceeds the following decibel or sound level reading when measured from ~~any a complainant’s~~ real property line by a sound level meter:

Day	Time	Noise Level
Monday –Thursday	8:00 a.m. to 8:00 p.m.	80 <u>70</u> dB or 5dB over ambient sound level, whichever is greater.
	8:00 p.m. to 8:00 a.m.	65dB or 5dB over ambient sound , whichever is greater.
Friday – Saturday	10:00 a.m. to 12:00 a.m.	80 <u>70</u> dB or 5dB over ambient sound level, whichever is greater.
	12:00 a.m. to 10:00 a.m.	65dB or 5dB over ambient sound level, whichever is greater.
Sunday	10:00 a.m. to 8:00 p.m.	80 <u>70</u> dB or 5dB over ambient sound level, whichever is greater.
	8:00 p.m. to 10:00 a.m.	65dB or 5dB over ambient sound level, whichever is greater.
National Holidays	10:00 a.m. to 12:00 a.m.	80 <u>70</u> dB or 5dB over ambient sound level, whichever is greater.
	12:00 a.m. to 10:00 a.m.	65dB or 5dB over ambient sound level, whichever is greater.

¹ Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~double-strikethrough~~ and double underline and shaded in grey. Modifications made at second reading are shaded in dark grey.

(b) Exemptions. The following types of noise are hereby made exempt from the provisions of this Section:

1. Properties within the Transit Supportive Development District:

i. ~~TODA and TSDA Sub-Districts, and the Downtown SoMi District: shall be exempt from these provisions between the hours of 9 a.m. and 11 12 a.m. p.m..~~

ii. ~~TSDA Sub-District: shall be exempt from these provisions between the hours of 9 a.m. and 11 p.m. provided that any new commercial use that is within 100 feet of any residential property shall provide a noise attenuation study and implement any mitigation measures required by the City.~~

iii. ~~TSNA Sub-District: shall be exempt from these provisions between the hours of 5 p.m. and 10 p.m. on Monday to Thursday, 5 p.m. and 11 p.m. on Fridays, noon and 10 p.m. on Saturdays, and noon and 9 PM on Sunday, except commercial uses on properties fronting 74th Street are exempt until 12 a.m. on Fridays and Saturdays. provided that a~~Any new commercial use that is within 100 feet of any residential property shall provide a noise attenuation study and implement any mitigation measures required by the City.

2. In the case of a special event, exhibition, exposition and/or festival, not exceeding five (5) days, permitted by the city manager, the special event permit may provide for a time period in excess of the limitations set forth in this article, but not to exceed midnight on Friday, Saturday and holidays and not to exceed 9:30 p.m. on Sunday through Thursday.

Section 3. Corrections. Conforming language or technical scrivener-type corrections may be made by the City Attorney for any conforming amendments to be incorporated into the final Ordinance for signature.

Section 4. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Conflicts. That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Implementation. That the City Manager and City Attorney are authorized to take any and all actions necessary to implement this Ordinance.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption.

PASSED on first reading on the 18th day of March, 2025.

PASSED AND ADOPTED on second reading on the 1st day of April, 2025.

ATTEST:

APPROVED:

CITY CLERK

MAYOR

READ AND APPROVED AS TO FORM,
LANGUAGE, LEGALITY AND
EXECUTION THEREOF

COMMISSION VOTE:	4-0
Mayor Javier Fernández:	Yea
Vice Mayor Brian Corey:	Absent
Commissioner Lisa Bonich:	Yea
Commissioner Steve Calle:	Yea
Commissioner Danny Rodriguez:	Yea

WEISS SEROTA HELFMAN COLE
& BIERMAN, P.L.
CITY ATTORNEY