

ORDINANCE NO. 2022 - _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING CHAPTER 193 “NOISE” OF THE CITY OF SUNNY ISLES BEACH CODE OF ORDINANCES; PROVIDING FOR DEFINITION OF TERMS; PROVIDING FOR ADDITIONAL STANDARDS OF SOUND MEASUREMENT; REPEALING THE EXEMPTION FOR NOISE GENERATED WITHIN ANY EXISTING CONDOMINIUM; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 193 of the Code of Ordinances (“Code”) for the City of Sunny Isles Beach (“City”) was adopted with the stated purpose of limiting excessive noise that interferes with the comfortable enjoyment of life, property, recreation or conduct of business in the City; and

WHEREAS, the City Commission has determined a need to more effectively control and abate noise pollution throughout the City; and

WHEREAS, effectively controlling noise pollution and infractions of the City’s existing noise regulations has been a recurring issue for the City; and

WHEREAS, the creation of excessive noise is a condition which has existed for some time and is a hazard to the public health, welfare and safety, and the quality of life for the residents and visitors of the City; and

WHEREAS, the residents of the City have a right and should be insured an environment free from excessive sound that may jeopardize their health or welfare; and

WHEREAS, the purpose of this Ordinance is to provide for an enforcement mechanism which will include a “plainly audible” standard of sound measurement for violating noises; and

WHEREAS, this Ordinance shall promote and encourage the citizens and businesses of the City to comply with the City’s noise regulations as this Ordinance provides more clarity on the regulated activity and violations; and

WHEREAS, it is not the intent of the City Commission to interfere unduly with freedoms of speech, expression, or religion by enacting this Ordinance, and

WHEREAS, the City Commission believes the following amendments to the City’s Code are in the best interests of the health, safety, and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:¹

Section 1. Incorporation of Recitals. 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. Amending Chapter 193 of the Code of Ordinances. Chapter 193 of the City Code is hereby amended to read as follows:

Chapter 193 NOISE

ARTICLE I General Provisions

§ 193-1. Purpose and intent.

The purpose of this chapter is to limit excessive noise that interferes with the comfortable enjoyment of life, property, recreation or conduct of business in the City.

§ 193-2. Definitions.

The following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AMBIENT SOUND LEVEL means 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, the term "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 — means the use of any loudspeaker, public address system, amplifier, or any other device which electronically or mechanically augments the volume of sound, including, by way of example, a radio, television set, electronic device, phonograph, bullhorn, or musical instrument.

CITY MANAGER — The City Manager of the City of Sunny Isles Beach or designee.

¹ Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~striketrough~~.

CONSTRUCTION — Any site preparation, assemble, erection, substantial repair, alteration, demolition, or similar action, or public or private rights-of-way, structures, utilities or property.

CONSTRUCTION TOOLS AND EQUIPMENT — Includes but is not limited to: material handling, earthmoving and digging equipment, power tools, generators, air compressors, hand tools, and radios and other sound equipment used by workers on a building site. This definition does not include interior work within a structure which does not generate excessive noise.

DAYLIGHT SAVING TIME — The time established by the federal government to make better use of the daylight.

DEPARTMENT — The Code Enforcement and Licensing Department.

EMERGENCIES — Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

MECHANICAL EQUIPMENT — Includes but is not limited to, air-handler units, exhaust fans, refrigeration equipment, pump stations and other sound equipment used in buildings.

SPECIAL MAGISTRATE — A person appointed by the City Commission to adjudicate code violations.

PLAINLY AUDIBLE — Means sounds or noise which can be measured or detected by the human ear without the benefit of a hearing aid by a reasonable person of ordinary sensibilities.

STANDARD TIME — The time established by the federal government for the calendar months that are outside of daylight saving time.

VIOLATOR — A person or entity responsible for violation of the Code.

ARTICLE II Prohibited Noise

§ 193-3. Prohibited activities.

It shall be unlawful for anyone to create, operate or cause to be operated on private property any source of sound in such a manner as to create a continuous airborne sound which (i) exceeds 60 decibels [dB(A)], or (ii) exceeds the ambient background noise sound level, (iii) is plainly audible at a distance of 100 feet from the source of the noise, or (iv) is plainly audible from any exterior edge of a building, structure or vehicle if the noise is emanating from a building, structure or vehicle whichever is greater, when measured from the affected real property line. Unlawful and excessive noise shall include, but is not limited to, the following:

A. ~~Radio and musical instruments~~ Amplified sound. ~~The playing of any radio, television, phonograph, musical electronic device, or any musical instruments in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any person in the vicinity; The making of amplified 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 who is in the room, vehicle, chamber, or outdoor private property in which such machine or device is operated and who are voluntary listeners thereto. The making of any such sounds 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 100 feet from the source of the noise, or if the noise is emanating from a building, structure or vehicle, from any exterior edge of that building, structure or vehicle, shall be prima facie evidence of a violation of this section;~~

B. Animal and bird noises. The keeping of any animals or birds which by causing frequent or long continued noise shall disturb the comfort of any person;

C. Whistle or siren. The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger;

D. Engine 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 effectively prevents loud explosive noises therefrom.

E. Limitations on construction. As defined by Article III of this chapter.

F. Handling merchandise. The creating of a loud and excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

G. Devices that attract attention. The use of any drum, loudspeaker, amplifier or other instrument or device for the purpose of attracting attention for any purpose.

~~H. Noise or sound amplification. Any amplified sound, or unnecessarily loud noises whereby the peace and good order of the neighborhood is disturbed or persons owning or occupying property in the neighborhood are disturbed.~~

† H. Sound trucks. To operate or cause to be operated a sound truck with radio or amplifier within the City without first having obtained a permit from the City Commission.

‡ I. Mechanical equipment as defined above.

§ 193-4. Exemptions.

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

- A. 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.
- B. 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.
- C. Noise generated for the purpose of alerting persons to the existence of an emergency or noise generated in the performance of emergency work. Noise created by mechanical ventilation systems with carbon monoxide monitors as approved by the City.
- D. Routine landscaping and other yard maintenance activities. However, the operation of landscaping equipment, including but not limited to lawn mowers, lawn edgers, weed trimmers and blowers, is permitted during the following hours: 7:30 a.m. to 8:00 p.m. Monday through Friday and Saturday between the hours of 9:00 a.m. and 8:00 p.m. Any debris from landscaping or lawn maintenance activities must be maintained on the property from which it originated and not blown or otherwise left in the street or any adjoining property. Any violation of this Section will be processed as a public nuisance pursuant to Chapter 194.
- ~~E. Noise generated within any existing condominium located in the City, except as otherwise provided in Article III of this chapter. For the purpose of this exemption, noise is defined as any noise described in § 193-3.~~

Section 3. Repealer. All ordinances, or parts of ordinances in conflict herewith be, and the same, are hereby repealed.

Section 4. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 5. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the City of Sunny Isles Beach; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word, as required.

Section 6. Effective Date. This Ordinance will become effective ten (10) days after adoption at second reading.

PASSED AND ADOPTED on first reading this _____ day of May 2022.

PASSED AND ADOPTED on second reading this _____ day of June 2022.

Dana Robin Goldman, Mayor

ATTEST:

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

Mauricio Betancur, CMC, City Clerk

Edward A. Dion, City Attorney

First Reading

Second Reading

Motion: _____

Motion: _____

Second: _____

Second: _____

Vote on First Reading:

Mayor Goldman
Vice Mayor Viscarra
Commissioner Joseph
Commissioner Lama
Commissioner Stuyvesant

____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)

Vote on Second Reading:

Mayor Goldman
Vice Mayor Viscarra
Commissioner Joseph
Commissioner Lama
Commissioner Stuyvesant

____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)
____ (Yes) ____ (No)