

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber
Members of the City Commission
Alina T. Hudak, City Manager

First Reading

FROM: Rafael A. Paz, Acting City Attorney 

DATE: October 13, 2021

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE IV, ENTITLED "NOISE," BY AMENDING SECTION 46-158 THEREOF, ENTITLED "ENFORCEMENT BY CODE INSPECTORS; NOTICE OF VIOLATION; WARNINGS; RESPONSIBILITY TO PROVIDE CURRENT ADDRESS," BY ESTABLISHING AN ADDITIONAL EXCEPTION TO THE REQUIREMENT THAT A WRITTEN WARNING BE PROVIDED PRIOR TO THE ISSUANCE OF A NOTICE OF VIOLATION; AND BY AMENDING SECTION 46-159 THEREOF, ENTITLED "FINES AND PENALTIES FOR VIOLATION; APPEALS; ALTERNATE MEANS OF ENFORCEMENT," BY INCREASING THOSE CIVIL FINES TO BE IMPOSED FOR VIOLATIONS OF CHAPTER 46, ARTICLE IV; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

The proposed Ordinance (the "Ordinance"), which is sponsored by Commissioner Mark Samuelian and Co-Sponsored by Commissioner Steven Meiner, is submitted for First Reading at the October 13, 2021 meeting of the City Commission.

Without question, unreasonably loud and excessive noise has an adverse effect and significant impact upon the quality of life of the residents and visitors subjected to such nuisance conduct, and contributes to the carnival atmosphere that threatens the City's public safety.

Unreasonable or excessive noise has been a topic of concern in the City for many years, and has been discussed at various meetings of the City Commission and other public meetings. Nevertheless, and despite the proactive enforcement efforts of the City's Code Compliance and Police Departments, City residents continue to express their desire for further protection from uninvited noise which disturbs the peaceful enjoyment of their homes and the City's public spaces.

Enforcement of the City's noise ordinance against excessive noise (amplified music) emanating from **vehicular and vessel sound systems** is particularly challenging due to the inherent

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mobility of vehicles and vessels. In addition, the current requirement that a written warning (and fifteen minutes to comply) be provided prior to the issuance of a notice of violation renders the City's noise ordinance nearly unenforceable against vehicles and vessels, as vehicles and vessels often travel many miles away from the initial incident location prior to the requisite fifteen minutes having elapsed.

Moreover, the civil fines set forth in the City's noise ordinance (which are applicable to persons, residences, and businesses) have not been amended since their initial adoption in 2006.

After discussion at the Neighborhood and Quality of Life Committee ("NQLC") meeting on July 21, 2021, the City Attorney's Office was asked to prepare a legislative solution to provide for a strengthened enforcement mechanism and fine structure, in order to address the unreasonably loud and excessive noise from vehicles.

The NQLC discussed the proposed Ordinance at its September 20, 2021 meeting and provided a further recommendation that vessels, in addition to vehicles, should also be exempted from the written warning requirement prior to the issuance of a notice of violation.

Accordingly, the proposed Ordinance would authorize the immediate issuance of a notice of violation (without providing 15 minutes to comply and a prior written warning) for those noise ordinance infractions of Section 46-152(b) committed by persons in vehicles (which specifically includes bicycles, electric bicycles and motorized bicycles) and vessels. In addition, the Ordinance would incrementally increase the associated civil fines pertaining to all violations of the City's noise ordinance.

RAP/AB/MAF/bhs