

ORDINANCE NO. 1414

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 12 OF THE CITY CODE OF ORDINANCES, ENTITLED "NUISANCES", ARTICLE IV, ENTITLED "NOISES" SPECIFICALLY AT SECTION 12-15, ENTITLED "SPECIFIC PROHIBITIONS" TO PROHIBIT NOISE OUTSIDE OF THE AUTHORIZED CONSTRUCTION HOURS; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Section 12-15 of the City Code of Ordinances ("City Code") regulates noise disturbances relating to music, sounds and other noise related activities in the City of North Miami; and

WHEREAS, Chapter 5 of the City Code is being amended to implement construction regulations and to establish authorized construction hours in the residential and commercial zones; and

WHEREAS, Section 12-15(5) of the City Code of Ordinances currently allows construction noise within hours which conflict with the City Code, as amended; and

WHEREAS, the Mayor and City Council desires to amend the City Code to ensure that the construction noise hours contained in Section 12-15(5) are consistent with the authorized construction hours as listed in Chapter 5 of the City Code; and

WHEREAS, the Mayor and City Council have determined that this amendment is in the best interest of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 12 of the Code of Ordinances entitled "Nuisances", under Article IV, entitled "Noises", specifically at Section 12-15, entitled "Specific Prohibitions", to prohibit noise outside of the authorized construction hours, as follows:

CHAPTER 12. NUISANCES

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ARTICLE IV. NOISES

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Sec. 12-15. - Specific prohibitions.

The following acts, and the causing thereof, are declared to be in violation of this section:

- (1) *Radios, television sets, musical instruments and similar devices.* Operating, playing or permitting the operation or playing of any radio, television, stereo musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:
 - a. Between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone;
 - b. In such a manner as to create a noise disturbance at twenty-five (25) feet when operated in or on a motor vehicle on a public right-of-way or public space;
 - c. This section shall not apply to noncommercial spoken language covered under subsection (2) below.
- (2) *Loudspeakers and public address systems.* Using or operating for any purpose any loudspeaker, sound amplifying equipment, public address system, or similar device (1) such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or (2) between the hours of 10:00 p.m. and 7:00 a.m. the following day on a public right-of-way or public space, not including any city sponsored or sanctioned activity.
- (3) *Deliveries.* Delivery of goods, materials, wares, merchandise and articles of like nature for resale to any business, store or commercial enterprise located within one hundred (100) feet of any residential area between the hours of 10:00 p.m. and 7:00 a.m. daily.
- (4) *Loading and unloading.* Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.
- (5) *Construction.* Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work ~~between the hours of 9:00 p.m. and 8:00 a.m. the following day on weekdays or at any time on weekends or holidays~~ outside of the hours authorized in Chapter 5 of this Code, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities.
- (6) *Boat repairs and testing.* Repairing, rebuilding, modifying, or testing any boat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone between the hours 10:00 p.m. and 7:00 a.m. daily.

- (7) *Mechanical devices.* Operating any machinery, equipment, pump, fan, air-conditioning apparatus, or similar mechanical device in any manner so as to create any noise which is unreasonably loud and raucous and can be heard across the property line of any residential property.
- (8) *Commercial maintenance equipment.* The commercial operation of maintenance equipment (including but not limited to pressure cleaners, blowers, sweepers, or vacuums) which creates a plainly audible sounds within one hundred (100) feet of any residential area between the hours of 10:00 p.m. and 7:00 a.m.
- (9) *Power tools and landscaping equipment.* The operation of noise-producing lawn mowers, lawn edgers, weed trimmers, chippers, leaf blowers, chain saws, power tools, and other noise-producing tools used outdoors in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.
- (10) *Repairs and maintenance.* Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.
- (11) *Sound amplifying equipment.*
 - a. Operation or use of sound amplifying equipment, whether such equipment is fixed or movable, or is mounted upon any sound truck, so as to cause a noise disturbance across a residential real property boundary. Noncommercial public speech and public assembly activities conducted on any public right-of-way shall be exempt from the operation of this subsection unless such speech or assembly activity tends to incite an immediate breach of the peace;
 - b. The volume of sound shall be so controlled that it will not be unreasonably loud, raucous, jarring, disturbing, or a nuisance to reasonable persons of normal sensitiveness within the area of audibility.
- (12) *Sound trucks prohibited.* Operating or using the sound amplification devices of any sound truck upon any public street or right-of-way between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the next day.
- (13) *Motorboats.* Operating or permitting the operation of any un-muffled motorboat in any lake, river, stream, intracoastal waters, or other waterway in such manner which creates unnecessary or unreasonable noise which unreasonably disturbs the peace and comfort of adjacent residents or businesses.
- (14) *Canals.* Canals are hereby declared noise sensitive zones and noise restrictions provided within this chapter shall apply in canals.
- (15) *Movable mechanical equipment.* Operating or permitting the operation of any such equipment including trucks, portable generators, forklifts, cranes, pile drivers and commercial machinery and vehicles of any kind, in such a manner as to create any noise which would unreasonably loud and raucous and can be heard across the property line of any residential property between 8:00 p.m. and 7:00 a.m.
- (16) *Horns, signaling devices, etc.* The sounding of any horn, signaling device, or alarm on any motor vehicle, motorcycle or motorboat for any unnecessary and unreasonable period of time.

- (17) *False burglar alarms.* False burglar alarms as defined in this Code.
- (18) *Yelling, shouting and similar activities.* Yelling, shouting, hooting, whistling or singing in residential or noise-sensitive areas or in public places between the hours of 10:00 p.m. and 7:00 a.m. or at any time or place so as to unreasonably disturb the quiet, comfort or repose of reasonable persons of ordinary sensitivities.

Section 2. **Repeal.** All ordinances or parts of ordinances in conflict or inconsistent are hereby repealed.

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

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

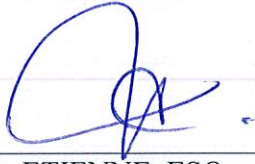
PASSED AND ADOPTED by a 4 - 1 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 11th day of April, 2017.

PASSED AND ADOPTED by a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 25th day of April, 2017.



DR. SMITH JOSEPH
MAYOR

ATTEST:



MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Desulme

Seconded by: Keys

Vote:

- Mayor Smith Joseph, D.O., Pharm. D.
- Vice Mayor Scott Galvin
- Councilwoman Carol Keys, Esq.
- Councilman Philippe Bien-Aime
- Councilman Alix Desulme

<u> X </u>	(Yes)	<u> </u>	(No)
<u> X </u>	(Yes)	<u> </u>	(No)
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<u> X </u>	(Yes)	<u> </u>	(No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.