

ORDINANCE NO. 2006-3520

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CITY CODE, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE IV, ENTITLED "NOISE," BY AMENDING SECTION 46-156, ENTITLED "TEMPORARY PERMITS," BY AMENDING THE PROCEDURES AND REQUIREMENTS FOR CONSTRUCTION ACTIVITIES AND PROVIDING EXCEPTIONS THERETO, PROHIBITING CONSTRUCTION NOISE ON SUNDAYS AND NATIONAL HOLIDAYS IN ALL NON-RESIDENTIAL ZONING DISTRICTS, EXCEPT UNDER CERTAIN CIRCUMSTANCES AND AS AUTHORIZED BY THE BUILDING OFFICIAL, PROHIBITING CONSTRUCTION IN RESIDENTIAL ZONING DISTRICTS BEFORE 10:00 A.M. AND AFTER 4:00 P.M. ON SUNDAYS AND NATIONAL HOLIDAYS AND PROHIBITING CONSTRUCTION NOISE BETWEEN 10:00 A.M. AND 4:00 P.M. ON SUNDAYS AND NATIONAL HOLIDAYS, PROVIDING PROVISIONS FOR THE VIOLATION AND REVOCATION OF TEMPORARY PERMITS, AND PROVIDING SUBHEADING TITLES TO BE ENTITLED (A) "REQUIREMENTS AND PROCEDURES," (B) "VIOLATION OF TEMPORARY PERMITS" AND (C) "REVOCATION OF TEMPORARY PERMITS;" AMENDING SECTION 46-158, ENTITLED "ENFORCEMENT BY CODE INSPECTORS; NOTICE OF VIOLATION, WARNINGS" BY AMENDING SUBSECTION (A) TO CLARIFY THE NOTICE OF VIOLATION PROVISIONS, AMENDING SUBSECTION (B)(2) TO PROVIDE CLARIFICATION AS TO THE NUMBER OF WRITTEN WARNINGS IN ALL ZONING DISTRICTS EXCEPT SINGLE FAMILY ZONING DISTRICTS; PROVIDING FOR ONE WRITTEN WARNING IN SINGLE FAMILY ZONING DISTRICTS PRIOR TO A NOTICE OF VIOLATION AND PROVIDING THAT A VIOLATION, INSTEAD OF A WRITTEN WARNING, SHALL BE ISSUED IF A VIOLATOR IS ALSO BEING CITED FOR AN ILLEGAL COMMERCIAL OR NON-PERMITTED, NON-RESIDENTIAL USE IN A RESIDENTIAL ZONING DISTRICT; AMENDING SECTION 46-159 ENTITLED "FINES AND PENALTIES FOR VIOLATION; APPEALS; ALTERNATE MEANS OF ENFORCEMENT," BY PROVIDING FINES AND PENALTIES FOR ANY OFFENSE WHICH WAS COMMITTED WHILE THE VIOLATOR WAS ALSO ENGAGED IN AN ILLEGAL COMMERCIAL OR NON-PERMITTED, NON-RESIDENTIAL USE IN A RESIDENTIAL ZONING DISTRICT; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, noise has been a topic of concern within the City of Miami Beach for many years and has recently been the subject of recent City Code amendment to address modified enforcement and legislative solutions; and

WHEREAS, the purpose of the City's Noise Ordinance is to obtain compliance with the prohibition on unnecessary and excessive noise in the City before imposing fines and other penalties; and

WHEREAS, in order to strike a balance between the concerns of the business community and residents, a warning and violation system has been developed which takes into account the diverse character of the City; and

WHEREAS, the provisions in this Ordinance will serve to further address the noise concerns of the City and its residents relative to construction projects and with regard to illegal commercial or non-permitted, non-residential, uses in residential zoning districts, to preserve the quality of life in all City neighborhoods, and to provide clarification of the City Commission's original intent relative to the enforcement of noise violations.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH AS FOLLOWS:

SECTION 1. That Section 46-156 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Chapter 46

ENVIRONMENT

* * *

ARTICLE IV. NOISE

* * *

Sec. 46-156. Temporary permits.

(a) Requirements and Procedures

The City manager is authorized to issue a temporary permit to allow noise when produced by a temporary use or activity as provided in this section. The City manager may prescribe any reasonable conditions necessary to minimize any adverse effect upon

the community. A permit granted under this article shall contain all conditions upon which the permit has been granted, including the period of time for which the permit has been granted. Such relief may be granted in the following situations:

- (1) *Code compliance in progress.* When an applicant is utilizing best efforts to comply with the noise restrictions in this article, but additional time is required for the applicant to modify his activity to comply and no reasonable alternative is available to the applicant, such permits may be granted for a period of time not to exceed ten consecutive days.

- (2) *Construction.* When construction activities pursuant to a valid building permit cannot be carried out in a manner which would comply with section 46-152, notwithstanding that all equipment is operated in accordance with manufacturer's specifications, is in good repair and utilizes all noise baffling methods as specified by the manufacturer, such activities shall occur only as follows:
 - a. Between the hours of 7:30 a.m. and 6:30 p.m., and between the hours of 7:30 a.m. and 7:30 p.m. during daylight savings time, on any day in areas zoned as CCC, GU, I-1, MR, CPS-1, CPS-2, CPS-3, CPS-4, ~~RO~~, WD-1, WD-2, GC, HD, MXE, CD-1, CD-2 and CD-3. No eConstruction noise that violates section 46-152 shall not be permitted on Sundays or on national holidays in the zoning districts set forth in this subsection. However, the City manager may authorize any necessary construction activities to occur earlier and/or later than as otherwise provided in this subsection based upon a finding that 1) there are no reasonable alternatives, and 2) there are no prior code violation adjudications or fines and no pending construction noise violation cases against the property owner, contractor, or the construction site, and 3) all permitted construction days and hours are already being fully utilized in accordance with industry standards and practice and/or in recognition of community needs, including but not limited to traffic flows for which a particular sequencing of construction is necessitated there is a significant community need, public purpose or benefit. The work authorized by the City manager may be conditioned upon reasonable notice to surrounding property owners and tenants. Permits issued pursuant to such authorization shall not exceed seven consecutive days. No construction shall be permitted on Sundays or on national holidays in the zoning districts set forth in this subsection, notwithstanding compliance with Section 46-152.

 - b. Between the hours of 8:00 a.m. and 6:00 p.m. on weekdays and 10:00 a.m. and 4:00 p.m. on Saturdays in areas zoned as RM-1, RM-2, RM-3, RM-PRD, RPS-1, RPS-2, RPS-3, RPS-4, RMPS-1, RS-1, RS-2, RS-3, RS-4, ~~RO~~, TH and in any exclusively residential zoning district not otherwise specified in this subsection and within three hundred feet of any of these zoning districts. No construction shall be permitted on Sundays or on national holidays in the

~~zoning districts set forth in this subsection or within 300 feet thereof. On Sundays and national holidays, construction shall not be permitted before 10:00 a.m. or after 4:00 p.m. and construction noise that violates section 46-152 shall not be permitted between 10:00 a.m. and 4:00 p.m. in the zoning districts set forth in this subsection or within 300 feet thereof, except that in buildings with occupied apartment units, as defined in section 114-1 of this Code, no construction shall be allowed on Sundays or national holidays. However, the City manager may authorize any necessary construction activities to occur earlier and/or later than as otherwise provided in this subsection based upon a finding that 1) there are no reasonable alternatives, and 2) there are no prior code violation adjudications or fines and no pending construction noise violation cases against the property owner, contractor, or construction site, and 3) all permitted construction days and hours are already being fully utilized in accordance with industry standards and practice and/or in recognition of community needs, including but not limited to traffic flows, a particular sequencing of construction is necessitated there is a significant community need, public purpose or benefit.~~ The work authorized by the City manager may be conditioned upon reasonable notice to surrounding property owners and tenants. Permits issued pursuant to such authorization shall not exceed three consecutive days. ~~No construction shall be permitted on Sundays or on national holidays in the zoning districts set forth in this subsection, notwithstanding compliance with section 46-152.~~

- c. The issuance of a temporary permit is a privilege and does not constitute a right or expectation that said permit will remain in effect. Any permits issued pursuant to (2)a-b, shall not constitute or be deemed precedent for the granting of any future permits.
- d. Notwithstanding the provisions of (2)a-b., temporary permits shall be subject to authorization by the building official under emergency circumstances or when the Florida Building Code requires official determines that for reasons of technical necessity work earlier or later than the time frames specified in (2)a-b or on any day (including Sundays or national holidays), temporary permits shall be subject to authorization by the building official is required. The work authorized by the building official pursuant to this subsection may shall be conditioned upon reasonable notice to surrounding property owners and tenants.

(3) *Special events and film and print permits.* A film permit issued pursuant to section 12-1, or a special event permit issued pursuant to section 12-5 may be exempted from the requirements of section 46-152 upon specific compliance with sections 12-1(9) or 12-5(8), as applicable.

(b) Violation of Temporary Permit

Failure to comply with any condition of a temporary permit issued pursuant to this section shall constitute a violation and shall result in enforcement procedures and penalties as set forth in sections 46-159 and 46-160.

(c) Revocation of Temporary Permits

Any temporary permit may be immediately revoked pursuant to the procedures set forth in sections 102-383 and 102-385 if the City Manager finds that an emergency condition exists involving serious danger to the public health, safety, or welfare; if the permit holder failed to disclose or misrepresented material information in the permit application or in the permit application process; or that there was a failure to comply with any condition of a particular temporary permit.

SECTION 2. That Section 46-158 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-158. Enforcement by code inspectors; notice of violation; warnings.

(a) Notice of Violation. If the code inspector observes a violation of this article, the inspector shall issue a notice of violation to the violator, and a courtesy copy of the violation shall be provided to the occupational license holder, except as otherwise provided in subsection (b), and inform the violator that he must immediately cease the violation ~~and that the violator will be subject to penalties if the violation continues and that a notice of violation will be issued to the violator as provided in Chapter 30 of this Code.~~ The notice shall ~~inform the violator of the~~ include the following information:

- (1) Name of the violator.
- (2) Date and time of violation.
- (3) Nature of the violation.
- (4) Amount of fine or other penalty for which the violator may be liable pursuant to section 46-159 of this Code or as otherwise provided by law.
- (5) Instructions and due date for paying the fine.
- (6) Notice that the violation may be appealed by filing a written request for an administrative hearing with the clerk of the special master within ten days after service of the notice of violation, that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing, and that unpaid fines will result in the imposition of liens which may be foreclosed by the city.

The notice shall also inform the violator that repeat violations of this article will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license, and/or certificate of use, or accessory use, and/or injunctive proceedings as provided by law. The notice shall be signed by the code inspector who witnessed the violation.

(b) Warnings.

(1) Oral Warnings

If a code inspector observes a violation of this article without a complaint having been made, the inspector may first issue one oral courtesy warning per day and inform the violator that the violator will be subject to penalties if the violation continues.

(2) Written Warnings

A code inspector shall first issue a written warning to immediately cease the violation prior to issuing a notice of violation; ~~if no more than~~

a) unless three written warnings have been issued in the 12 months preceding the date of violation and the violation occurs in any zoning district except a single family zoning district; or

b) unless one written warning has been issued in the 12 months preceding the date of violation and the violation occurs in a single family zoning district.

The written warning shall be substantially in the same form as the notice of violation as stated in section 46-158 (a) above. Failure to correct the violation within fifteen minutes following the issuance of a written or oral warning, shall result in the issuance of a notice of violation pursuant to this Article.

A Code Inspector shall not issue a written warning, and instead shall issue a notice of violation, to any person, entity or establishment who: 1) in any one day has already been issued a written warning as specified in 46-158 or 2) in any 12 month period has exceeded ~~any of the three~~ warning limits specified in 46-158(b)(2) or 3) is also being cited for an illegal commercial or non-permitted non-residential use in a residential zoning district.

(c) Owner's Responsibility to Provide Current Address.

The holder of the occupational license for the premises where a violation or warning is issued shall have the responsibility to keep the City advised of the current address of the owner of the premises.

SECTION 4. That Section 46-159 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-159. Fines and penalties for violation; appeals; alternate means of enforcement.

(a) *Fines and penalties.* The following civil fines and penalties shall be imposed for violations of this chapter:

- (1) If the offense is the first offense, \$250.00 fine.
- (2) If the offense is the second offense within the preceding 18 months, \$1,000.00 fine.
- (3) If the offense is the third offense within the preceding 18 months, \$2,000.00 fine.
- (4) If the offense is the fourth offense within the preceding 18 months, one weekend (noon Friday through noon Monday) occupational license conditions and/or accessory use restrictions shall be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violation, in addition to a \$3,000.00 fine.
- (5) If the offense is the fifth offense within the preceding 18 months, two weekend (noon Friday through noon Monday) occupational license conditions and/or accessory use restrictions shall be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violation, in addition to a \$5,000.00 fine.
- (6) If the offense is the sixth or greater offense within the preceding 18 months, it shall be considered an habitual offender offense with penalties and fines imposed pursuant to Section 46-159(h).
- (7) The first time an offense is committed while the violator was also engaged in an illegal commercial or non-permitted, non-residential use in a residential zoning district, \$1,000.00, notwithstanding the fine provision in (1) above.
- (8) The second or any subsequent time an offense is committed while the violator was also engaged in an illegal commercial or non-permitted, non-residential use in a residential zoning district, \$5,000.00, notwithstanding the fine provisions in (2)-(4) above.

* * *

SECTION 5. CODIFICATION

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. REPEALER

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

SECTION 7. SEVERABILITY

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 8. EFFECTIVE DATE

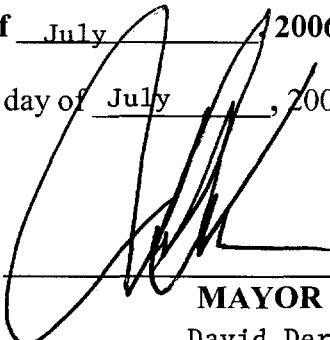
PASSED and ADOPTED this 12th day of July, 2006.

This Ordinance shall take effect on the 22nd day of July, 2006.

ATTEST:




CITY CLERK
Robert Parcher



MAYOR
David Dermer

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

7/24/06

Date

Condensed Title:

An Ordinance amending the Noise Ordinance to address Sunday Construction Noise, Temporary Construction Noise Permits and Written Warnings in Single Family Zoning Districts.

Key Intended Outcome Supported:

Increase resident satisfaction with level of code enforcement.

Issue:

Shall the City Commission approve amendments to the Noise Ordinance regarding Construction Noise and Written Warnings in Single Family Zoning Districts?

Item Summary/Recommendation:

At the June 7, 2006 City Commission meeting, the City Commission approved the First Reading of an Ordinance amending several sections of the Noise Ordinance and provided direction and clarification on a number of the issues presented within the Ordinance.

The Noise Ordinance incorporates the following amendments:

- Sunday Construction Activity and Noise in Commercial Districts
- Sunday Construction Activity and Noise in Residential Zoning Districts
- Requirement to Use All Available Construction Hours Before an Expansion of Hours or Exemption for Excessive Noise Would be Granted
- Building Official Emergency Construction Approval of Temporary Noise Permits
- Revocation of Temporary Noise Permits
- Clarification of the Number of Warnings
- Written Warnings Permitted in Single Family Zoning Districts

With the exception of one provision dealing with construction noise and activities in residential zoning districts, all of the other items in the Ordinance have been discussed and approved and/or requested by members of the City Commission. The complete Ordinance serves to both clarify and fine tune the Noise Ordinance so that it can be used more effectively within the community and pursuant to the policy guidance provided by the members of the City Commission. If the provision that is suggested for the City Commission consideration that addresses both construction activities and construction generated noise in residential districts on Sundays and National Holidays correctly captures the Commission sentiment, action on the full Ordinance can be taken. If the Sunday noise section is unclear or does not correctly capture the desired policy of the City Commission, opening and continuing the item to allow a more detailed committee discussion may be desirable.

Advisory Board Recommendation:

N/A

Financial Information:


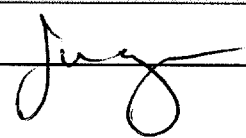
Source of Funds:		Amount	Account	Approved
OBPI	1			
	2			
	Total			

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Robert C. Middaugh

Sign-Offs:

Department Director	Assistant City Manager	City Manager
		

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

**PUBLIC HEARING
SECOND READING**

DATE: July 12, 2006

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CITY CODE, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE IV, ENTITLED "NOISE," BY AMENDING SECTION 46-156, ENTITLED "TEMPORARY PERMITS," BY AMENDING THE PROCEDURES AND REQUIREMENTS FOR CONSTRUCTION ACTIVITIES AND PROVIDING EXCEPTIONS THERETO, PROHIBITING CONSTRUCTION NOISE ON SUNDAYS AND NATIONAL HOLIDAYS IN ALL NON-RESIDENTIAL ZONING DISTRICTS, EXCEPT UNDER CERTAIN CIRCUMSTANCES AND AS AUTHORIZED BY THE BUILDING OFFICIAL, PROHIBITING CONSTRUCTION IN RESIDENTIAL ZONING DISTRICTS BEFORE 10:00 A.M. AND AFTER 4:00 P.M. ON SUNDAYS AND NATIONAL HOLIDAYS AND PROHIBITING CONSTRUCTION NOISE BETWEEN 10:00 A.M. AND 4:00 P.M. ON SUNDAYS AND NATIONAL HOLIDAYS, PROVIDING PROVISIONS FOR THE VIOLATION AND REVOCATION OF TEMPORARY PERMITS, AND PROVIDING SUBHEADING TITLES TO BE ENTITLED (A) "REQUIREMENTS AND PROCEDURES," (B) "VIOLATION OF TEMPORARY PERMITS" AND (C) "REVOCATION OF TEMPORARY PERMITS;" AMENDING SECTION 46-158, ENTITLED "ENFORCEMENT BY CODE INSPECTORS; NOTICE OF VIOLATION, WARNINGS" BY AMENDING SUBSECTION (A) TO CLARIFY THE NOTICE OF VIOLATION PROVISIONS, AMENDING SUBSECTION (B)(2) TO PROVIDE CLARIFICATION AS TO THE NUMBER OF WRITTEN WARNINGS IN ALL ZONING DISTRICTS EXCEPT SINGLE FAMILY ZONING DISTRICTS; PROVIDING FOR ONE WRITTEN WARNING IN SINGLE FAMILY ZONING DISTRICTS PRIOR TO A NOTICE OF VIOLATION AND PROVIDING THAT A VIOLATION, INSTEAD OF A WRITTEN WARNING, SHALL BE ISSUED IF A VIOLATOR IS ALSO BEING CITED FOR AN ILLEGAL COMMERCIAL OR NON-PERMITTED, NON-RESIDENTIAL USE IN A RESIDENTIAL ZONING DISTRICT; AMENDING SECTION 46-159 ENTITLED "FINES AND PENALTIES FOR VIOLATION; APPEALS; ALTERNATE MEANS OF ENFORCEMENT," BY PROVIDING FINES AND PENALTIES FOR ANY OFFENSE WHICH WAS COMMITTED WHILE THE VIOLATOR WAS ALSO ENGAGED IN AN ILLEGAL COMMERCIAL OR NON-PERMITTED, NON-RESIDENTIAL USE IN A RESIDENTIAL ZONING DISTRICT; PROVIDING FOR CODIFICATION,

ADMINISTRATION RECOMMENDATION

Adopt the Ordinance.

ANALYSIS

At the June 7, 2006 City Commission meeting, the City Commission approved the First Reading of an Ordinance amending several sections of the Noise Ordinance and provided direction and clarification on a number of the issues presented within the Ordinance. While most of the items were addressed and resolved by the members of the City Commission at the First Reading, the members of the City Commission provided general direction on the subject of construction noise permitted on Sundays with the expectation that the subject would be further discussed and clarified at a scheduled meeting of the Neighborhoods/Community Affairs Committee meeting. Unfortunately, the scheduled meeting of the Neighborhoods/Community Affairs Committee meeting was cancelled due to scheduling conflicts.

As a first consideration the members of the City Commission should determine if opening and continuing the Second Reading to allow for a more in depth committee discussion is necessary before considering an amendment relative to construction related noise on Sundays.

While the Ordinance contains a number of operationally valuable considerations and in some cases clarification, in the event the members of the City Commission wished to open and continue this item it is not anticipated that any lasting or severe impacts would result from this action. Second Reading consideration would be delayed until the September meeting of the City Commission.

In the event the Sunday construction noise language that is suggested addresses the City Commission's concerns, it is preferable to have the item taken up and approved.

The Noise Ordinance incorporates the following amendments:

- Sunday Construction Activity and Noise in Commercial Districts

Section 46-156 (2) a, has been amended to include a prohibition for construction noise that exceeds the limits established within the Noise Ordinance on Sundays or National Holidays. This is a new requirement and it has been clarified from the First Reading to specifically reflect construction noise and not construction activity per se.

- Sunday Construction Activity and Noise in Residential Zoning Districts

Section 46-156 (2) b has been amended to clarify that construction activities are not permitted before 10:00 a.m. or after 4:00 p.m. and construction related noise shall not be permitted between 10:00 a.m. and 4:00 p.m. This amendment attempts to recognize the balance which the City Commission discussed of both a time of peace and quiet on Sundays and National Holidays and to recognize that there are numerous and legitimate construction activities undertaken by private homeowners in residential districts during weekends. This language would allow typical homeowner activities that are not generally noise producing to occur as they now do in residential districts of the City between the hours of 10:00 a.m. and 4:00 p.m. on Sundays. Construction activity is only prohibited in residential districts on Sunday's before 10:00 a.m. and after 4:00 p.m.

This specific provision is one which the Commission members had expected to discuss in Committee before the Second Reading; however, this language attempts to address the balance desired by the City Commissioners and may be clear enough as presented. If the Commission policy concerns are appropriately addressed by the

suggested language then the Committee discussion may not be necessary.

- Requirement to Use All Available Construction Hours Before an Expansion of Hours or Exemption for Excessive Noise Would be Granted

Section 46-156 (2) a and b has been amended to include a provision that requires any property owner in either commercial or residential districts to use all of the available hours permitted within the Ordinance before requesting and being granted an expansion or an exemption for extra hours or time to engage in noise producing construction. The language has been expanded pursuant to the City Commission discussion to recognize that there might be legitimate community needs such as the 63rd Street Flyover Project that might actually necessitate and make advantageous a change in the allowable hours without fully utilizing the total available.

- Building Official Emergency Construction Approval of Temporary Noise Permits

Section 46-156 (a) (2) d has been amended to allow an expanded grant of authority to the Building Official to grant temporary Noise Permits on any day under emergency circumstances. The Section also allows the Building Official to require a permit holder to notify surrounding property owners or residents.

- Revocation of Temporary Noise Permits

Section 46-156 (c) has been added to allow any temporary permit for Noise generation to be revoked in the event there is an emergency condition or if there is information that has been improperly or incompletely disclosed relative to the permit.

- Clarification of the Number of Warnings

Section 46-158 (b)(2)a has been amended to clearly reflect that only three (3) and not four (4) written warnings are permitted in advance of a violation being issued for excessive noise.

- Written Warnings Permitted in Single Family Zoning Districts

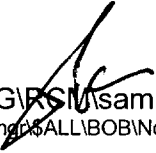
Section 46-158(b) (2)b has been added at the specific direction of the City Commission to provide that only one (1) written warning is available in a twelve (12) month period of time for Noise violations occurring within single family zoning districts of the City.

Section 46-150(b)(2) and a companion amendment in Section 46-159(a)(7)and (8) have been added to recognize that illegal commercial or non permitted non residential use in residential zoning district would be penalized in the first instance at \$1,000.00 for an offense; the penalty for any second or subsequent offense is set at \$5,000.00.

CONCLUSION

With the exception of one provision dealing with construction noise and activities in residential zoning districts, all of the other items in the Ordinance have been discussed and approved and/or requested by members of the City Commission. The complete Ordinance serves to both clarify and fine tune the Noise Ordinance so that it can be used more

effectively within the community and pursuant to the policy guidance provided by the members of the City Commission. If the provision that is suggested for the City Commission consideration that addresses both construction activities and construction generated noise in residential districts on Sundays and National Holidays correctly captures the Commission sentiment, action on the full Ordinance can be taken. If the Sunday noise section is unclear or does not correctly capture the desired policy of the City Commission, opening and continuing the item to allow a more detailed committee discussion may be desirable.



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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager *For IMG [Signature]*

DATE: July 12, 2006

SUBJECT: **SUPPLEMENT TO - AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CITY CODE, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE IV, ENTITLED "NOISE," BY AMENDING SECTION 46-156, ENTITLED "TEMPORARY PERMITS," BY AMENDING THE PROCEDURES AND REQUIREMENTS FOR CONSTRUCTION ACTIVITIES AND PROVIDING EXCEPTIONS THERETO, PROHIBITING CONSTRUCTION NOISE ON SUNDAYS AND NATIONAL HOLIDAYS IN ALL NON-RESIDENTIAL ZONING DISTRICTS, EXCEPT UNDER CERTAIN CIRCUMSTANCES AND AS AUTHORIZED BY THE BUILDING OFFICIAL, PROHIBITING CONSTRUCTION IN RESIDENTIAL ZONING DISTRICTS BEFORE 10:00 A.M. AND AFTER 4:00 P.M. ON SUNDAYS AND NATIONAL HOLIDAYS AND PROHIBITING CONSTRUCTION NOISE BETWEEN 10:00 A.M. AND 4:00 P.M. ON SUNDAYS AND NATIONAL HOLIDAYS, PROVIDING PROVISIONS FOR THE VIOLATION AND REVOCATION OF TEMPORARY PERMITS, AND PROVIDING SUBHEADING TITLES TO BE ENTITLED (A) "REQUIREMENTS AND PROCEDURES," (B) "VIOLATION OF TEMPORARY PERMITS" AND (C) "REVOCATION OF TEMPORARY PERMITS;" AMENDING SECTION 46-158, ENTITLED "ENFORCMENT BY CODE INSPECTORS; NOTICE OF VIOLATION, WARNINGS" BY AMENDING SUBSECTION (A) TO CLARIFY THE NOTICE OF VIOLATION PROVISIONS, AMENDING SUBSECTION (B)(2) TO PROVIDE CLARIFICATION AS TO THE NUMBER OF WRITTEN WARNINGS IN ALL ZONING DISTRICTS EXCEPT SINGLE FAMILY ZONING DISTRICTS; PROVIDING FOR ONE WRITTEN WARNING IN SINGLE FAMILY ZONING DISTRICTS PRIOR TO A NOTICE OF VIOLATION AND PROVIDING THAT A VIOLATION, INSTEAD OF A WRITTEN WARNING, SHALL BE ISSUED IF A VIOLATOR IS ALSO BEING CITED FOR AN ILLEGAL COMMERCIAL OR NON-PERMITTED, NON-RESIDENTIAL USE IN A RESIDENTIAL ZONING DISTRICT; AMENDING SECTION 46-159 ENTITLED "FINES AND PENALTIES FOR VIOLATION; APPEALS; ALTERNATE MEANS OF ENFORCEMENT," BY PROVIDING FINES AND PENALTIES FOR ANY OFFENSE WHICH WAS COMMITTED WHILE THE VIOLATOR WAS ALSO ENGAGED IN AN ILLEGAL COMMERCIAL OR NON-PERMITTED, NON-RESIDENTIAL USE IN A RESIDENTIAL ZONING DISTRICT; PROVIDING FOR CODIFICATION,**

Agenda Item RSD
Date 7-12-06

Attached please find suggested revisions to the Noise Ordinance that is before the City Commission as item **R5D** on the July 12, 2006 agenda. **The attached Ordinance is suggested in lieu of the original Commission agenda item.**

The changes have been suggested in order to make reading and subsequent enforcement easier.

Suggested changes do not change either intent or requirements identified in the First Reading version and include:

- In both the commercial and residential zoning districts a simplification of the standard relating to fully utilizing available hours for a temporary noise permit is suggested. The revised language is easier to read and apply and will still capture the Commission intent of not allowing added construction time for convenience. The reasonable alternatives and the newly revised community needs standard will address the Commission concern fully.
- The section on the Building Officials ability to grant temporary permits has been clarified to more easily express the original intent of an emergency condition or when a construction technical necessity exists.
- The section on the Building Officials ability to grant temporary permits has also been modified to change the notice of a temporary permit from may to shall.

A version of the Ordinance that tracks the suggested language change is included for ease of reference.

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ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CITY CODE, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE IV, ENTITLED "NOISE," BY AMENDING SECTION 46-156, ENTITLED "TEMPORARY PERMITS," BY AMENDING THE PROCEDURES AND REQUIREMENTS FOR CONSTRUCTION ACTIVITIES AND PROVIDING EXCEPTIONS THERETO, PROHIBITING CONSTRUCTION NOISE ON SUNDAYS AND NATIONAL HOLIDAYS IN ALL NON-RESIDENTIAL ZONING DISTRICTS, EXCEPT UNDER CERTAIN CIRCUMSTANCES AND AS AUTHORIZED BY THE BUILDING OFFICIAL, PROHIBITING CONSTRUCTION IN RESIDENTIAL ZONING DISTRICTS BEFORE 10:00 A.M. AND AFTER 4:00 P.M. ON SUNDAYS AND NATIONAL HOLIDAYS AND PROHIBITING CONSTRUCTION NOISE BETWEEN 10:00 A.M. AND 4:00 P.M. ON SUNDAYS AND NATIONAL HOLIDAYS, PROVIDING PROVISIONS FOR THE VIOLATION AND REVOCATION OF TEMPORARY PERMITS, AND PROVIDING SUBHEADING TITLES TO BE ENTITLED (A) "REQUIREMENTS AND PROCEDURES," (B) "VIOLATION OF TEMPORARY PERMITS" AND (C) "REVOCATION OF TEMPORARY PERMITS;" AMENDING SECTION 46-158, ENTITLED "ENFORCEMENT BY CODE INSPECTORS; NOTICE OF VIOLATION, WARNINGS" BY AMENDING SUBSECTION (A) TO CLARIFY THE NOTICE OF VIOLATION PROVISIONS, AMENDING SUBSECTION (B)(2) TO PROVIDE CLARIFICATION AS TO THE NUMBER OF WRITTEN WARNINGS IN ALL ZONING DISTRICTS EXCEPT SINGLE FAMILY ZONING DISTRICTS; PROVIDING FOR ONE WRITTEN WARNING IN SINGLE FAMILY ZONING DISTRICTS PRIOR TO A NOTICE OF VIOLATION AND PROVIDING THAT A VIOLATION, INSTEAD OF A WRITTEN WARNING, SHALL BE ISSUED IF A VIOLATOR IS ALSO BEING CITED FOR AN ILLEGAL COMMERCIAL OR NON-PERMITTED, NON-RESIDENTIAL USE IN A RESIDENTIAL ZONING DISTRICT; AMENDING SECTION 46-159 ENTITLED "FINES AND PENALTIES FOR VIOLATION; APPEALS; ALTERNATE MEANS OF ENFORCEMENT," BY PROVIDING FINES AND PENALTIES FOR ANY OFFENSE WHICH WAS COMMITTED WHILE THE VIOLATOR WAS ALSO ENGAGED IN AN ILLEGAL COMMERCIAL OR NON-PERMITTED, NON-RESIDENTIAL USE IN A RESIDENTIAL ZONING DISTRICT; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, noise has been a topic of concern within the City of Miami Beach for many years and has recently been the subject of recent City Code amendment to address modified enforcement and legislative solutions; and

WHEREAS, the purpose of the City's Noise Ordinance is to obtain compliance with the prohibition on unnecessary and excessive noise in the City before imposing fines and other penalties; and

WHEREAS, in order to strike a balance between the concerns of the business community and residents, a warning and violation system has been developed which takes into account the diverse character of the City; and

WHEREAS, the provisions in this Ordinance will serve to further address the noise concerns of the City and its residents relative to construction projects and with regard to illegal commercial or non-permitted, non-residential, uses in residential zoning districts, to preserve the quality of life in all City neighborhoods, and to provide clarification of the City Commission's original intent relative to the enforcement of noise violations.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH AS FOLLOWS:

SECTION 1. That Section 46-156 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Chapter 46

ENVIRONMENT

* * *

ARTICLE IV. NOISE

* * *

Sec. 46-156. Temporary permits.

(a) Requirements and Procedures

The City manager is authorized to issue a temporary permit to allow noise when produced by a temporary use or activity as provided in this section. The City manager may prescribe any reasonable conditions necessary to minimize any adverse effect upon

the community. A permit granted under this article shall contain all conditions upon which the permit has been granted, including the period of time for which the permit has been granted. Such relief may be granted in the following situations:

(1) *Code compliance in progress.* When an applicant is utilizing best efforts to comply with the noise restrictions in this article, but additional time is required for the applicant to modify his activity to comply and no reasonable alternative is available to the applicant, such permits may be granted for a period of time not to exceed ten consecutive days.

(2) *Construction.* When construction activities pursuant to a valid building permit cannot be carried out in a manner which would comply with section 46-152, notwithstanding that all equipment is operated in accordance with manufacturer's specifications, is in good repair and utilizes all noise baffling methods as specified by the manufacturer, such activities shall occur only as follows:

a. Between the hours of 7:30 a.m. and 6:30 p.m., and between the hours of 7:30 a.m. and 7:30 p.m. during daylight savings time, on any day in areas zoned as CCC, GU, I-1, MR, CPS-1, CPS-2, CPS-3, CPS-4, RO, WD-1, WD-2, GC, HD, MXE, CD-1, CD-2 and CD-3. ~~No construction noise shall be permitted on Sundays or on national holidays in the zoning districts set forth in this subsection.~~ However, the City manager may authorize any necessary construction activities to occur earlier and/or later than as otherwise provided in this subsection based upon a finding that 1) there are no reasonable alternatives, and 2) there are no prior code violation adjudications or fines and no pending construction noise violation cases against the property owner, contractor, or the construction site, and 3) There is a significant community need, public purpose or benefit. The work authorized by the City manager may be conditioned upon reasonable notice to surrounding property owners and tenants. Permits issued pursuant to such authorization shall not exceed seven consecutive days. ~~No construction shall be permitted on Sundays or on national holidays in the zoning districts set forth in this subsection, notwithstanding compliance with Section 46-152.~~

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b. Between the hours of 8:00 a.m. and 6:00 p.m. on weekdays and 10:00 a.m. and 4:00 p.m. on Saturdays in areas zoned as RM-1, RM-2, RM-3, RM-PRD, RPS-1, RPS-2, RPS-3, RPS-4, RMPS-1, RS-1, RS-2, RS-3, RS-4, TH and in any exclusively residential zoning district not otherwise specified in this subsection and within three hundred feet of any of these zoning districts. ~~No construction shall be permitted on Sundays or on national holidays in the zoning districts set forth in this subsection or within 300 feet thereof.~~ On Sundays and national holidays, construction shall not be permitted before 10:00 a.m. or after 4:00 p.m. and construction noise shall not be permitted between 10:00 a.m. and 4:00 p.m. in the zoning districts set forth in this subsection or within 300 feet thereof. However, the City manager may authorize any necessary construction activities to occur earlier and/or later

than as otherwise provided in this subsection based upon a finding that 1) there are no reasonable alternatives, ~~and~~ 2) there are no prior code violation adjudications or fines and no pending construction noise violation cases against the property owner, contractor, or construction site, ~~and~~ 3) there is a significant community need, public purpose or benefit. The work authorized by the City manager may be conditioned upon reasonable notice to surrounding property owners and tenants. Permits issued pursuant to such authorization shall not exceed three consecutive days. ~~No construction shall be permitted on Sundays or on national holidays in the zoning districts set forth in this subsection, notwithstanding compliance with section 46-152.~~

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c. The issuance of a temporary permit is a privilege and does not constitute a right or expectation that said permit will remain in effect. Any permits issued pursuant to (2)a-b, shall not constitute or be deemed precedent for the granting of any future permits.

d. Notwithstanding the provisions of (2)a-b, temporary permits shall be subject to authorization by the building official under emergency circumstances or when the Building Official determines that for reasons of technical necessity, work earlier or later than the time frames specified in (2)a-b or on any day (including Sundays or national holidays) is required. The work authorized by the building official pursuant to this subsection shall be conditioned upon reasonable notice to surrounding property owners and tenants.

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(3) Special events and film and print permits. A film permit issued pursuant to section 12-1, or a special event permit issued pursuant to section 12-5 may be exempted from the requirements of section 46-152 upon specific compliance with sections 12-1(9) or 12-5(8), as applicable.

(b) Violation of Temporary Permit

Failure to comply with any condition of a temporary permit issued pursuant to this section shall constitute a violation and shall result in enforcement procedures and penalties as set forth in sections 46-159 and 46-160.

(c) Revocation of Temporary Permits

Any temporary permit may be immediately revoked pursuant to the procedures set forth in sections 102-383 and 102-385 if the City Manager finds that an emergency condition exists involving serious danger to the public health, safety, or welfare; if the permit holder failed to disclose or misrepresented material information in the permit application

or in the permit application process; or that there was a failure to comply with any condition of a particular temporary permit.

SECTION 2. That Section 46-158 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-158. Enforcement by code inspectors; notice of violation; warnings.

(a) Notice of Violation. If the code inspector observes a violation of this article, the inspector shall issue a notice of violation to the violator, and a courtesy copy of the violation shall be provided to the occupational license holder, except as otherwise provided in subsection (b), and inform the violator that he must immediately cease the violation ~~and that the violator will be subject to penalties if the violation continues and that a notice of violation will be issued to the violator as provided in Chapter 30 of this Code.~~ The notice shall ~~inform the violator of the~~ include the following information:

- (1) Name of the violator.
- (2) Date and time of violation.
- (3) Nature of the violation.
- (4) Amount of fine or other penalty for which the violator may be liable pursuant to section 46-159 of this Code or as otherwise provided by law.
- (5) Instructions and due date for paying the fine.
- (6) Notice that the violation may be appealed by filing a written request for an administrative hearing with the clerk of the special master within ten days after service of the notice of violation, that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing, and that unpaid fines will result in the imposition of liens which may be foreclosed by the city.

The notice shall also inform the violator that repeat violations of this article will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on an occupational license, and/or certificate of use, or accessory use, and/or injunctive proceedings as provided by law. The notice shall be signed by the code inspector who witnessed the violation.

(b) Warnings.

- (1) Oral Warnings

If a code inspector observes a violation of this article without a complaint having been made, the inspector may first issue one oral courtesy warning per day and inform the violator that the violator will be subject to penalties if the violation continues.

(2) Written Warnings

A code inspector shall first issue a written warning to immediately cease the violation prior to issuing a notice of violation; ~~if no more than~~

a) unless three written warnings have been issued in the 12 months preceding the date of violation and the violation occurs in any zoning district except a single family zoning district; or

b) unless one written warning has been issued in the 12 months preceding the date of violation and the violation occurs in a single family zoning district.

The written warning shall be substantially in the same form as the notice of violation as stated in section 46-158 (a) above. Failure to correct the violation within fifteen minutes following the issuance of a written or oral warning; shall result in the issuance of a notice of violation pursuant to this Article.

A ~~C~~code ~~I~~nspector shall not issue a written warning, and instead shall issue a notice of violation, to any person, entity or establishment who: 1) in any one day has already been issued a written warning as specified in 46-158 or 2) in any 12 month period has exceeded ~~any of the three~~ warning limits specified in 46-158(b)(2) or 3) is also being cited for an illegal commercial or non-permitted non-residential use in a residential zoning district.

(c) Owner's Responsibility to Provide Current Address.

The holder of the occupational license for the premises where a violation or warning is issued shall have the responsibility to keep the ~~C~~city advised of the current address of the owner of the premises.

SECTION 4. That Section 46-159 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-159. Fines and penalties for violation; appeals; alternate means of enforcement.

(a) *Fines and penalties.* The following civil fines and penalties shall be imposed for violations of this chapter:

(1) If the offense is the first offense, \$250.00 fine.

- (2) If the offense is the second offense within the preceding 18 months, \$1,000.00 fine.
- (3) If the offense is the third offense within the preceding 18 months, \$2,000.00 fine.
- (4) If the offense is the fourth offense within the preceding 18 months, one weekend (noon Friday through noon Monday) occupational license conditions and/or accessory use restrictions shall be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violation, in addition to a \$3,000.00 fine.
- (5) If the offense is the fifth offense within the preceding 18 months, two weekend (noon Friday through noon Monday) occupational license conditions and/or accessory use restrictions shall be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violation, in addition to a \$5,000.00 fine.
- (6) If the offense is the sixth or greater offense within the preceding 18 months, it shall be considered an habitual offender offense with penalties and fines imposed pursuant to Section 46-159(h).
- (7) The first time an offense is committed while the violator was also engaged in an illegal commercial or non-permitted, non-residential use in a residential zoning district, \$1,000.00, notwithstanding the fine provision in (1) above.
- (8) The second or any subsequent time an offense is committed while the violator was also engaged in an illegal commercial or non-permitted, non-residential use in a residential zoning district, \$5,000.00, notwithstanding the fine provisions in (2)-(4) above.

* * *

SECTION 5. CODIFICATION

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. REPEALER

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

SECTION 7. SEVERABILITY

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 8. EFFECTIVE DATE

PASSED and ADOPTED this ____ day of _____, 2006.

This Ordinance shall take effect on the ____ day of _____, 2006.

ATTEST:

MAYOR

CITY CLERK

NOTICE IS HEREBY given that public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, July 12, 2006**, to consider the following:

10:20 a.m.

An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article IV, "Conditional Use Procedure," By Creating Review Guidelines For New Structures 50,000 Square Feet And Over.

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:40 a.m.

An Ordinance Amending Ordinance No.789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, Providing For The Classifications In Group V, Being Those Classifications Covered By The Government Supervisors Association Of Florida, Opieu Local 100, (GSAF), In Accordance With The Negotiated Agreement; Retroactively Effective In The First Pay Period Ending In October Of 2003, There Shall Be An Across The Board Wage Increase Of One Half Percent (.5%), And The Minimum And Maximum Of Each Pay Range Will Also Be Increased By One Half Percent (.5%); Retroactively Effective With The First Pay Period Ending In October Of 2004, There Shall Be An Across The Board Wage Increase Of One Half Percent (.5%), And The Minimum And The Maximum Of Each Pay Range Will Also Be Increased By One Half Percent (.5%); Retroactively Effective In The First Pay Period Ending In October 2005, There Shall Be An Across The Board Wage Increase Of One Percent (1%), And The Minimum And Maximum Of Each Pay Range Will Also Be Increased By One Percent (1%); Amending The Minimum And Maximum Of The Pay Ranges To Reflect The Present Classification And Pay System Applicable To The Unclassified Classifications; Repealing All Ordinances In Conflict.

Inquiries may be directed to the Human Resources Department at (305) 673-7520.

X10:45 a.m.

An Ordinance Amending Chapter 46 Of The City Code, Entitled "Environment," By Amending Article IV, Entitled "Noise," By Amending Section 46-156, Entitled "Temporary Permits," By Amending The Procedures And Requirements For Construction Activities And Providing Exceptions Thereto, Prohibiting Construction Noise On Sundays And National Holidays In All Non-Residential Zoning Districts, Except Under Certain Circumstances And As Authorized By The Building Official, Prohibiting Construction Noise In Residential Zoning Districts Before 10:00 A.M. And After 4:00 P.M. On Sundays And National Holidays And Prohibiting Construction Noise Between 10:00 A.M. And 4:00 P.M. On Sundays And National Holidays, Providing Provisions For The Revocation Of Temporary Permits, And Providing Subheading Titles To Be Entitled (A) "Requirements And Procedures," (B) "Violation Of Temporary Permits" And (C) "Revocation Of Temporary Permits;" Amending Section 46-158, Entitled "Enforcement By Code Inspectors; Notice Of Violation, Warnings" By Amending Subsection (A) To Clarify The Notice Of Violation Provisions, Amending Subsection (B)(2) To Provide Clarification As To The Number Of Written Warnings In All Zoning Districts Except Single Family Zoning Districts; Providing For One Written Warning In Single Family Zoning Districts Prior To A Notice Of Violation And Providing That A Violation, Instead Of A Written Warning, Shall Be Issued If A Violator Is Also Being Cited For An Illegal Commercial Or Non-Permitted, Non-Residential Use In A Residential Zoning District; Amending Section 46-159 Entitled "Fines And Penalties For Violation; Appeals; Alternate Means Of Enforcement," By Providing Fines And Penalties For Any Offense Which Was Committed While The Violator Was Also Engaged In An Illegal Commercial Or Non-Permitted, Non-Residential Use In A Residential Zoning District.

Inquiries may be directed to the City Manager's Office at (305) 673-7010.

2:00 p.m.

An Ordinance Amending Chapter 118, Of The City Code Entitled, "Administration And Review Procedures," By Amending Division 2, "Planning Board," Section 118-51, "Powers And Duties," By Including Criteria For The Review Of The Sale, Exchange, Conveyance Or Lease Of Ten Years Or Longer Of Such City Property, As Provided In City Charter, Section 1.03(B)3.

Inquiries may be directed to the Planning Department at (305) 673-7550.

2:10 p.m.

An Ordinance Amending The Land Development Regulations Of The City Code, By Amending Chapter 142, "Zoning Districts And Regulations" Article II, "District Regulations" Division 18, "PS Performance Standard District," Amending Section 142-696 "Residential Performance Standard Area Requirements," By Amending The Maximum Building Height In The R-PS4 Zoning District; Amending Section 142-697 "Setback Requirements In The R-PS1, 2, 3, 4 Districts," To Provide For Additions To Follow The Existing Building Line And Modifying The Tower Setbacks.

Inquiries may be directed to the Planning Department at (305) 673-7550.

2:20 p.m.

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article IX, "Nonconformances," Section 118-395 To Add New Subsections For Nonconforming Gasoline Service Stations.

Inquiries may be directed to the Planning Department at (305) 673-7550.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305)673-7218(TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #378