

**ORDINANCE No. 04-50**

**AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING SECTION 21-28 OF THE TOWN CODE RELATING TO NOISE ABATEMENT; PROVIDING FOR THE PROHIBITION OF UNNECESSARY OR EXCESSIVE NOISE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR SPECIAL PERMITS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 8.3 of its Town Charter, the Town of Miami Lakes (the “Town”) adopted the Miami-Dade County (the “County”) Code (the “Code”) as its own, at the time of the Town’s incorporation; and

**WHEREAS**, excessive noise and noise disturbances can harm the peaceful environment to adjoining residents, particularly with construction activities in residential areas; and

**WHEREAS**, the Town Council wishes to amend certain code provisions to better reflect the needs of the Town; and

**WHEREAS**, the Town Council finds that it is in the best interests of the residents of the Town to adopt the following amendments to the Town Code.

**NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

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

**Section 2.** Section 21-28 of the Town Code shall be amended as follows:

Section 21-28

Section 21-28. Noises; unnecessary and excessive prohibited.

(1) It shall be unlawful for any person to make, continue, or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

- (a) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, bus or other vehicle on any street or public place of the County, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time.
- (b) *Radios, televisions, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device 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 one hundred (100) feet from the building, structure, vehicle or person where the sound is originating from shall be prima facie evidence of a violation of this section.
- (c) *Animals, birds, etc.* The owning, harboring, possessing or keeping of any dog, animal or bird which causes frequent, habitual or long continued noise which is plainly audible at a distance of one hundred (100) feet from the building, structure or yard in which the dog, animal or bird is located.
- (d) *Whistles.* The blowing of any locomotive whistle or whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of the proper municipal or County authorities.
- (e) *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 will effectively prevent unreasonably loud or explosive noises therefrom.
- (f) *Defect in vehicle or load.* The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or motor vehicle so out of repair, so loaded or in such manner as to create unreasonably loud or unnecessary grating, grinding, rattling or other noise within a residential area.
- (g) *Schools, courts, hospitals.* The creation of any excessive or unreasonably loud noise on any street adjacent to any school, institution of learning, house of worship or court while the same are in use, or adjacent to any hospital, which unreasonably interferes

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with the workings of such institutions, or which disturbs or unduly annoys the patients in the hospital, provided conspicuous signs are displayed in such streets indicating that it is a school, hospital or court street.

- (h) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.
  - (i) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.
  - (j) *Loudspeakers, etc.* The use or operation on or upon the public streets, alleys and thoroughfares anywhere in this County for any purpose of any device known as a sound truck, loud speaker or sound amplifier or radio or any other instrument of any kind or character which emits therefrom loud and raucous noises and is attached to and upon any vehicle operated or standing upon such streets or public places aforementioned. It is provided, however, that this subsection is not intended to be construed in a manner that would interfere with the legitimate use of the foregoing loudspeaker type devices in political campaigns.
  - (k) *Power tools and landscaping equipment.* The operation of noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chain saws, power tools and other noise-producing tools which are used to maintain or at a residence out-of-doors between 8:00 p.m. and 7:00 a.m. on Monday through Friday and 8:00 p.m. to 9:00 a.m. on Saturdays and Sundays.
  - (l) *Shouting.* Any unreasonably loud, boisterous or raucous shouting in any residential area.
  - (m) *Construction.* The performance of construction work within 100 feet of a residential zoning district between 8:00 p.m. and 7:00 a.m. on Monday through Friday, 8:00 p.m. to 9:00 a.m. on Saturdays and anytime on Sundays. Construction work shall include any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, on public or private rights-of-way, structures, utilities or property.
  - (n) *Commercial Maintenance Equipment.* The use of commercial maintenance equipment within 100 feet of a residential zoning district between 8:00 p.m. and 7:00 a.m. on Monday through Friday and 8:00 p.m. to 9:00 a.m. on Saturdays and Sundays, except for emergencies requiring immediate assistance.
- (2) Exemptions. Notwithstanding the provisions of Section 21-28(1) the following exemptions shall apply:

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- (a) Any vehicle belonging to the Town, the County, the State or any other licensed public utility vehicle within the Town while engaged in necessary public business.
- (b) Excavation or repairs of streets, highways, bridges, street lights or utilities, by or on behalf of the Town, the County, 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 and the prior written approval of the Town Manager has been obtained.
- (c) The construction or performance of public improvement projects of the Town.
- (d) Construction during weekends for emergency or unusual special circumstances only with the prior written consent of the Building Official indicating permitted dates and times. Work authorized by the Building Official pursuant to this subsection shall be conditioned upon notice to surrounding property owners and tenants. Such permits may be granted for a period of time not to exceed three (3) days.
- (e) Any special event or activity for which a permit has been obtained from the Town, pursuant to Section 21-28(3), within such hours and in accordance with such restrictions as may be imposed as conditions to the issuance of that permit.

(3) Special Permits. Upon written application to the Town Manager or his or her designee submitted a minimum of ten (10) days prior to an event at which noise levels are expected to violate this Section, the prohibitions or hour restrictions contained herein may be modified subject to such conditions as the Town Manager may impose. The decision of the Town Manager shall be final and not subject to appeal. The following procedures shall govern such permits:

- (a) The application for a permit under this section shall contain the following information:
  - (1) The name, date of birth, address and telephone number of the person who will be in charge of the activity or event for which a permit is requested;
  - (2) The name of the person or entity seeking the permit;
  - (3) The exact date and time for which the permit is sought;
  - (4) The exact location of the activity or event for which a permit is requested;  
and
  - (5) A description of the activity or event for which a permit is requested.
- (b) Permits issued under this Section shall specify the date and time during which the activity or event authorized by the permit may be conducted. No permit shall be issued which encompasses more than one (1) calendar day, or a span of hours in excess of eight (8) hours.

(c) Issuance of a permit under this section shall be based on a determination by the Town Manager or his or her designee that the activity or event for which a permit is requested does not constitute a threat to public safety; constitute a danger or impediment to the normal flow of traffic; or constitute a potential disturbance of the peace and quiet of persons outside the premises where the activity or event is located. The Town Manager or his or her designee may require that a bond be posted in an amount sufficient to secure the costs of cleanup, repair or replacement of damage or destruction of property and shall be subject to forfeiture for purposes of paying any such costs.

(e) The person designated in the permit application required in this Section as being the person in charge of the activity or event for which the permit is sought must remain at the location of said activity or event during the entire time stated in the permit. It shall be unlawful and a violation of this Section for said designated person in charge to fail to remain in attendance at the location of the activity or event authorized by the permit for the entire time specified in the permit.

(4) Enforcement. A violation of this Ordinance or any resolution adopted pursuant to this Ordinance may be enforced pursuant to Section 8CC-10 of the Town Code and by issuance of a uniform civil violation notice, citation, summons, notice to appear in county court, or by filing an action in civil court for injunctive relief. This Ordinance is supplemental and nothing contained herein shall prohibit the Town from enforcing this Ordinance by any other lawful means.”

**Section 3. Repeal Of Conflicting Provisions.** Any provision of the Code that conflicts with this Ordinance is 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. Inclusion In The Code.** It is the intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Miami Lakes, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such

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intention, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

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

The foregoing Ordinance was offered by **Councilmember Collins**, who moved its adoption on first reading. The motion was seconded by **Councilmember Meador** and upon being put to a vote, the vote was as follows: 7-0

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

PASSED AND ADOPTED on first reading this 11<sup>th</sup> day of **May**, 2004.

The foregoing Ordinance was offered by **Councilmember Collins**, who moved its adoption on second reading. The motion was seconded by **Councilmember Thomson**, and upon being put to a vote, the vote was as follows: 7-0

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	Yes

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Vice Mayor Roberto Alonso  
Mayor Wayne Slaton

yes  
yes

PASSED AND ADOPTED on second reading this 9<sup>th</sup> day of June, 2004.

Wayne Slaton  
Wayne Slaton  
MAYOR

ATTEST:

Beatris M. Arguelles  
Beatris M. Arguelles, CMC  
TOWN CLERK

Approved as to form and legality for the use  
and benefit of the Town of Miami Lakes only:

Weiss, Serota, Helfman, Pastoriza, Guedes  
Cole & Boniske, P.A.  
TOWN ATTORNEY

E:/700/702001/Ordinances/Noise abatement3 Wednesday, May 26, 2004, 7:54 p.m.

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