

**ORDINANCE NO. 2024-\_\_\_\_\_**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, AMENDING CHAPTER 17, ENTITLED “OFFENSES – MISCELLANEOUS”; AT ARTICLE IV ENTITLED “NOISE”; AMENDING SECTION 17-80 ENTITLED “DEFINITIONS” TO BE CONSISTENT WITH NEWLY ISSUED CASE LAW; PROVIDING FOR CODIFICATION, PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City seeks to update its noise ordinance to facilitate ease of use and application; and

**WHEREAS**, the City Administration supports the further refinement of the City’s Noise Ordinance;

**WHEREAS**, the City modeled a portion of its ordinance from the City of Miami Beach that had previously been challenged, and upheld in DA Mortgage, Inc. v. City of Miami Beach, 486 F.3d 1254 (11<sup>th</sup> Cir. 2007); and

**WHEREAS**, recently, in State v. Catalano, 104 So.3d 1069 (Fla. 2012), upheld distance requirement in a noise ordinance; and

**WHEREAS**, there was a recent lower court decision striking certain language from the Miami Beach noise ordinance as unconstitutional in Kwartin v. City of Miami Beach, FLWSUPP 3111KWAR ( Fla. 11<sup>th</sup> Jud. Cir. Jan. 22, 2024), and the City of Dania Beach, in an abundance of caution strikes the same language, thus preserving the constitutionality of the remainder of the ordinance, consistent with the above precedents.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA:**

**Section 1.** That the above “WHEREAS” clauses are ratified and confirmed as being true and correct, and they are made a part of and incorporated into this Ordinance by this reference.

**Section 2.** That Chapter 17 entitled “Offenses - Miscellaneous”, Article IV, entitled “Noise”, at section 17-01, entitled “Definitions,” is amended as follows:

\* \* \*

**CHAPTER 17**  
**OFFENSES -MISCELLANEOUS**

\* \* \*

***ARTICLE IV. NOISE***

**Sec. 17-80. Definitions.**

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

\* \* \*

*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 7:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 100 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section<sup>1</sup>.~~

\* \* \*

*Unreasonably loud.* Uninvited noise shall be deemed unreasonably loud if it is plainly audible to a receiving property at a distance of 100 feet and that plainly audible sound is determined to causes actual interference with a business, a person's peaceful enjoyment of a residence or the peace and tranquility of the surrounding neighborhood.

*Uninvited noise.* Noise not originating on the receiving property.

\* \* \*

**Section 3.** That if any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 4.** That all ordinances or part of ordinances in conflict with the provisions of the Ordinance are repealed.

**Section 5.** That it is the intention of the Mayor and City Commission of the City of ~~Dania Beach~~, and it is hereby ordained that the provisions of this ordinance shall become

<sup>1</sup> Previously deleted the time period in 2023. Removed from the ordinance as language is not to be included.

and be made a part of the Code of the City of Dania 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.** That this Ordinance shall be effective 10 days after passage on second reading.

**PASSED** on first reading on \_\_\_\_\_, 2024.

**PASSED AND ADOPTED** on second reading on \_\_\_\_\_ 2024.

First Reading:

Motion by: \_\_\_\_\_

Second by: \_\_\_\_\_

Second Reading:

Motion by: \_\_\_\_\_

Second by: \_\_\_\_\_

FINAL VOTE ON ADOPTION: Unanimous \_\_\_\_

Yes No

Commissioner Joyce L. Davis \_\_\_\_\_

Commissioner Tamara James \_\_\_\_\_

Commissioner Marco Salvino \_\_\_\_\_

Vice Mayor Lori Lewellen \_\_\_\_\_

Mayor Archibald J. Ryan IV \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
ELORA RIERA, MMC  
CITY CLERK

\_\_\_\_\_  
ARCHIBALD J. RYAN IV  
MAYOR

APPROVED AS TO FORM AND CORRECTNESS:

\_\_\_\_\_  
EVE A. BOUTSIS  
CITY ATTORNEY