

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO:	Honorable Mayor and Members of the City Commission
FROM:	City Attorney Ricardo J. Dopico
DATE:	June 26, 2024
TITLE:	AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART A, ENTITLED "GENERAL ORDINANCES" OF THE CODE OF MIAMI BEACH, CHAPTER 18, ENTITLED "BUSINESSES," ARTICLE XV, ENTITLED "STREET PERFORMERS AND ART VENDORS," BY AMENDING SECTION 18-906 THEREOF, ENTITLED "REGULATIONS, PROCEDURES, AND PROHIBITIONS," TO REGULATE SOUND LEVELS PRODUCED BY ANY PERSON IN CLOSE PROXIMITY TO OUTDOOR DINING SEATING, AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

### ANALYSIS

The proposed Ordinance, which is sponsored by Commissioner Laura Dominguez, is presented to the Mayor and City Commission for their consideration on Second Reading.

Between First and Second Reading, the proposed Ordinance was amended to clarify that it only governs sound produced on the public right-of-way or other public property, as follows:

p. No person on the public right-of-way or other public property shall create any amplified or unamplified sound that interferes with normal conversation at any outdoor dining establishment located on private property, the public right-of-way or other public property. For purposes of this subsection, the use of a speaker, amplifier, megaphone or any other device on the public right-of-way or other public property intended to increase the sound produced by a person or by equipment in the possession or control of a person on the public right-of-way or other public property within 100 feet of the nearest perimeter edge of any outdoor dining establishment shall be presumed to interfere with normal conversation and is hereby prohibited.

Also, the legislative record for this item was appended to the agenda item for Second Reading. The legislative record includes a study by an acoustical sound expert, who reviewed the proposed Ordinance, interviewed various community stakeholders regarding their experiences with loud sounds in close proximity to outdoor dining establishments, viewed code compliance officers' body work camera footage of responses to noise complaints near outdoor dining establishments, and based upon his study, determined that the proposed Ordinance achieved important and legitimate governmental interests in a narrowly tailored fashion.

### FISCAL IMPACT STATEMENT

N/A

**Does this Ordinance require a Business Impact Estimate? Yes**  
**(FOR ORDINANCES ONLY)**

The Business Impact Estimate (BIE) was published on . See BIE at:  
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

**Applicable Area**

Citywide

**Is this a "Residents Right to Know" item,**  
**pursuant to City Code Section 2-17?**

No

**Is this item related to a G.O. Bond**  
**Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481,**  
**includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

**Department**

City Attorney

**Sponsor(s)**

Commissioner Laura Dominguez

**Co-sponsor(s)**

Commissioner Alex J. Fernandez