September 5, 2023

SENT VIA FAX AND U.S. MAIL: (212) 406-3587

The Honorable Eric Adams
Mayor of New York City
City Hall
New York, NY 10007

Re: Special Exemption for Muslim Call to Prayer

Dear Mayor Adams:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to your recent announcement that the City is granting special permission for mosques to broadcast and amplify the call to prayer during the month of Ramadan. As you may recall, FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 2,000 members in New York. FFRF protects the constitutional separation between state and church, and educates about nontheism.

It is our understanding that the City has granted special permission for mosques to amplify their call to prayer on Fridays and at sunset every night during Ramadan without a permit. On August 29, 2023, your office released new guidance that said:¹

   a mosque or masjid can broadcast the call to prayer every Friday between 12:30 PM and 1:30 PM as well as during the sunset prayers every evening during Ramadan — a holy, month-long period of fasting, prayer, reflection, and community observance that arrives in the ninth month of the Islamic calendar.

You explained this decision to allow a special exemption to the regular noise ordinance permitting process is specifically meant to be benefit the members of one religious group:²

   For too long, there has been a feeling that our communities were not allowed to amplify their calls to prayer…Today, we are cutting red tape and saying clearly that mosques and houses of worship are free to amplify their call to prayer on Fridays and during Ramadan without a permit necessary. We want our brothers and sisters of Muslim faith to know that they are free to live their faith in New York City because, under the law, we will all be treated equally. Our administration is proud to finally get this done.

²Id.
It is our understanding that under New York City law, the use of a sound device such as a loudspeaker, megaphone or stereo requires a permit, but you are allowing mosques to receive special treatment and broadcast amplified messages without a permit. We understand that this special treatment already extends to churches, and that any non-religious messenger is required to obtain a permit in order to do the same thing that mosques and churches are being allowed to do. Allowing religious organizations a special carve out from the City’s noise ordinance, which is a reasonable restriction meant to foster a peaceful, quiet community, is the opposite of equal access. It privileges one religious group’s messages above all others, and all religious messages over any non-religious speech.

We write to ask that the City end this practice that privileges Muslims and other religious groups and ensure its laws apply to religion neutrally — with neither hostility nor favoritism, as the Constitution requires.

Under this change, all community members, organizations, and businesses are prohibited from delivering amplified messages or making loud noises that disturb the peace without a permit, except for mosques and churches. We understand that currently, most mosques are not broadcasting a call to prayer, but with this special exemption to the law more will certainly start to do so, as may other religious groups who have now been given an unprecedented opportunity to deliver an amplified proselytizing message to those in their community.

It is also worth noting that in our modern age of cell phones, alarm clocks, and all manner of digital devices, broadcasting a loud, amplified message to an entire community in order to facilitate the religious practices of a select group of members of that community is not only unreasonable, but unnecessary.

The Establishment Clause of the First Amendment prohibits the government from privileging religious messages. The Supreme Court has said time and again that the “First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion.” McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky., 545 U.S. 844, 860 (2005); Wallace v. Jaffree, 472 U.S. 38, 53 (1985); Epperson v. Arkansas, 393 U.S. 97, 104 (1968); Everson v. Bd. of Educ. of Ewing, 330 U.S. 1, 15-16 (1947). Under your new guidance, religious messages may be broadcast without a permit solely because they are religious in nature. Furthermore, this revision was done for the purpose of privileging the call to prayer, which provides a benefit solely to the Muslim community. This is not neutrality, but an imposition of one religious view and message onto all community members.

While we understand that you believe that this exemption creates “equality” and ensures that Muslim residents will now be “treated equally,” that is not the case. This special exemption from the City’s noise ordinance impermissibly favors religion over nonreligion, and Islam over all other religions. The City’s noise ordinance is a reasonable restriction meant to foster a peaceful, quiet community. It is a neutral and generally applicable statute. Religious messages or calls to prayer should not be exempt. Religious prayers should be held to the same standards as other publicly broadcasted messages and not be given special preference.
In order to respect the constitutional rights of New York City residents, we ask that the city require all religious groups wishing to broadcast amplified messages to request a permit on the same terms as the law requires for all non-religious groups. No religious group should be given unique exemptions from generally applicable noise ordinances.

Sincerely,

[Signature]

Christopher Line
Staff Attorney
Freedom From Religion Foundation