

ORDINANCE 2015-58

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, CONCERNING EXCESSIVE NOISE; AMENDING SECTION 34-171, DEFINITIONS; PROVIDING FOR AMENDED DEFINITIONS OF EXCESSIVE NOISE TO INCLUDE "DAYTIME RESIDENTIAL NOISE" AND "NIGHTTIME RESIDENTIAL NOISE"; AMENDING SECTION 34-172, PROVIDING FOR EXCESSIVE NOISE PROHIBITION AT CERTAIN TIMES AND PLACES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS excessive noise can be a serious hazard to the public health, safety and welfare and have a deleterious effect on the quality of life; and

WHEREAS the public has a right to an environment free from excessive noise that may jeopardize their health, safety or welfare or degrade the quality of their life; and

WHEREAS it is the public policy of the City of Ocala, as codified in this ordinance, to strike an appropriate balance between the rights of individuals to fully enjoy the constitutional rights to free speech, religion, association and assembly with the right of the public to a peaceful and healthful environment.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Ocala, Florida as follows:

Section 1. That section 34-171 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 34-171. Definitions.

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

"Excessive Noise" means any of the following types of noise as the circumstances warrant herein:

"Daytime residential noise" means any noise made, continued, permitted, or caused in a residential area if it is plainly audible at a distance beyond twenty-five (25) feet from the real

property line of the property on which the noise is generated and occurs between 6:00 a.m. and 10:00 p.m.

"Nighttime Residential noise" means any noise made, continued, permitted, or caused in a residential area that crosses a real property line and is plainly audible within a residence and occurs between 10:00 p.m. and 6:00 a.m.

"Non-residential noise" means any noise made, continued, permitted, or caused on non-residential property if it is plainly audible at a distance beyond fifty (50) feet from the real property line of the property on which the noise is generated.

"Motor vehicle noise" means noise made, continued, permitted, or caused from within a motor vehicle that is plainly audible at a distance of twenty-five (25) feet or more from the motor vehicle. This noise includes engine and exhaust pipe noise caused by the motor vehicle itself.

"Public right-of-way noise" means noise made, continued, permitted, or caused on any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity; and

(1) if between the hours of sunset and sunrise and is plainly audible at a distance of twenty-five (25) feet or more from any direction from the location at which it was made, continued, permitted, or caused; or

(2) if between the hours of sunrise and sunset is plainly audible at a distance of fifty (50) feet or more from any direction from the location at which it was made, continued, permitted, or caused.

"Public space noise" means noise made, continued, permitted, or caused on or in building or structure owned, leased, used by any governmental entity;

1. if between sunset and sunrise and is plainly audible at a distance beyond 25 feet in any direction from the location at which it was made, continued, permitted, or caused; or

2. if between sunrise and sunset and is plainly audible at a distance beyond 50 feet in any direction from the location at which it was made, continued, permitted, or caused.

"Officer" means any sworn law enforcement officer.

"Plainly audible" means any sound that can be clearly heard by an Officer using his normal hearing faculties not enhanced by any device such as a microphone or hearing aid. Where measurements are required by this section to determine whether sound is "plainly audible" for purposes of this Article, measurements shall be taken in accordance with the following requirements:

1. The officer must have a direct line of sight to the relevant location (i.e. the location of the noise, real property line, or motor vehicle), so that the officer can readily identify the distance involved.
2. The officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.

"Real property line" means either (i) the imaginary line including its vertical extension that separates one parcel of real property from another; or (ii) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit such as a condominium, townhouse, or apartment building.

"Residential" means property used is for residences, including, but not limited to, single-family residences, multi-family residences, condominiums, apartments, hotels, motels, mobile home parks, hospitals, nursing homes, convalescent and rehabilitation centers and assisted living facilities.

"Non-residential" means all other property not used for residential purposes.

"Sunset" means the time when the sun goes below the horizon in the evening for the day of the noise event as published in that day's Ocala Star-Banner.

"Sunrise" means the time when the sun appears above the horizon in the morning for the day of the noise event as published in that day's Ocala Star-Banner.

Section 2. That section 34-172 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 34-172. Excessive Noise prohibited.

(a) It shall be unlawful for any person to knowingly or intentionally make, continue, permit, or cause any excessive noise within the City.

(b) It shall be presumed that a person knowingly or intentionally violated the requirements of this section when that person has been notified by an officer of the violation and requested to conform to this section's requirement and subsequently fails to comply with the requirements of this section despite the warning.

Section 3. Severability Clause: Should any provision or section of this ordinance be held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall take effect upon approval by the mayor, or upon becoming law without such approval.

ATTEST:
By: Angel B. Jacobs
Angel B. Jacobs
City Clerk

CITY OF OCALA
By: Jay A. Musleh
Jay A. Musleh
President, Ocala City Council

Approved/Denied by me as Mayor of the City of Ocala, Florida, on 8/14, 2015.

By: Reuben Kent Guinn
Reuben Kent Guinn
Mayor

Approved as to form and legality:
By: Patrick G. Gilligan
Patrick G. Gilligan
City Attorney
W. James Gooding III
Assistant City Attorney

Ordinance No: 2015-58
Introduced: 7/21/2015
Adopted: 8/4/2015
Effective date of Ordinance: 8/4/2015
Legal Ad No: A000867650 - 7/24/15