

ORDINANCE NO. 23-091

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING THE EMISSION OF HARMFUL NOISE WITHIN THE UNINCORPORATED AREA OF MANATEE COUNTY; AMENDING ARTICLE II OF CHAPTER 2-21 OF THE MANATEE COUNTY CODE; PROVIDING FOR A CONTRUCTION NOISE WAIVER PERMIT; ESTABLISHING CRITERIA FOR THE PERMIT; ESTABLISHING RESPONSIBILITIES UPON PERMIT APPROVAL; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Manatee County has codified its various noise regulations in Article II of Chapter 2-21 of the Manatee County Code; and

WHEREAS, the Board of County Commissioners of Manatee County, Florida, has previously adopted Ordinance 16-08 to replace and amend Ordinance 08-12 and 13-05; and

WHEREAS, Section 2-21-33 of the Manatee County Code of Ordinances describes the activities and sources exempt from noise requirements; and

WHEREAS, unusual sounds or noises of construction and operation of construction equipment can create an annoyance to other citizens; and

WHEREAS, the residents of Manatee County have a right to an environment free from excessive noise including the vibration and disturbances from low frequency noise; and

WHEREAS, the County understands and desires to balance the interest citizens have in an environment free from excess noise, while also recognizing that extenuating circumstances may occur where construction happens outside the permitted hours of operation; and

WHEREAS, in order to balance these interests, the County desires to implement a construction noise waiver to monitor and evaluate times of noise exposure; and

WHEREAS, the Board of County Commissioners desires to adopt a procedure in which a party shall be able to submit a permit application for a waiver to operate prior to 7:00 a.m. under certain unique circumstances; and

WHEREAS, this Ordinance is enacted pursuant to the home rule power of Manatee County, specifically Section 125.01(1), Florida Statutes, and pursuant to Article II, Section 7, Florida Constitution, which provides that adequate provision shall be made by law for the abatement of excessive and unnecessary sound; and

WHEREAS, it is the intent of this Ordinance that it shall work harmoniously with existing ordinances and state statutes regulating noise and shall be an additional regulation to those pre-existing ordinances and statutes; and

WHEREAS, it is not the intent of this Ordinance to interfere with the individual rights to freedom of speech or religion; and

WHEREAS, the Board of County Commissioners of Manatee County finds that the provisions of this ordinance are in the best interests of the County' s residents, businesses, and visitors.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida:

Section 1. Chapter 2- 21, Article II of the Manatee County Code of Ordinances is hereby amended as set forth in attached Exhibit "A" to this Ordinance (underlined text added, ~~strike-through~~ text delete).

Section 2. Pursuant to Section 125.68(1), Florida Statutes, the codifier of the Code, Municipal Code Corporation, shall codify the substantive amendments to the Code contained in Section 1 of this Ordinance as provided therein, and shall not codify any other sections not designated for codification.

Section 3. If any section, subsection, sentence, clause, provision, or word of this Ordinance is held invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of County Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 4. This Ordinance shall take effect immediately upon filing with the State of Florida Department of State.

DULY ADOPTED with a quorum present and voting this _____ day of _____, 2023.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: _____
Chairperson

**ATTEST: ANGELINA “ANGEL” COLONNESO
CLERK OF THE CIRCUIT COURT
AND COMPTROLLER**

By: _____
Deputy Clerk

EXHIBIT "A"

Chapter 2-21 of the Manatee County Code is hereby Amended as follows:

Chapter 2-21 MISCELLANEOUS PROVISIONS AND OFFENSES

ARTICLE II. Noise

Sec. 2-21-31. Definitions.

Sec. 2-21-32. Ares of applicability.

Sec. 2-21-33. Exemptions.

The following activities or sources are exempt from the requirements of this article:

- (1) The emission of sound or noise for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work.
- (2) Operation of equipment or conduct of activities normal to residential or agricultural communities as set forth herein:

Description		Hours of Operations
a.	Lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, gardens, saws and tractors, street sweepers, mosquito fogging, tree trimming and limb chipping and other normal community operations	7:00 a.m. to 10:00 p.m.
b.	Operation of equipment for solid waste and recycling collection in or adjacent to residential uses	6:00 a.m. to 6:00 p.m.
c.	Operation of equipment for solid waste collection in nonresidential locations	4:00 a.m. to 10:00 p.m.

- (3) Operation of manufacturing in areas zoned for such activities and which do not create a noise disturbance on any properties not designated for such activities.
- (4) The usual sounds or noises of construction and operation of construction equipment between the hours of 7:00 a.m. to 8:00 p.m. Construction operations (i.e., concrete pours, etc.) that need to start prior to 7:00 a.m. must submit a written request prior to commencement of the activity, which must be approved by the Department Director or designee.

a. The party requesting the waiver must:

1. Provide an explanation justifying the request for a variance;
2. Provide any additional information requested by the Department Director
or their designee.

b. The Department Director or designee should consider the following criteria prior to approving a waiver:

1. The applicant submitting the waiver application will suffer a unique hardship and/or practical difficulty unless the waiver is granted;
2. The granting of a waiver will not cause a substantial or undue adverse impact upon adjacent property or upon the public health, safety, and welfare;
3. That the activity, operation, or noise will be temporary in duration; and
4. That no reasonable alternatives are available to the applicant.

c. If the request is approved:

1. Approval shall be in writing and contain all conditions upon which such permit is granted, including, but not limited to, the duration or equipment limitations;
2. Written authorization must be kept on site at all times and be posted in a conspicuous place for inspection by a County Official or Deputy.

d. The County reserves the right to revoke authorization at any time with 48 hours notice.

- (5) Motor vehicles operating on a public right-of-way in compliance with Chapter 316 and Section 403.415, Florida Statutes, and as amended. This exception shall not apply to amplified sound produced by a radio, tape player, CD player, or other mechanical sound making device or instrument from within the motor vehicle so that the sound is plainly audible from fifty (50) feet from the source vehicle. In determining whether a sound is plainly audible:
 - a. The primary means of detection shall be by means of the officer's ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device, such as a microphone or hearing aid; and,
 - b. The officer must have a direct line of sight and hearing to the motor vehicle producing the sound so that he/she can readily identify the offending motor vehicle and the distance involved; and,
 - c. The officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound.
- (6) Any residential unit with air-conditioning or pool pump equipment when in reasonable mechanical condition operating with the standard sound and vibration control systems typically provided by the manufacturer in a sound level not to exceed sixty (60) dBA or sixty-five (65) dBC. Air conditioning units are presumed to be in reasonable mechanical condition if the unit meets the sound specifications contained in the Air Conditioning, Heating, and Refrigeration

Institute's ("AHRI") Applied Directory of Certified Product Performance Variable Air Volume terminals.

- (7) Railroad operations.
- (8) Any aircraft operating in conformity with, or pursuant to, federal law, federal air regulations and air traffic control instructions used pursuant to and within the duly adopted federal air regulations.
- (9) The usual sounds or noises associated with marina operations and port operations.
- (10) Between the hours of 7:00 a.m. and 11:00 p.m., the emission of sound or noise from lawful and proper activities on school grounds and places primarily used for athletic contests and sporting events.
- (11) Fireworks displays, special events, and events for which all required permits have been obtained in compliance with any conditions imposed by a permit that has been issued by the relevant jurisdiction.
- (12) Impulsive sound.
- (13) Sports shooting ranges in compliance with Sections 790.33 and 823.16, Florida Statutes, and as amended.
- (14) Sounds emanating from bona fide farm operations on land classified as agricultural land which are exempt from local government regulation pursuant to Section 823.14, Florida Statutes, and as amended.