

**CITY OF INDIAN ROCKS BEACH
ORDINANCE NO. 2013-05**

AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, MAKING AMENDMENTS TO THE INDIAN ROCKS BEACH CODE OF ORDINANCES; BY AMENDING CHAPTER 26, ENVIRONMENT; ARTICLE II, NOISE; SECTION 26-35, SPECIFIC NOISES PROHIBITED; PROVIDING FOR THE ELIMINATION OF CONTENT BASED CRITERIA; BY PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith TO THE EXTENT OF SUCH CONFLICT; AND BY PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Indian Rocks Beach's noise regulations are found in Chapter 26, Environment; Article II, Noise, of the Code of Ordinances; and

WHEREAS, the Florida Supreme Court recently issued a decision on the in the case of State of Florida vs. Catalano that pertained to noise regulations; and

WHEREAS, the key elements of the Catalano decision focused on wording that was "content based" and did not apply equally to music, political speak, and advertising; and

WHEREAS, the Indian Rocks Beach City Commission desires to amend the wording of Chapter 26, Environment; Article II, Noise, Section 26-35 to conform with the Florida Supreme Court's decision.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA:

Section 1. Chapter 26, Environment; Article II, Noise; Section 26-35, Specific noises prohibited, of The Code of Ordinances, City of Indian Rocks Beach, Florida, is hereby amended to read as follows:

Sec. 26-35. Specific noises.

Any of the following acts and causes thereof are declared to be in violation of this article and to constitute unreasonable noise:

- (1) *Excessive or unusually loud sounds.* Creating or permitting any excessive or unusually loud sound which either annoys, disturbs,

- injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities.
- (2) *Electronic or mechanical devices, musical instruments, drums or similar devices.* Operating, playing or permitting the operation or playing of any electronic or mechanical device, musical instrument, drum or similar device which produces or reproduces sound in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities.
- (3) *Operation of electronic or mechanical devices, musical instruments, drums or similar devices in vehicle or by pedestrian.* Operating, playing or permitting the operation or playing of any electronic or mechanical device, musical instrument, drum or similar device which produces or reproduces sound which is located in or on any vehicle or operated by any pedestrian on publicly owned land or a public parking lot in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities.
- (4) ***Amplified sound.* Using or operating for any purpose any amplified sound between the hours of 10:00 p.m. and 7:00 a.m. of any day, not in a completely enclosed permanent structure is prohibited if it produces or reproduces sound in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities or is in excess of the decibel levels set forth in [section 26-36](#). This provision shall not apply to amplified sound ~~used in connection with noncommercial public speaking, public assembly, or other activity~~ for which a permit pursuant to subsection [26-33\(b\)](#) has been issued by the city.**
- (5) *Street sales.* Offering for sale or selling anything or advertising by shouting or outcry within any residential or commercial area, in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities.
- (6) *Noisy animals.* Owning, possessing or harboring any animal or bird which frequently or for continued duration howls, barks, meows, squawks, or makes other sounds in such a manner as to annoy,

disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities.

- (7) *Loading and unloading.* Loading and unloading, opening, closing or other handling of boxes, crates, containers, equipment, building materials, garbage cans or similar objects in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities between the hours of 6:00 p.m. and 7:00 a.m.
- (8) *Construction and demolition.* Operating or causing the operation of any tools and/or machinery used in construction, drilling, dredging, repair, alteration or demolition work in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities between the hours of 6:00 p.m. and 7:00 a.m. on Monday through Saturday. No such work is permitted on Sundays, except for emergency work by a public service utility or by permit approved by the city pursuant to subsection [26-33\(b\)](#). This subsection shall not apply to the use of domestic power tools as specified in subsection (10) of this section.
- (9) *Emergency signaling devices.* Except in the event of a perceived threat of harm to person or property, the intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, fire, whistle or similar stationary emergency signaling device before 7:00 a.m. or after 7:00 p.m. Any such testing shall use the minimum cycle test time appropriate for such devices, in no case to exceed 60 seconds. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall occur only on weekdays and not before 7:00 a.m. or after 6:00 p.m. and shall be exempt for the 60-second time limitation set forth in this subsection. The sounding or the permitting of the sounding of any exterior fire or burglar alarm or motor vehicle burglar alarm, unless such alarm is automatically terminated within 15 minutes of activation, shall be prohibited.
- (10) *Domestic power tools.* Operating or permitting the operation of any mechanically-powered saw, drill, sander, grinder, lawn or garden tool or lawnmower, or similar device used outdoors, in such a manner as to annoy, disturb, injure or endanger the comfort,

repose, health, peace, or safety of a reasonable person of normal sensibilities between 9:00 p.m. to 7:00 a.m. so as to cause unreasonable noise across a residential property line.

- (11) *Disposal of refuse.* Disposing of waste, trash, and/or debris in containers in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities between the hours of 10:00 p.m. and 7:00 a.m.

Section 2. All ordinances or parts of ordinances in conflict herewith to the extent that such conflicts exist are hereby repealed.

Section 3. In the event that any section, paragraph, sentence, clause or phrase of this ordinance shall be declared unconstitutional or unenforceable by a valid judgement or decree of a court of competent jurisdiction, such unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 4. This ordinance shall be in full force and effect from and after its adoption in the manner provided by law.

ADOPTED ON FIRST READING by the City Commission of the City of Indian Rocks Beach, Florida, held on the 12th day of March, 2013.

PUBLISHED THE 27th day of March, 2013.

ADOPTED ON SECOND READING AND FINAL READING this 9th day of April, 2013.

R.B. Johnson, Mayor-Commissioner

ATTEST: _____
Deanne B. O'Reilly, MMC, City Clerk

Approved as to form and legal sufficiency:

Maura J. Kiefer, City Attorney

MJK/dor