

## ORDINANCE NO. 14-19

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TREASURE ISLAND AMENDING CHAPTER 18, ARTICLE III, OF THE CODE OF ORDINANCES OF THE CITY OF TREASURE ISLAND, FLORIDA PERTAINING TO NOISE, BY ADDING SECTION 18-70, DEFINITIONS; BY AMENDING SECTION 18-71, BY ADDING A DECLARATION OF NECESSITY; BY AMENDING SECTION 18-72, CLARIFYING DETERMINATION OF NOISES PROHIBITED GENERALLY; REPEALING ANY CONFLICTING ORDINANCES; PROVIDING SEVERABILITY; PROVIDING FOR THE INCLUSION OF SUCH AMENDED ORDINANCE IN THE CODE OF ORDINANCES OF THE CITY OF TREASURE ISLAND, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City's noise ordinance includes the adoption of the Pinellas County Noise Ordinance as an alternative or supplement to its noise violation enforcement protocol; and

**WHEREAS**, the County noise ordinance contains sections which the City does not apply to the City's enforcement protocols, such as pre-citation complaint requirements; and

**WHEREAS**, the City of Treasure Island desires to maintain a noise violation Code that is consistent with, and the same as, certain sections of the County noise ordinance which govern the general prohibition criteria for loud and raucous noises; and

**WHEREAS**, the City of Treasure Island also desires to update its noise ordinance by adding a definitions section, and a declaration of necessity.

***NOW, THEREFORE, THE CITY OF TREASURE ISLAND DOES ORDAIN:***

**SECTION 1.** That a new Section "18-70 Definitions" is hereby amended as follows:

### **18-70 Definitions.**

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

City means the City of Treasure Island.

Emergency means a situation wherein immediate work is necessary to restore property to a safe condition following a public calamity or immediate work is required to protect persons or property from an imminent exposure to danger.

Noise means one or a group of loud, harsh, nonharmonious sounds or vibrations that are unpleasant and irritating to the ear. It includes any sound which disturbs a reasonable person of ordinary sensibilities or which causes or tends to cause adverse psychological or physiological

effect on humans.

**SECTION 2.** That the present Section “18-71 Declaration of Necessity; Adoption of county noise ordinance” of the Code of Ordinances of the City of Treasure Island, Florida is hereby amended as follows:

**Sec. 18-71. Declaration of Necessity; Adoption of county noise ordinance.**

A. Declaration of Necessity. It is found and declared that:

The City Commission, having received an increasing number of complaints from the citizens of the City concerning excessive noise as the City continues to develop and grow, and having information and evidence concerning the impacts of excessive noise, hereby finds that the health, safety and welfare of its citizens requires protection from excessive, unnecessary and unreasonable noise.

(1) The making and creation of excessive, unnecessary or unusually loud noises within the City limits is a condition which has existed for some time and the amount and intensity of such noises is increasing.

(2) The making, creation or maintenance of such excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and effect of use affect are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the city.

(3) Excessive noise, when unnecessary to the carrying on of religious, political, civic or commercial activities, or when not generated in the course of other activity necessary to the carrying on of daily life, can create a significant threat to the public health, safety and welfare.

(4) Those noises which are most obnoxious to public health, safety and welfare in the City are those which are loud and raucous or generated without regard to the health, welfare and safety of others who are unable to avoid being subjected to such noises.

(5) Excessive noise threatens both the tourist industry and residents of the City by making it difficult or impossible for visitors and residents to enjoy places and activities, including residences, outdoor cafes and other outdoor amenities, parks, and daily activities without being unreasonably disturbed by such noise.

(6) There has been an increase in the frequency and volume of noise generated, therefore, the intent of this Article is to strike an appropriate balance between the rights of individuals to derive pleasure from various sources of sound and the rights of individuals to a peaceful and healthful environment.

(7) It is not the intent of this legislation to interfere unduly with freedom of speech or religion by regulating the initial production of sound.

(8) The reasonable regulation of noise as provided by this Article serves a significant government interest and this article allows for ample alternative means of communication.

(9) The necessity in the public interest for the provisions and prohibitions contained and enacted in this Article is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained and enacted in this article are in pursuance of and for the purpose of securing and promoting the public health, comfort, safety, welfare and repose of the city and its inhabitants.

(10) This Article shall apply to the control of all sound originating within the limits of the City.

**B. Adoption of County Noise Ordinance.** The city commission does hereby adopt county Ordinance No.74-11, and as amended from time to time, regarding noise, which shall, in addition to the other provisions of this chapter, be effective in the city. Notwithstanding said adoption, the City will not require written complaints as a condition to issuing citations for violation of this Article. Nothing contained in this Article shall be interpreted to restrict the City's rights to enforce or prosecute noise or any violations hereunder by and through any other available legal means, including, but not limited to, the common law, county or state law governing noise violations. The City expressly reserves the right to prosecute noise violations under either this local ordinance, or one or more sections of the county ordinance, or state authority.

**SECTION 3.** That the present section "18-72 Prohibited Generally" of "The Code of Ordinances of the City of Treasure Island, Florida" is hereby amended as follows:

**Sec. 18-72 Prohibited Generally.**

(a) No person shall make, continue, permit, or cause to be made or continued:

- (1) Any unreasonably loud and raucous noise; or
- (2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity; or
- (3) Any noise which exceeds the maximum allowable limits set forth in this article.

(b) Factors which shall be considered in determining whether a violation of subsection (a) above exists shall include, but not be limited to, the following:

- (1) The volume of the noise;
- (2) The intensity of the noise;
- (3) The volume and intensity of the background noise, if any;
- (4) The nature and zoning of the area from which the sound emanates and the area where it is received or perceived;
- (5) The duration of the noise;
- (6) The time of the day or night the noise occurs; and
- (7) Whether the noise is recurrent, intermittent, or constant.

~~It shall be unlawful for any person to willfully make, continue or cause to be made or continued any loud and raucous noise, which term shall mean any sound that, because of its volume level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the city. Except as provided in section 18-75, the term noise shall include but not be limited to unreasonably loud and raucous noise heard:~~

- (1) Upon the public streets;
- (2) In any public park;
- (3) In any school or public building or upon the grounds thereof while in use;
- (4) In any church or hospital or upon the grounds thereof while in use;
- (5) Upon any parking lot open to members of the public as invitees or licensees;
- (6) In any occupied residential unit which is not the source of the noise or upon the grounds thereof; and

- (7) In any event from any location not less than 50 feet from the source of the noise measured from a straight line from the radio, loudspeaker, motor, horn, or other noise source.

**SECTION 4.** All other ordinances or resolutions which conflict wholly or in part with the provisions of this ordinance are hereby repealed effective the date this ordinance becomes effective.

**SECTION 5.** It is the intention of the Treasure Island City Commission that each provision hereof be considered severable, and that the invalidity of any provision of this ordinance shall not affect the validity of any other provisions of this ordinance or Chapter 18 of the City of Treasure Island's Code of Ordinances.

**SECTION 6.** It is the intention of the City Commission that this amended Ordinance be included in the Code of Ordinances of the City of Treasure Island, Florida and the publisher of such Code may renumber or reclassify such provisions to otherwise accomplish such purpose.

**SECTION 7.** This Ordinance shall take effect immediately upon the passage of same by the Treasure Island City Commission.

FIRST READING on the 6<sup>th</sup> day of January, 2015.

SECOND READING and PUBLIC HEARING on the 17<sup>th</sup> day of February, 2015.

PUBLISHED in the Tampa Bay Times on the 6<sup>th</sup> day of February, 2015.

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Robert Minning, Mayor

ATTEST:

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Pamela A. Middleton, Deputy City Clerk

APPROVED AS TO CONTENT AND FORM:

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Maura J. Kiefer, City Attorney