

ORDINANCE NO. 22-13

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA, MAKING FINDINGS; AMENDING SECTION 17-72 TO PROHIBIT CERTAIN NOISE NUISANCES EMANATING FROM PORTABLE OR VEHICULAR SOUND PRODUCTION DEVICES; AMENDING SECTION 17-73 TO MODIFY ENFORCEMENT PROVISIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AREA ENCOMPASSED; AND PROVIDING AN EFFECTIVE DATE AND INCLUSION IN THE CODE OF ORDINANCES.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA:

SECTION 1. Background and Finding of Facts.

WHEREAS, the beaches of Panama City Beach and unincorporated Bay County are a tourist destination frequented by over 18 million visitors annually; and

WHEREAS, the County finds that the creation and maintenance of loud, unreasonable, unnatural, and unusual noises or the creation and maintenance of sound levels that can be heard at a distance from moving sources are injurious to the public health, comfort, safety and welfare of the people of Bay County and therefore constitute a public nuisance; and

WHEREAS, this ordinance will bring Bay County's ordinance in line with similar restrictions existing in the City of Panama City Beach.

SECTION 2. Section 17-72 of the Bay County Code of Ordinances is amended as follows:

Sec. 17-72. Noise nuisances prohibited.

- (a) [No change]
- (b) [No change]
- (c) [No change]

(d) Self-contained, portable, hand-held Sound Production Devices, including but not limited to devices such as Boom Boxes, radios, stereos, or any similar device shall not be operated on a public space or public right-of-way in such a manner as to be Plainly Audible at a distance of 50 feet in any direction from the operator between the hours of 7:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 7:00 a.m., sound from such equipment shall not be Plainly Audible by any person other than the operator. For the purpose of this Article, the term "Sound Production Device" shall mean any device whose primary function is the production of sound, including, but not limited to any musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment, and the term "Plainly Audible" shall mean any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or

personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify Plainly Audible sound. The enforcing agent need not determine or be able to discern the title, specific words, or the artist performing the song. Nothing in this subsection is intended to apply to an unamplified Sound Production Device while used in conjunction with on-going religious services.

(e) Personal or commercial vehicular Sound Production Devices, including but not limited to vehicles referred to as "broadcast vehicles" or Boom Cars, shall not be operated in such a manner as to be Plainly Audible at a distance of 50 feet in any direction from the equipment between the hours of 7:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 7:00 a.m. such equipment shall not be operated in such a manner that it is Plainly Audible at a distance of 25 feet in any direction.

~~(f)~~ The following activities are exempt from the above sound level and noise prohibitions:

(1) Operating trash collection vehicles:

a. In areas zoned residential, seasonal resort and agricultural, from 5:30 a.m. to 7:00 p.m.;

b. In areas zoned commercial, industrial or public/institutional from 3:30 a.m. to 10:00 p.m.

(2) Constructing, repairing or demolishing buildings or structures or driving pilings:

a. In areas zoned residential or seasonal resort, from 7:00 a.m. to 7:00 p.m., except at no times on Sundays;

b. In areas zoned commercial, industrial, agricultural or public/institutional from 6:00 a.m. to 7:00 p.m.

(3) Operating domestic power tools and equipment, from 7:00 a.m. to 10:00 p.m. in all zoning areas;

(4) Operating nonemergency signaling devices and church bells, from 6:00 a.m. to 12:00 p.m. in all zoning areas;

(5) Operating heavy equipment and farm machinery:

a. From 3:30 a.m. to 9:00 p.m. in areas zoned agricultural and industrial;

b. From 7:00 a.m. to 7:00 p.m. in areas zoned residential, seasonal resort, commercial, and public/institutional.

(6) Conducting routine road and utility operations, repairs and maintenance from 6:30 a.m. to 7:00 p.m., in all zoning areas;

(7) Conducting sporting and cultural events, from 6:30 a.m. to 10:30 p.m., in all zoning areas; and

(8) Playing and reproducing music and conducting entertainment events, from 7:00 a.m. to 11:00 p.m., in areas zoned seasonal resort, except as provided in subsections (d) and (e) above.

(ge) Operating emergency signal equipment, conducting emergency road and utility repairs and maintenance, constructing roads or utilities when major road closure is required, and operating railway equipment are exempt from the above sound level and noise prohibitions, in all zoning areas, at all times.

SECTION 3. Section 17-73 of the Bay County Code of Ordinances is amended as follows:

Sec. 17-73. — Civil Penalty and Criminal Enforcement.

~~All violations of this article shall be investigated, cited, processed, adjudicated and punished in the same manner as a misdemeanor, in accordance with F.S. § 125.69(1), by the Bay County Sheriff and his deputies or by other sworn law enforcement officers. Upon conviction, a violator may be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days, or by both fine and imprisonment, for each violation.~~

(a) This section governs the initiation of enforcement actions, the issuance of citations or summons for violations of this article, and the imposition of penalties for violations of this article.

(b) If a person violates any provision of this article, or an order issued pursuant thereto, the Bay County Sheriff may issue a citation or summons, to prohibit and prevent such violation or violations, in which event the matter shall proceed as a summary matter in a court of competent jurisdiction.

(c) Any person violating any provision of this article may be punished as follows:

1. First Offense: By a fine of five hundred dollars (\$500.00).

2. Second offense or two (2) or more violations occurring within any six (6) months period: Misdemeanor of the second degree punishable by a fine of no more than one thousand dollars (\$1,000.00) or a sentence of not more than sixty (60) days in jail, or both.

3. Any motor vehicle found to be in violation of Section 17-72(e) of this article may be subject to towing and impoundment. If the vehicle is redeemed from the impound within twenty-four (24) hours, the redemption fee shall be seventy-five dollars (\$75.00), which is not inclusive of the fine.

4. Each day that a nuisance noise exists shall constitute a separate violation of this article.

(d) Any claims for a civil penalty may be compromised and settled based upon the following factors:

1. Mitigating or other extenuating circumstances;

2. The timely implementation by the violator of measures which lead to compliance;

3. The conduct of the violator; and

4. The compliance history of the violator.

A person who does not contest a civil penalty associated with a violation of Section 17-72(e) shall be eligible for a fifty (50) percent discount of that penalty, if paid to the City Clerk within twenty (20) days of the date of issuance of order or citation requiring such civil penalty.

(e) The owner of the property, or any person lawfully entitled to possess the property or manage a business premises from which the offending sound is emitted at the time the offending sound is emitted shall be jointly and severally liable for compliance with this article even if not present upon or in the property and each shall be punished for its violation as shall the person or persons actually causing such sound. It shall not be a lawful defense to assert that some other person caused the sound. The lawful possessor, manager or operator in or on the property shall be responsible for operating or maintaining the property in compliance with this article, and arrest and penalties shall be applied to such person or persons as well as to the person or persons actually causing the sound.

(f) Any owner, lessee, agent, supervisor, or other person in charge of operating, ordering, directing or allowing the operation or maintenance of any device or machine creating a nuisance noise as prohibited in this article, shall be deemed guilty of violating this article.

(g) Nothing in this Section limits the authority of the County to seek injunctive relief against noise nuisances or limits the authority of the Bay County Code Enforcement Board.

SECTION 4. APPLICABILITY.

It is hereby intended that this Ordinance shall constitute a uniform law applicable in all unincorporated areas of Bay County, Florida, and to all incorporated areas of Bay County where there is no existing conflict of law or municipal ordinance.

SECTION 5. SEVERABILITY.

If any portion of this Ordinance is for any reason held invalid or declared to be unconstitutional, inoperative, or void by any court of competent jurisdiction, such holdings shall not affect the validity of the remainder of this Ordinance.

SECTION 6. RESOLUTION OF CONFLICT OF LAWS.

In all instances where Florida law, as evidenced by the Florida Administrative Code, Florida Statutes, applicable case law or otherwise, mandates standards or requirements that are stricter than the provisions of this Ordinance, or where a matter is addressed by Florida law that is not addressed by this Ordinance, then said law shall govern. In situations where this Ordinance addresses a matter in a manner that is stricter than that of Florida law, the provisions of this Ordinance shall control.

SECTION 7. INCLUSION IN THE BAY COUNTY CODE.

The provisions of this Ordinance shall be included and incorporated in the Bay County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Bay County Code, once established.

SECTION 8. FILING OF ORDINANCE.

In accordance with the provisions of § 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the Florida Department of State.

SECTION 9. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon filing with the Florida Department of State.

DULY ADOPTED in regular session this 3 day of May 2022.

ATTEST:



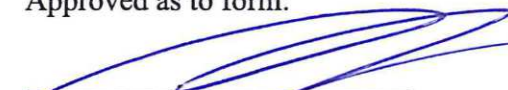
Bill Kinsaul, Clerk

BOARD OF COUNTY COMMISSIONERS
BAY COUNTY, FLORIDA



Robert Carroll, Chairman

Approved as to form:



Bay County Attorney's Office

