

**ORDINANCE NO. 349**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF MANALAPAN, FLORIDA, AMENDING CHAPTER 95. NOISE REGULATIONS. AT SECTION 95.06, TO PROHIBIT USE OF BLOWERS, POWER TOOLS, AND SIMILAR ITEMS ON SUNDAYS, CONSISTENT WITH THE REGULATION OF CONSTRUCTION OR REPAIR OF BUILDINGS, EXCAVATION OF STREETS AND HIGHWAYS; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 95. NOISE REGULATIONS. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ENACTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, in 2015 the Town Commission adopted an entirely new comprehensive noise control ordinance codified at Chapter 95 of the Town's Code of Ordinances; and

**WHEREAS**, the Town Commission believes that consistency regarding the regulation of blowers, power tools, and similar items and the regulation of construction or repair of buildings, excavation of streets and highways, in terms of a prohibition of such activities on Sundays in the Town is necessary to further reduce, control, and prevent noise which unreasonably disturbs, injures or endangers the comfort, repose, health, peace, or safety of the Town's inhabitants and visitors; and

**WHEREAS**, it is not the intent of the Town Commission to interfere unduly with freedom of speech or religion by enacting this ordinance; and

**WHEREAS**, the Town Commission enacts this ordinance to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the Town of Manalapan.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF MANALAPAN, FLORIDA, THAT:**

**Section 1:** Chapter 95. Noise Regulations. Section 95.06. Noises Prohibited. of the Code of Ordinances of the Town of Manalapan is hereby amended to prohibit use of blowers,

power tools, and similar items on Sundays, consistent with the regulation of construction or repair of buildings, excavation of streets and highways; providing that Section 95.06 shall hereafter read as follows:

#### **§ 95.06 NOISES PROHIBITED**

The following noises, as well as similarly created and/or situated noises which may not be specifically listed below, are declared to be violations of this Ordinance.

(A) *Non-Emergency Signaling Devices*: Sounding or permitting the sounding of any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten consecutive seconds in any hourly period.

(B) *Emergency Signaling Devices*: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections (1) and (2), below.

(1) Testing of an emergency signaling device shall occur between 8:00 a.m. and 6:30 p.m., Mondays through Saturdays. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

(2) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen minutes of activation unless an emergency exists.

(C) *Radios, Televisions, Boomboxes, Phonographs, Stereos, Musical Instruments and Similar Devices*: The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial, or public place. The use or operation of a

radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings.

(D) *Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices:* The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 10:00 a.m. the following day in the following areas:

- (1) Within or adjacent to residential or noise-sensitive areas;
- (2) Within a public place if the sound is plainly audible across the real property line of the public place from which the sound emanates, and is unreasonably loud and raucous. This shall not apply to any public performance, gathering, parade, special event for which a permit has been obtained from the Town.

(E) *Yelling, Shouting, and Similar Activities:* Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 6:30 p.m. and 8:00 a.m. the next day, or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities. This section is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing or other factors not based on content.

(F) *Animals and Birds:* Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird.

(G) *Loading or Unloading Merchandise, Materials, Equipment;* The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence. The loading and unloading of supplies for construction activities, lawn and landscape maintenance, landscape activities and other similar activities is regulated at Sec. 94.22.

(H) *Construction or Repair of Buildings, Excavation of Streets and Highways:* The construction, demolition, alteration or repair of any building located on the property from which the noise is created, or the excavation of streets and highways other than between the hours of 8:00 a.m. and 6:30 p.m., on Mondays through Saturdays. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the Town Manager may issue a permit, upon application, if the Town Manager determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 6:30 p.m. and 8:00 a.m. and 6:30 p.m., the following day on Mondays through Saturdays, will not be impaired, and if the Town Manager further determines that loss or inconvenience would otherwise result. The permit shall grant permission in non-emergency cases for a period of not more than three days. The permit may be renewed once for a period of three days or less. In no event may any such non-emergency permit include Sundays.

(I) *Noise Sensitive Areas - Schools, Courts, Churches, Hospitals, and Similar Institutions:* The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons in these institutions; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.

(J) *Blowers, Power tools, and Similar Devices:* In residential or noise sensitive areas, between the hours of 6:30 p.m. and 8:00 a.m. the following day, Monday through Saturday and all day Sunday ~~the next day~~, the operation of any noise-creating blower, power tool, power fan, or any electric motor or internal combustion engine, the operation of which causes noise due to its operation, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.

(K) *Commercial Establishments Adjacent to Residential Property:* Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor

area which is part of or under the control of the establishment, between the hours of 6:30 p.m. and 8:00 a.m. the following day, which is plainly audible at a distance of five feet from any residential property.

**Section 2:** Each and every other section and Chapter 95. Noise Regulations. shall remain in full force and effect as previously enacted.

**Section 3:** All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

**Section 4:** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**Section 5:** Specific authority is hereby granted to codify this Ordinance.

**Section 6:** This Ordinance shall take effect immediately upon adoption.

FIRST READING this 28th day of February, 2017.

SECOND READING this 28<sup>th</sup> day of March, 2017.

TOWN OF MANALAPAN

  
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KEITH WATERS, MAYOR

(SEAL)

ATTEST:

  
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LISA PETERSEN, TOWN CLERK