

ORDINANCE NO. 553

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 1, SECTION 1-3, DEFINITIONS, ADDING AND AMENDING VARIOUS DEFINITIONS REGARDING NOISE REGULATION, AMENDING CHAPTER 34, ARTICLE II, OF THE CODE OF ORDINANCES, CONCERNING NOISE; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Ocean Ridge has an interest in the prevention and prohibition of excessive and unnecessary noise which may injure the health or welfare or degrade the quality of life of the citizens and residents of the Town;

WHEREAS, it is found and declared that the making, creation or maintenance of loud and raucous noises or sounds which are unnecessary, unnatural and unusual in their time, volume, character, duration, place and use are a detriment to public health, comfort, safety, welfare and prosperity of the residents of the Town;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA:

Section 1. Amendment. Chapter 1, Section 1-3, of the Town’s Code of Ordinances is hereby amended to include the following definitions:

Audible means the quality or characteristic denoting that the information content of sound is clearly and unambiguously transferred to the listener, including, but not limited to, the understanding of spoken speech and the comprehension of musical compositions.

* * *

Construction activities means any and all activity incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances thereof, including the loading and unloading of materials and land clearing, grading, excavating and filling.

* * *

Device means any equipment or mechanism which is intended to produce or which actually produces sound when installed, used or operated.

* * *

Emergency Response Vehicles means vehicles of all police and fire departments, emergency vehicles of any public service corporation, all ambulances and rescue vehicles.

* * *

Loud and raucous noise means any sound which is unnecessary, unnatural or which is unusual in its time, place and use, and which, because of its volume level, duration and character disturbs, injures or endangers the comfort, sleep, health, peace, safety or otherwise interferes materially with the rights of a reasonable person of ordinary sensibilities.

* * *

Noise Sensitive Zone means existing quiet zones, until designated otherwise by the administrative official. Noise sensitive activities include, but are not limited to, operations of schools, libraries open to public, churches, hospitals and nursing homes or other designated area provided that conspicuous *signs* are displayed indicating the presence of the zone.

* * *

Sound producing device means any equipment or machine for the production or reproduction of speech, music or other sound, including, but not limited to, radios, televisions, phonographs, tape players, compact disk players, DVD players, musical instruments, walkie-talkie, CB radios or synthesizers.

* * *

Warning device means any sound emitting device used to alert or warn people.

* * *

Water craft means any machine upon which any person or property is or may be transported or drawn upon or over any watercourse or body of water, including swamplands; this term shall include hovercraft and airboats.

Section 2. Amendment. Chapter 34, Article II of the Code of Ordinances is hereby amended as follows:

* * *

Sec. 34-51. Administrative officer.

The *noise* control program established by this article shall be administered by the town manager, or the town manager's designee, as the *noise control officer* of the town.

Sec. 34-52. Powers of noise control officer.

In order to implement and enforce this article and for the general purpose of *noise* abatement and control, the *noise control officer* shall have, in addition to any other authority vested by the

Town Ordinances, the power to:

- (1) Conduct or cause to be conducted studies, research and monitoring related to *noise*.
- (2) Provide for public education as follows:
 - a. Conduct programs of public education regarding:
 1. The cause and effects of *noise* and general methods of abatement and control of *noise*.
 2. The actions prohibited by this article and the procedures for reporting violations.
 - b. Encourage the participation of public interest groups in related public information efforts.
- (3) Provide for coordination and cooperation between agencies as follows:
 - a. Coordinate the *noise* control activities of all municipal departments.
 - b. Cooperate, where practicable, with all appropriate *county*, state and federal agencies.
 - c. Cooperate or combine, where practicable, with appropriate *county* and municipal agencies.
 - d. Enter into contracts, with the approval of the *town commission*, for the provision of technical and enforcement services.
- (4) Request any other department or agency responsible for a proposed or final standard, regulation or similar action to consult on the advisability of revising the action, if there is reason to believe that the action is not consistent with this article.
- (5) On all public and private projects which are likely to cause *sound* in violation of this article and which are subject to mandatory review or approval by other departments:
 - a. Review such projects for compliance with the intent and provisions of this article.
 - b. Require sound analyses which identify existing and projected *noise* sources and associated *sound levels*.
 - c. Require usage of adequate measures to avoid violation of any provision of this article.

(6) Upon presentation of proper credentials, enter or inspect any private property, place, report or records at any time when granted permission by the *owner* or by some other *person* with apparent authority to act for the *owner*. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this article may exist. Such inspection may include administration of any necessary tests.

(7) Develop and recommend to the *town commission* provisions regulating the *use* and operation of any product, including the description of maximum *sound* emission levels of such product, but not in such a manner as to conflict with federal or state new product regulations.

(8) Prepare recommendations, to be *approved* by the *town commission*, for the designation of *noise sensitive zones* which contain *noise* sensitive activities.

(9) Prior to the approval of any zoning change or *special exception*:

a. Review the *noise* impact of the zoning change or *special exception* by identifying existing and projected *noise* sources and the associated *sound levels*.

b. Require usage of adequate measures on *noise* sources identified in subsection (9)(a) of this section which will be in violation of any provision of this article.

* * *

Sec. 34-56. Enforcement procedure.

(a) Generally. In all cases other than as provided in subsection (b) of this section the procedure for enforcing the provisions of this article shall be as follows:

(1) The *noise control officer*, or designated persons in the *department of public safety*, shall investigate and determine if the level is *loud or raucous* or is in excess of that stated in section 34-95 or other section of this article where applicable.

(2) If the *noise* level is found to be in violation of this article, the *noise control officer* or designated *person* in the *department of public safety* shall give a written warning to the *person* responsible for the unnecessary, excessive or offensive *noise*.

(3) If the *loud or raucous noise* is not abated within a reasonable time after warning, a notice of violation by the *department of public safety* shall be issued, or the *person* in possession or control of the cause of the *loud or raucous noise* may be arrested by the town and charged with violating this article. For purposes of this section, a reasonable time means such length of time as may fairly, properly and reasonably be allowed or required having regard to the

nature of the offending, *loud or raucous noise* and the attending circumstances.

(b) *Motor vehicle noise* standards. The procedure for enforcing operating *motor vehicle noise* standards shall be as established in *F.S. ch. 316* and applicable rules and regulations of the state department of pollution control, with the cooperation of the state department of highway safety and *motor vehicles*.

DIVISION 3. NOISE CONTROL STANDARDS

Sec. 34-76. Noise disturbances generally.

It shall be unlawful for any person or persons to make, continue or cause to be made or continued any *loud and raucous noise*. The term "*loud and raucous noise*" includes, but not in way of limitation, the kinds of noise generated by the activities enumerated in this Article, except as provided in section 34-33. The term shall be limited to *loud and raucous noise* audible upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof, or in any event at a location of not less than fifty (50) feet from the noise source.

* * *

Sec. 34-78. Radios, phonographs and other entertainment devices.

(a) It shall be unlawful for any *person* to play, use, operate or permit to be played, used or operated any radio, musical instrument, phonograph or other machine or device for the producing or reproducing of *sound* if such *sound* is for the purpose of entertainment or is used for that purpose in such a manner as to cause *loud and raucous noise* by any person present and in control of such device or by any person present and in control of the premises wherein such device is located particularly during the hours between 10:00 p.m. and 7:00 a.m. the following day as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or residence.

(b) Violation will occur as follows:

(1) If the *noise* source is located within an automobile, in or upon a *public street*, highway, building, sidewalk, park, thoroughfare or other public area, or in or upon a public *access* area such as a shopping mall, *parking lot*, etc., or on any private property, and the *sound* can be heard more than 50 feet from its source; or

(2) If the *noise* source is in a building or other *structure* and the *sound* can be heard more than 100 feet away from the building or *structure* or at the boundaries of the property surrounding such building or *structure*, whichever is greater.

(c) It shall be prima facie evidence of a violation of this section if the *sound* can be heard outside the limits described in subsection (b) of this section or creates *loud and raucous noise* within *noise sensitive zones*, or if the sound violates any vibration or decibel levels set forth in this article, except for activities open to the public and for which a permit has been issued by the town according to the criteria set forth in this article.

(d) Where the *noise* source is located in a building or other *structure*, the *owner, occupant, resident, manager* or other *person* in charge of the *premises* shall, if present, be presumed to have permitted the *noise*, in the absence of evidence to the contrary.

(e) This section shall not apply to noncommercial spoken language.

Sec. 34-79. Loudspeakers.

It is unlawful for any *person* to use or operate for any purpose any loudspeaker, loudspeaker system or similar device between the hours of 10:00 p.m. and 7:00 a.m. the following day, such that the *sound* therefrom creates a *loud and raucous noise* across a residential *real property line* or at any time violates the provisions of section 34-95 or 34-92, except for any noncommercial public speaking, public assembly or other activity for which a *variance* has been issued pursuant to this article.

Sec. 34-80. Street sales.

It is unlawful for any *person* to offer for sale or sell any thing or advertise by shouting or outcry or otherwise causing *loud and raucous noise* within any residential or commercial area or *noise sensitive zone* of the town, except by *variance* issued pursuant to this article.

Sec. 34-81. Animals.

It is unlawful for any *person* to own, possess or harbor any animal or bird which frequently, or for continued duration, howls, barks, meows, squawks or makes other *sounds* which create a noise disturbance in violation of the provisions of section 34-95 or which create a *loud and raucous noise* across a *real property line* or within a *noise sensitive zone*.

Sec. 34-82. Loading and unloading.

It is unlawful for any *person* to load, unload, open, close or otherwise handle bales, boxes, crates, containers, building materials, *garbage* cans or similar objects between the hours of 6:00 p.m. and 8:00 a.m. the following day in such a manner as to cause a *loud and raucous noise* across a *real property line* or at any time to violate the provisions of section 34-95 or 34-92.

Sec. 34-83. Construction during certain hours, Sundays, and federal holidays; penalties.

It is unlawful for any *person* to operate or cause the operation of any tools or equipment used in *construction*, drilling, repair, *alteration* or demolition work between the hours of 6:00 p.m. and 8:00 a.m. the following day on *weekdays*, or at any time on Sundays or certain federal holidays (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day), such that the *sound* therefrom creates a *loud and raucous noise* across a *real property line* or at any time violates the provisions of section 34-95 or 34-92, except in case of urgent necessity in the interest of public health and safety and then only with a permit from the noise control officer or his designee, which permit may be granted for a period not to exceed three (e) working days or less while the emergency or urgent necessity continues and which permit may be renewed for successive periods of three (e) days or less while the emergency or urgent necessity continues or by variance issued pursuant to this article. This section shall not apply to the use of domestic power tools as specified in section 34-90.

In addition to the general penalty provisions of this *Code* of Ordinance *violators* of this section shall be subject to the following civil fines. Once a notice of violation has been given to a *violation*, a new and separate offense shall occur, each and every time the equipment is operated following the issuance of the notice of violation

| <i>Violation</i> | <i>Fine</i> |
|--|-------------|
| Warning | No fine |
| 1 st notice of violation | \$100.00 |
| 2 nd notice of violation (within a 12-month period) | \$200.00 |
| 3 rd or more notice of violation (within a 12-month period) | \$300.00 |

| <i>Violation</i> |
|-------------------------------------|
| Warning |
| 1 st notice of violation |

2nd notice of violation (within a 12-month period)

3rd or more notice of violation (within a 12-month period)

Sec. 34-84. Vehicle, motorboat or aircraft repairs and testing.

It is unlawful for any *person* to repair, rebuild, modify or test any *motor vehicle, motorboat* or aircraft in such a manner as to create a *loud and raucous noise* across a *real property line* or at any time to violate the provisions of section 34-95 or 34-92. Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft which is in all respects conducted in accordance with or pursuant to applicable federal laws or regulations.

Sec. 34-85. Explosives, firearms and similar devices.

It is unlawful for any *person* to use or fire explosives, firearms or similar devices such that the *sound* therefrom creates a *loud and raucous noise* across a *real property line*, or within a *noise sensitive zone, public space* or *public right-of-way*, without first obtaining a *variance* pursuant to this article. Nothing in this section shall be construed to prohibit, restrict or regulate in any manner the use or firing of explosives, firearms or similar devices when the action is performed by, at the direction of or under the supervision of the town manager or the *director* of public safety of the town.

Sec. 34-86. Powered model vehicles.

It is unlawful for any *person* to operate or permit the operation of *powered model vehicles*:

(1) Between the hours of 6:00 p.m. and 8:00 a.m. the following day so as to create a *loud and raucous noise* across a residential or commercial *real property line* or at any time to violate the provisions of section 34-95 or 34-92.

(2) In such a manner as to exceed the levels set forth for *public space land use* in section 34-95 measured at a distance not less than 100 feet (30 meters) from any point on the path of a *vehicle* operating on *public space* or a *public right of way*.

* * *

Sec. 34-89. Motorboats.

It is unlawful for any *person* to *operate* or permit the operation of any *motorboat* in any lake, river, stream or other waterway in such manner as to cause a *loud and raucous noise* across a residential or commercial *real property line* or at any time to violate the provisions of section 34-95 or 34-92.

Sec. 34-90. Domestic power tools.

(a) It is unlawful for any *person* to:

(1) Operate or permit the operation of any mechanically powered saw, sander, drill, grinder or other similar domestic power tool on Sundays and between 6:00 p.m. and 8:00 a.m. the following day on *weekdays* (Monday through Saturday) so as to create *loud and raucous noise* across a *real property line* or to violate the provisions of section 34-95 or section 34-92.

(2) Operate any mechanically powered lawn or garden tool between 8:00 p.m. and 8:00 a.m. the following day on *weekdays*, or for anyone other than the *resident* of the *premises* to operate such equipment on Sundays.

(3) Operate any mechanically powered lawn or garden tool on Sundays prior to 11:00 a.m. and after 3:00 p.m.

(b) Any motor, machinery, pumps, etc., shall be properly muffled and maintained in good working order so as not to create between the hours of 6:00 p.m. and 8:00 a.m. the following day on *weekdays* and between the hours of 11:00 a.m. and 3:00 p.m. on Sundays a *loud and raucous noise* or to violate the provisions of section 34-95 or section 34-92.

* * *

Sec. 34-92. Noise levels for noise sensitive zones.

It is unlawful for any *person* to:

(1) Create or cause the creation of any *loud or raucous noise* within any *noise sensitive zone*, or any sound within any *noise sensitive zone* so as to exceed the residential land use levels set forth in section 34-95 when measured at a distance of at least 25 feet (7.5 meters) from the sound source; or

(2) Create or cause the creation of any sound within or adjacent to any *noise sensitive zone* containing a hospital, nursing home, school, court or other designated area so as to interfere with the functions of such activity or annoy the patients in the activity; provided that conspicuous *signs* are displayed indicating the presence of the zone.

Sec. 34-93. Noise levels for multifamily dwellings.

(1) It is unlawful for any *person* to operate or permit the operation within a *multifamily dwelling* of any source of *sound* in such a manner as to create *loud and raucous noise* or to exceed 50 dBA from 8:00 a.m. to 10:00 p.m. or 45 dBA from 10:00 p.m. to 8:00 a.m. when measured within an adjacent intrabuilding dwelling. These measured noise limits shall not be exceeded for more than 50 percent of any measurement period, which shall not be less than ten minutes.

(2) The maximum permissible sound level as a result of operating any sound source within a multifamily dwelling, when measured in an adjacent intrabuilding dwelling between 10:00 p.m. and 8:00 a.m. the following day, shall be 50 dBA.

* * *

Sec. 34-95. Maximum sound levels by receiving land use.

(a) For the purpose of determining and classifying any noise as loud and raucous, the test measurements, requirements and provisions in this Article may be applied, provided, however, a violation of this Section may occur as provided for herein without the occasion of the measurements being made.

(b) No person shall make, continue, or cause to be made or continued any *loud and raucous noise* which term shall mean any sound which, because of its volume, level, duration and character, annoys, disturbs, injures or endangers the comfort, sleep, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the Town.

(c) General *sound level* limits. No *person* shall operate or cause to be operated any source of *sound*, including air conditioning equipment, other than a *motor vehicle* being operated on a *public right-of-way*, in such a manner as to create *loud and raucous noise* or to create an exterior or interior *sound level*, of any origin, which exceeds the limits set forth for the receiving land *use* category in table 2 of this section for more than 50 percent of any measurement period, which shall not be less than ten minutes, when measured at or within the boundary of a property or within the confines of a building within the receiving land *use*, as a result of a source of *sound* located on some other property.

TABLE 2. *SOUND LEVELS BY RECEIVING LAND USE*

| <i>Receiving Land Use Category</i> | <i>Time</i> | <i>Sound Level Limit (dB)</i> |
|------------------------------------|--------------|-------------------------------|
| <u>Exterior:</u> | | |
| Residential | At all times | 50 |
| Non Residential | At all times | 65 |

Interior:

| | | |
|-----------------|-------------------------|----|
| Residential | 8:00 a.m. to 10:00 p.m. | 50 |
| | 10:00 p.m. to 8:00 a.m. | 45 |
| Non Residential | At all times | 65 |

(d) Maximum *sound level* limits. For any source of *sound*, the maximum *sound level* shall not exceed the *sound level* limits in table 2 by:

- (1) Ten dBA from 8:00 a.m. to 10:00 p.m.
- (2) Five dBA from 10:00 p.m. to 8:00 a.m.

(e) Correction for character of *sound*. For any source of *sound* which emits a *pure tone*, or is of an impulsive nature, the *sound level* limits set forth in subsection (a) of this section shall be reduced by five dBA.

(f) Exemptions.

(1) The provisions of this section shall not apply to activities covered by the following sections:

- a. Section 34-88, pertaining to *emergency* signaling devices.
- b. Section 34-90, pertaining to domestic power tools.
- c. Section 34-91, pertaining to air conditioning and air handling equipment.
- d. Section 34-96(a), pertaining to *motor vehicles* operating on public rights-of-way.
- e. Section 34-96(b), pertaining to refuse collection *vehicles*.

(2) The provisions of this section shall not apply to the following activities:

- a. The unamplified human voice.
- b. Routine maintenance of public service utilities.

Sec. 34-96. Motor vehicle noises. (formerly Sec. 34-96.)

(a) *Vehicles* operating on *public right-of-way*. *Motor vehicles* on a *public right-of-way* are regulated as set forth in the state *Motor vehicle Noise Prevention and Control Act of 1974, F.S.*

§§ 316.293 and 403.415.

(b) Refuse collection *vehicles*. No *person* shall collect refuse with a refuse collection *vehicle* between the hours of 6:00 p.m. and 8:00 a.m. the following day in a *residential area* or *noise sensitive zone*.

(c) Recreational *vehicles* operating off *public right-of-way*. No *person* shall operate or cause to be operated any recreational motorized *vehicle* off a *public right-of-way* in such a manner as to create *loud and raucous noise* or that the sound levels emitted therefrom violate the provisions of section 34-95 or section 34-92. This subsection shall apply to all recreational motorized *vehicles*, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing *vehicles*, motorcycles, go-carts, amphibious craft, campers and *dune buggies*, but not including *motorboats*.

Section 3. Codification. This ordinance shall be codified in the Code of Ordinances of the Town of Ocean Ridge, Florida.

Section 4. Severability. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of the Ordinance.

Section 5. Repeal. All Ordinances or parts of Ordinances in conflict herewith shall be and the same are hereby repealed.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption.

FIRST READING this 7TH day of February, 2005.

SECOND AND FINAL READING this 7th day of March, 2005.

Commissioner Bingham offered the foregoing Ordinance and moved its adoption. The motion was seconded by Commissioner Pugh and upon being put to a vote, the vote was as follows:

| | |
|---------------------------------------|------------|
| KENNETH M. KALEEL, Mayor | <u>Yea</u> |
| GEOFFREY A. PUGH, Vice Mayor | <u>YEA</u> |
| LYNN ALLISON, Commissioner | <u>YEA</u> |
| ELISABETH P. B. BINGHAM, Commissioner | <u>YEA</u> |
| NANCY L. HOGAN, Commissioner | <u>YEA</u> |

The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission of the Town of Ocean Ridge, Florida, on second reading, this 7th day of March, 2005.

TOWN OF OCEAN RIDGE, FLORIDA

BY: _____
KENNETH M. KALEEL, MAYOR

ATTEST: _____
TOWN CLERK