

ORDINANCE 26-__

AN ORDINANCE OF THE CITY OF MARCO ISLAND, AMENDING CHAPTER 18, "ENVIRONMENT"; ARTICLE, IV "NOISE CONTROL"; SECTION 18-103, "DEFINITIONS,"; SECTION 18-104, "GENERAL NOISE PROHIBITIONS"; SECTION 18-106 "EXEMPTIONS"; SECTION 18-108, "ENFORCEMENT AND PENALTIES" OF THE CITY OF MARCO ISLAND CODE OF ORDINANCES TO PROVIDE EFFECTIVE RULES AND ENFORCEMENT REGULATIONS RELATED TO EXCESSIVE NOISE CONTROL WITHIN THE CITY OF MARCO ISLAND; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marco Island ("City") has a significant government interest to protect, preserve, and promote the health, safety, welfare, peace, and quiet of residents and visitors of the city through the control, reduction, and prevention of noises that disturb, injure, or endanger the comfort, repose, health, peace, or safety of reasonable person of ordinary sensitivities; and

WHEREAS, the effective control of excessive noise is essential to the health, safety, and welfare of city residents and visitors, and fosters the comfortable enjoyment of life, including, but not limited to, recreation, work communication and rest; and

WHEREAS, the Marco Island City Council finds that this Amendment to the City's Code of Ordinances is tailored to impose specific regulations to protect the public health, safety, and welfare within the municipal boundaries of Marco Island.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, that:

SECTION 1. Recitals. Each and all the foregoing recitals be and the same are hereby incorporated into this Ordinance as if specifically set forth herein.

SECTION 2. Amendment and Adoption.

Amendment and Adoption. That Chapter 18, "Environment," Article IV, "Noise Control," Section 18-103, "Definitions," of the City of Marco Island Code of Ordinances, be, and the same is hereby amended to read as follows:

CHAPTER 18 – ENVIRONMENT

39 ARTICLE IV. – NOISE CONTROL

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44 Sec. 18-103. – Definitions.

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46 The following words, terms, and phrases, when used in this article, shall have the
47 meanings ascribed to them in this section, except where the context clearly indicates a
48 different meaning. These definitions are supplemental to the definitions in section 1-2 of this
49 code. The definitions in this section shall prevail in case of conflict.

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52 ~~*C-weighted sound level* means the sound pressure level in decibels as measured~~
53 ~~with a sound level meter using the C-weighting network as described in ANSI S1.4-~~
54 ~~1983 issued by the American National Standards Institute. The unity of measurement~~
55 ~~is the dBC.~~

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57 *Decibel meter* includes a calibrated sound level measuring instrument that meets
58 or exceeds the standards set forth by the American National Standards Institute
59 (ANSI) for Type 1 or Type 2 sound level meters. The device must be professionally
60 calibrated annually and have a self-check calibration prior to any enforcement
61 measurement. Smartphone applications or other non-calibrated consumer devices
62 shall not be used for official enforcement purposes.

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64 ~~*Equivalent sound pressure level* means the constant sound level that, in a given~~
65 ~~situation and time period, conveys the same sound energy as the actual time-varying.~~

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67 ~~*Frequency* means the number of complete fluctuations per second of the sound~~
68 ~~wave.~~

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70 ~~*Intensity (or loudness)* means the magnitude of the fluctuation measured in~~
71 ~~atmospheric pressure units or microbars.~~

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73 ~~*Motor vehicle* means any self-propelled vehicle, such as, but not limited to,~~
74 ~~passenger cars, trucks, truck trailers, semitrailers, campers, motorcycles, minibikes,~~
75 ~~go-carts, amphibious craft on land, and dune buggies or racing vehicles which are~~
76 ~~propelled by mechanical power.~~

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78 ~~*Motorboat* means any vehicle which is primarily operated on water or which does~~
79 ~~operate on water, such as boats, barges, amphibious craft, or hover craft, and which~~
80 ~~is propelled by mechanical power.~~

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82 ~~*Plainly audible* means any sound that can be clearly heard and understood by a~~
83 ~~reasonable person using such person's ordinary senses, so long as the person's~~

84 ~~hearing is not enhanced by any device, such as a hearing aid.~~

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86 Plainly audible means a sound that can be clearly heard and identified by a
87 person using their normal hearing faculties, without the use of any listening device.
88 This includes the ability to distinguish the type of sound (such as music, speech, or
89 a specific instrument) and, if speech, to discern the content or words being spoken.
90 For enforcement purposes, the sound must be sustained and continuous for a
91 minimum duration of 30 seconds. Brief, momentary, or isolated noises do not
92 constitute a plainly audible sound under this definition.

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94 ~~Powered model vehicles means any powered vehicles, either airborne,~~
95 ~~waterborne or landborne, which are designed not to carry persons or property, such~~
96 ~~as, but not limited to, model airplanes, boats, cars, rockets, and which are being~~
97 ~~propelled by mechanical means.~~

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99 ~~Volume means the degree of intensity, audibility, quality, strength, or loudness of~~
100 ~~sound.~~

101 102 103 **SECTION 3. Amendment and Adoption.**

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105 **Amendment and Adoption.** That Chapter 18, "Environment," Article IV, "Noise
106 Control," Section 18-104, "General Noise Prohibitions," of the City of Marco Island Code of
107 Ordinances, be, and the same is hereby amended to read as follows:

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109 Sec. 18-104. – General noise prohibitions.

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111 (a) *Prohibition of excessive noise from a property.* It is a violation ~~unlawful~~ for any
112 person, including the property owner(s), to permit, cause, allow, create, emit, or
113 sustain excessive noise from a property, including the air space above the
114 property. ~~Noise disturbances are irreversible and irreparable violations of this~~
115 ~~article.~~

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117 (b) *Prima facie evidence.* For the purposes of this subsection, the following shall
118 constitute prima facie evidence that noise (whether recurrent, ~~intermittent~~, or
119 continuous) is excessive:

- 120 (1) Between the hours of 10:00 p.m. and 7 a.m., the sound is plainly
121 audible a minimum of 50 feet from the property line of the source of the
122 sound or within a fully enclosed structure or residence on any receiving
123 property; or
124 (2) Sound pressure levels by receiving land use.

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Sound Measured for 10 seconds, and average reading cannot exceed the following:

Receiving Land Use Category	Time	Sound Pressure Level Limit (dBA)
Residential zone, public space, or institutional zone	7:00 a.m. — 9:00 p.m.	<u>60</u> 63 68
	9:00 p.m. --- 7:00 a.m.	<u>55</u> 60
Commercial zone	7:00 a.m. --- 9:00 p.m.	<u>70</u> 72
	9:00 p.m. --- 7:00 a.m.	<u>63</u> 65

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(c) *Multifamily dwellings and duplexes*: It is ~~unlawful~~ a violation to create or permit to be created any sound that exceeds a sound pressure level of 50 dBA, during the hours between 7:00 a.m. to 9:00 p. m., or 45 dBA during the hours between 9:00 p.m. and 7:00 a. m. measured from inside any other dwelling unit within such multifamily or duplex structure. The plainly audible standard does not apply to this paragraph.

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(d) ~~It is unlawful for any person owning or in possession of any building or premises to use or rent the same for any purpose if such use makes, continues, or causes to be made or continued, any noise disturbance.~~

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SECTION 4. Amendment and Adoption.

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Amendment and Adoption. That Chapter 18, “Environment,” Article IV, “Noise Control,” Section 18-106, “Exemptions,” of the City of Marco Island Code of Ordinances, be, and the same is hereby amended to read as follows:

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Sec. 18-106. – Exemptions.

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The following noises shall be exempt from the restrictions set forth in the other sections of this article:

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- (1) Sound made by a horn or other ~~warning~~ warning device required or permitted by F. S. Section 316.271 or other statutory provision shall be regulated in accordance with state law.
- (2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency or any other public safety operation.
- (3) Noises resulting from emergency work, which is to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from any imminent exposure to danger. It shall be the burden of an alleged violator to prove an emergency.
- (4) Noises incidental to city approved refuse collection.
- (5) ~~Community events such as parades, festivals, sporting events, or fairs being~~

168 ~~conducted in accordance with the conditions contained in a special event permit~~
169 ~~granted by the city manager. Sound from city permitted events including, but not~~
170 ~~limited to parades, festivals, sporting events, fairs, concerts, business special~~
171 ~~events, etc.~~

- 172 (6) Noises associated with city operations, construction, or maintenance.
173 (7) Noises associated with police or fire department training.
174 (8) Sound from community and organized sporting events and school activities.
175 (9) Noise associated with lightning warning systems.
176 (10) Nonamplified crowd noise resulting from otherwise lawful public gatherings.
177 (11) Noise from any aircraft operating in conformity with, or pursuant to, federal
178 law, federal air regulations, and air traffic control instructions used pursuant to
179 and within the duly adopted federal air regulations.
180 (12) Amplified sound on property controlled by a governmental agency during
181 governmental sponsored activities.
182 (13) Sound produced by activities in the fields, grounds, or facilities of any sporting
183 venue to which the public or community has access.
184 (14) Sounds generated by houses of worship between 7:00 a.m. and 7:00 p.m.

187 **SECTION 5. Amendment and Adoption.**

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189 **Amendment and Adoption.** That Chapter 18, "Environment," Article IV, "Noise
190 Control," Section 18-108, "Enforcement and Penalties," of the City of Marco Island Code of
191 Ordinances, be, and the same is hereby amended to read as follows:

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193 Sec. 18-108. – Enforcement and penalties.

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195 Nothing in this section prohibits sworn law enforcement officers from charging
196 persons responsible for acts that violate this article with breach of the peace or disorderly
197 conduct pursuant to F. S. Section. 877.03.

- 198 (1) Any person(s) violating this article shall be given a warning that a notice of
199 violation or citation will be issued for violations of the city's noise ordinance if
200 the person(s) responsible fails to bring the sound level into compliance with five
201 minutes ~~and maintain a compliant sound level for the 48 hours that follow~~ and
202 thereafter remains noncompliant or commits a repeat violation within the 48
203 hours that follow. ~~The notice and warning may be given in writing or verbally to~~
204 ~~inform the person(s) responsible for a purported noise disturbance of the~~
205 ~~violation.~~ The warning may be communicated verbally or in writing at the scene,
206 and shall be documented in a written or electronic record sufficient to identify
207 the property, date, and nature of the violation. Responding personnel may
208 review prior warnings or violations associated with the property for escalation
209 purposes. Complainant identifying information collected by the city shall be
210 handled in accordance with chapter 119 and city public records procedures No
211 warnings will be issued after ~~10:00 p.m. 11:00 p.m.~~
212 (2) Failure to timely bring the sound level into compliance shall be enforced under

- 213 the provisions of chapter 14 of this code.
214 (3) Any person(s) responsible for a violation of this article that jars, injures, or
215 endangers the health, safety, welfare, or well being of a reasonable individual of
216 ordinary sensibilities, because of the volume level or duration of the noise, may,
217 without warning, be immediately issued a citation or notice of violation for an
218 irreparable and irreversible offense.
219 (4) Regardless of whether the property owner caused the noise disturbance
220 occurring on their property, the property owner will be issued a notice of violation
221 or citation for each individual violation of this article. The first violation ~~in a rolling~~
222 ~~12-month period,~~ will result in the issuance of a notice of violation, which shall
223 constitute an official warning. All subsequent violations in a rolling 12-month
224 period shall result in issuance of citations, or notices of violations that require a
225 hearing before the special magistrate, and ~~the potential imposition of a fine for~~
226 ~~the violation(s).~~ upon a finding of violation(s) the following fines shall be imposed:
227 (i) 1st violation - Up to \$250;
228 (ii) Subsequent Repeat violation(s) -- Up to \$500.
229 (iii) Any violation determined to constitute irreparable or irreversible
230 condition : Up to \$5,000 per violation.
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233 (5) Any person(s), including the property owner(s), who violates any of the
234 provisions of this article shall be subject to a civil penalty as adopted by
235 Resolution of the City Council-, payable within 30 days after assessment unless
236 a different period is provided by chapter 14, the citation, an order of the special
237 magistrate, or as otherwise provided by Chapter 162, Florida Statutes.
238 (6) Joint and several responsibility. Any person(s) responsible for excessive noise
239 from a property or from a vehicle, as defined herein, may be liable for the violation
240 under this section. More than one person may be found to be responsible for the
241 violation.
242 (7) The city may use all available means of enforcement provided in chapter 14 of
243 this code- and applicable law, including recordation of liens and pursuit of
244 collection or money-judgment remedies authorized by law.
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247 SECTION 6. Severability/Interpretation.

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- 249 (a) If any term, section, clause, sentence or phrase of this Ordinance is for any
250 reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction,
251 the holding shall not affect the validity of the other or remaining terms, sections, clauses,
252 sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or
253 applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or
254 section did not exist.
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256 (b) In interpreting this Ordinance, underlined words indicate additions to
257 existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks

258 (* * *) indicate a deletion from the Ordinance of text, which continues to exist in the Code
259 of Ordinances. It is intended that the text in the Code of Ordinances denoted by the
260 asterisks and not set forth in this Ordinance shall remain unchanged from the language
261 existing prior to adoption of this Ordinance.
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263 **SECTION 7. Effective Date.** This Ordinance shall be effective immediately upon
264 adoption by the City Council on second reading.

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266 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this ____
267 day of _____, 2026.

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269 **ATTEST:**

CITY OF MARCO ISLAND, FLORIDA

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271 _____
272 Joan Taylor, City Clerk

By: _____
Darrin Palumbo, Chair

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274 Approved as to form and legal sufficiency:

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276 _____
277 Alan L. Gabriel, City Attorney
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