

ARTICLE IV. - NOISE CONTROL

Footnotes:

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Editor's note— Ord. No. 24-15, § 2(Exh. A), adopted Sept. 9, 2024, amended Art. IV in its entirety, in effect repealing and reenacting said Art. IV to read as set out herein. The former Art. IV, §§ 18-101—18-111, pertained to similar subject matter and derived from Ord. No. 01-31, §§ 1—10, adopted Nov. 5, 2001; Ord. No. 15-06, § 2, adopted April 6, 2015; Ord. No. 20-05, § 2, adopted Oct. 5, 2020; Ord. No. 21-14, § 2, adopted Nov. 1, 2021.

Sec. 18-101. - Short title.

This article shall be known and may be cited as the "City of Marco Island Noise Control Ordinance."

(Ord. No. 24-15, § 2(Exh. A), 9-9-2024)

Sec. 18-102. - Intent and purpose.

- (a) It is the public policy of the city that every person is entitled to ambient sound levels that are not detrimental to life, health, and enjoyment of his or her property.
- (b) The city council finds that excessive noise degrades the environment of the city to a degree that such noise:
 - (1) Is harmful to the health, safety, and welfare of city residents and visitors; and
 - (2) Interferes with the comfortable enjoyment of life and property; and
 - (3) Interferes with the well-being, tranquility, and privacy of one's home; and
 - (4) Can cause and aggravate health problems.
- (c) 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.
- (d) This section is enacted 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 persons of ordinary sensitivities.
- (e) Nothing contained in this article is intended to infringe upon the constitutionally protected rights guaranteed by the Florida Constitution and the First Amendment of the United States Constitution. This section enacts narrowly drawn; content-neutral regulations that are to be interpreted to not unduly restrict constitutionally protected rights.

(Ord. No. 24-15, § 2(Exh. A), 9-9-2024)

Sec. 18-103. - 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. These definitions are supplemental to the definitions in section 1-2 of this code. The definitions in this section shall prevail in case of conflict.

A-weighted sound level means the sound pressure level in decibels as measured with a sound level meter using the A-weighting network as described in ANSI S1.4-1983 issued by the American National Standards Institute. The unit of measurement is the dBA.

Ambient noise means the surrounding or steady background noise, as distinguished from the specific noise which is the subject of the attempted measurement.

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

Construction means any site preparation, assembly; erection, substantial repair, alteration (or similar action) of structures, utilities, public or private right-of-way or similar things. Construction does not include demolition.

Completely enclosed building means a building separated on all sides from adjacent open space or from other buildings by permanent roof and by exterior walls or party walls, pierced only by closed windows and normal entrance or exit doors. Such doors shall not be kept open except for normal ingress and egress.

Commercial zone means lands primarily intended for business or commercial use.

Decibel (dB) means a unit for measuring the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

Demolition means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

Device means a mechanism which is intended to produce, or which actually produces noise when operated or handled.

Duplex means a structure containing two dwelling units.

Enforcement official means any Florida certified law enforcement officer, or community service officer/deputy, or code enforcement official.

Emergency has the meaning ascribed to it in section 1-2 of this code.

Emergency vehicle means a motor vehicle or vessel used by fire-rescue/emergency medical personnel, law enforcement, community service officers, or code enforcement official; or a motor vehicle or vessel used in response to a public calamity or to protect persons or property from imminent danger.

Emergency work means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from an imminent exposure to danger.

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

Excessive noise (see *noise disturbance*).

Frequency means the number of complete fluctuations per second of the sound wave.

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

Governmental entity means any federal, state, county, municipal, district, board or separate unit of government created or established by law.

Holiday means those days designated as legal holidays by the city and federal government.

Institutional zone means lands primarily intended for noncommercial, nonresidential activity such as public lands, schools, houses of worship, or conservation areas.

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

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

Muffler means any apparatus consisting of baffles, chambers, or acoustical absorbing material whose primary purpose is to transmit liquids or gases while causing a reduction in sound emission at one end.

Multifamily dwelling means a structure containing more than two dwelling units.

Noise disturbance or *excessive noise* means any sound, which because of its volume level, duration and character, as articulated in the standards of this article, disturbs the peace and comfort, or endangers the health, safety and welfare of reasonable persons of ordinary sensibilities, constituting a nuisance..

Period of observation means the time interval during which noise and facts are obtained by enforcement officials.

Person has the meaning ascribed to it in [section 1-2](#) of this code.

Person(s) responsible means, but, is not limited to, any person who has any manner of control over a property, premises, dwelling, structure, location, business, vehicle, device, stereo, or source of sound and may include, but is not limited to, any property owner, tenant, subtenant, business owner, resident, operator or person having operational control, person(s) creating or controlling the volume of sound, property manager, or person(s) in charge or otherwise authorized to make decisions regarding the use of sound equipment, or any combination of such, jointly and severally.

Plainly audible means any sound that can be clearly heard and understood by a reasonable person using such person's ordinary auditory senses, so long as the person's hearing is not enhanced by any device, such as a hearing aid.

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

Private right-of-way means any street, avenue, boulevard, highway, sidewalk, bike path, or alley, or similar place, which is not owned or controlled by a governmental entity.

Property boundary means an imaginary line exterior to any enclosed structure, at the ground surface, which separates the real property owned by one person from that owned by another person, and its vertical extension.

Public right-of-way has the meaning ascribed to it in section 1-2 of this code.

Public space means any property or structures thereon normally accessible to the public.

Receiving property means at or within the property line, which is receiving sound from another property, but does not include public rights-of-way.

Residential zone means lands primarily intended for residential use.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

Sound source means any person, animal, device, operation, process, activity, or phenomenon that emits or causes sound.

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

Weekday means any day, Monday through Friday, which is not a holiday.

(Ord. No. 24-15, § 2(Exh. A), 9-9-2024)

Sec. 18-104. - General noise prohibitions.

- (a) *Prohibition of excessive noise from a property.* It is unlawful for any person, including the property owner(s), to permit, cause, allow, create, emit, or sustain excessive noise from a property, including the air space above the property. Noise disturbances are irreversible and irreparable violations of this article.
- (b) *Prima facie evidence.* For the purposes of this subsection, the following shall constitute prima facie evidence that noise (whether recurrent, intermittent, or continuous) is excessive:
 - (1) Between the hours of 10:00 p.m. and 7:00 a.m., the sound is plainly audible a minimum of 50 feet from the property line of the source of the sound or within a fully enclosed structure or residence on any receiving property; or
 - (2) Sound pressure levels by receiving land use;

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.	68
	9:00 p.m.—7:00 a.m.	60
Commercial zone	7:00 a.m.—9:00 p.m.	72
	9:00 p.m.—7:00 a.m.	65

- (c) *Multifamily dwellings and duplexes.* It is unlawful 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.
- (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.

(Ord. No. 24-15, § 2(Exh. A), 9-9-2024)

Sec. 18-105. - Specifically prohibited activities.

In addition to the standards for noise disturbances in section 18-104, the following acts are declared to be noise disturbances in violation of this article.

- (1) *Construction equipment and activity.* Operating or causing to be operated any equipment or performing any activity in furtherance of construction or demolition work on buildings, structures, roads, or projects within the city:
 - a. Between the hours of 7:00 p.m. and 7:00 a.m.
 - b. For pile driving activities, between the hours of 7:00 p.m. and 8:00 a.m.
 - c. On Sundays, or any holidays.
- (2) *Activities in the vicinity of schools, houses of worship, and health care facilities.* Creating any noise on any street adjacent to any school, house of worship, or health care facility which unreasonably interferes with the workings of such institution, or causes excessive noise to be heard within such facilities.
- (3) *Landscape maintenance.* Undertaking landscape maintenance activities, including the use of air-blowing or vacuum equipment, that is plainly audible across a real property boundary between the hours of 9:00 p.m. and 7:00 a.m. Golf courses engaged in the regular maintenance of greens, fairways, practice areas, etc., are exempt from this provision.
- (4) *Fireworks.* The use of fireworks as defined in F.S. § 791.01 is prohibited at any time without a permit within the incorporated limits of the City of Marco Island pursuant to F.S. § 791.014(4) (a) and (b).

(Ord. No. 24-15, § 2(Exh. A), 9-9-2024)

Sec. 18-106. - Exemptions.

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

- (1) Sound made by a horn or other warning device required or permitted by F.S. § 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 conducted in accordance with the conditions contained in a special event permit granted by the city manager.
- (6) Noises associated with city operations, construction, or maintenance.

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

(Ord. No. 24-15, § 2(Exh. A), 9-9-2024)

Sec. 18-107. - Temporary exemption.

- (a) A person may seek a temporary exemption from the provisions of this section A completed exemption application must be submitted, on a form provided by the city, and submitted to the designated city department. An exemption may only be issued for a specified limited period of time and is subject to conditions or requirements deemed necessary to mitigate potential adverse effects upon neighboring properties and to otherwise ensure that the public health, safety, and general welfare is protected. The city manager may adopt administrative rules to implement the provisions of this section.
- (b) In determining whether an exemption shall be issued, the city manager shall consider the following criteria:
 - (1) The granting of the exemption will not establish a precedent of or encourage more incompatible uses in the surrounding area; and
 - (2) The applicant has demonstrated that enforcement of the provisions of this article would create an undue hardship on the applicant because of unique circumstances peculiar to the applicant.
- (c) The city manager shall grant or deny an application for an exemption within 15 days from the date of the filing of a complete application. An application may be denied if it is determined to be incomplete. If no ruling has been made, upon the expiration of the 15th day, or if the 15th day is a Saturday, Sunday, or holiday, upon the following working day, the application shall be deemed to be granted.
- (d)

Any violation of any conditions imposed upon the granting of the exemption shall be deemed a violation of this article.

(Ord. No. 24-15, § 2(Exh. A), 9-9-2024)

Sec. 18-108. - Enforcement and penalties.

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

- (1) Any person(s) violating this article shall be given a warning that a notice of violation or citation will be issued for violation of the city's noise ordinance if the person(s) responsible fails to bring the sound level into compliance within five minutes and maintain a compliant sound level for the 48 hours that follow. The notice and warning may be given in writing or verbally to inform the person(s) responsible for a purported noise disturbance of the violation. No warnings will be issued after 11:00 p.m.
- (2) Failure to timely bring the sound level into compliance shall be enforced under the provisions of chapter 14.
- (3) Any person(s) responsible for a violation of this article that jars, injures, or endangers the health, safety, welfare, or wellbeing of a reasonable individual of ordinary sensibilities, because of the volume level or duration of the noise, may, without warning, be immediately issued a citation or notice of violation for an irreparable and irreversible offense.
- (4) Regardless of whether the property owner caused the noise disturbance occurring on their property, the property owner will be issued a notice of violation or citation for each individual violation of this article. The first violation in a rolling 12-month period, will result in the issuance of a notice of violation, which shall constitute an official warning. All subsequent violations in a rolling 12-month period shall result in issuance of citations, or notices of violations that require a hearing before the special magistrate, and the potential imposition of a fine for the violation(s).
- (5) Any person(s), including the property owner(s), who violates any of the provisions of this article shall be subject to a civil penalty as adopted by Resolution of the City Council.
- (6) Joint and several responsibility. Any person(s) responsible for excessive noise from a property or from a vehicle, as defined herein, may be liable for the violation under this section. More than one person may be found to be responsible for the violation.
- (7) The city may use all available means of enforcement provided in chapter 14 of this code.

(Ord. No. 24-15, § 2(Exh. A), 9-9-2024)

Secs. 18-109—18-140. - Reserved.

