

INTENTION PAPER

This document explains the few, simple changes recommended we make to the 2020 (20-05) ordinance.

Restoring and Strengthening the Marco Island Noise Ordinance

Summary

This white paper presents a clear, practical approach to improving noise regulation on Marco Island by restoring the October 2020 noise ordinance with a few targeted, specific enhancements.

The October 2020 ordinance provided stronger protections for residents and a more enforceable framework than the current version. My goal is to return to that ordinance as it existed, while incorporating a limited number of updates to address current needs in enforcement, complainant protection, and fine collection.

It is understood that the City cannot simply "revert" to a prior ordinance. Instead, the current ordinance must be revised line by line so that it mirrors the October 2020 version, after which the proposed changes are incorporated. This explanation is intended to help the City Council and the public understand the proposed solutions, providing a foundation for open discussion and transparent decision-making.

Background

Noise complaints remain a frequent concern for Marco Island residents. However, enforcement outcomes under the current ordinance indicate several issues:

- More than 90 percent of complaints are currently deemed invalid
- Current decibel thresholds are higher than neighboring jurisdictions
- Enforcement procedures lack consistency and a documented escalation process
- It should be clearer that both property owners and those creating the disturbance will be held responsible
- Residents may hesitate to report violations due to fear of retaliation
- The City's ability to collect fines and enforce compliance is not fully codified

The October 2020 ordinance addressed these issues more effectively. The purpose of this proposal is to restore that ordinance in full and add a few narrowly defined improvements.

Policy Solution

The proposed approach has two components:

Restoration of previous noise ordinance: Revise the current ordinance line by line so that it reflects the October 2020 version in substance and structure.

Targeted Enhancements: Incorporate a small set of specific changes that address enforcement clarity, complainant protection, and legal authority for fine collection.

This ensures that the City adheres to proper legislative procedure while reinstating the most effective regulatory framework available.

In addition, Florida Statute 166.041(4)(a) requires that municipal ordinances be adopted and amended through a formal legislative process with clear and specific language. This is particularly important as it relates to the City's ability to impose and enforce fines, late fees, interest, and collection measures. In order for these penalties to be legally enforceable, they must be explicitly authorized within the ordinance itself. Simply referencing the statute is not sufficient. General intent or informal practices are not enough. Accordingly, the ordinance must include precise, explicit language outlining payment deadlines, late fees, interest, and collection authority to ensure the City can lawfully pursue unpaid fines and recover associated costs.

Proposed Revisions

The following updates are proposed in addition to restoring the October 2020 ordinance:

1. Lower Decibel Limits

Proposal:

Reduce allowable noise levels to 60 decibels during daytime and 55 decibels during nighttime in single family neighborhoods.

Rationale:

The current limits are higher than those of neighboring jurisdictions, contributing to a high invalid complaint rate. These levels reflect previous versions of the Marco Island ordinance and offer enforceable, residential-friendly standards.

Expected Outcome:

- Consistency with neighboring communities
 - Improved quality of life for residents
 - Enhanced effectiveness of noise enforcement
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2. Warnings and Enforcement Procedures

Proposal:

- Require officers to issue written warnings for verified violations
- Limit warnings to one warning per property in a rolling 12-month period, after which written citations must be issued
- Require officers to check prior violations or warnings before responding to a new complaint

Rationale:

Written warnings provide a clear, documented escalation process. This ensures consistent enforcement and accountability for repeat offenders.

Expected Outcome:

- Fair and predictable application of the ordinance
 - Strengthened enforcement for repeat violations
 - Improved documentation for administrative, transparency and legal purposes
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3. Complainant Identity Protection

Proposal:

- Complainant identities remain confidential in the field
- Requests for complainant information are referred to the City Clerk's Office under public records law

Rationale:

It has already been confirmed that officers are not legally required to disclose the identity of callers of noise complaints when responding to a call. Residents should be able to report violations without fear of retaliation. This codifies current practice and ensures compliance with Florida law.

Expected Outcome:

- Increased willingness to report noise issues
 - Reduced neighbor-to-neighbor conflict
 - Compliance with state law
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4. Clarify Shared Accountability for Property Owners and Occupants

Proposal:

- Both property owners and the individuals responsible for the noise disturbance, including renters, guests, or other occupants, must be jointly and severally held responsible, and thus both property owners and the individuals responsible for the noise disturbance must be served with all warnings and citations.

Rationale:

This is nothing new. The ordinance has historically held property owners responsible for activity occurring on their property, but the stronger language reflected in the October 2020 ordinance makes it clear that both those directly creating the disturbance and property owners will be held accountable. Reinstating the language from the 2020 ordinance will ensure all responsible parties are notified.

Expected Outcome:

- Clear accountability for all responsible parties
 - Improved deterrence of violations
 - Greater fairness in enforcement
 - Stronger compliance from both owners and occupants
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5. Payment Deadlines and Late Fees

Proposal:

- Fines due within 30 days of issuance
- 50% late fee after 30 days
- Fine doubles after 90 days
- Interest accrues (up to 6% per year) after 30 days

Rationale:

Escalating fines are legally permissible under Florida law **when codified in the ordinance** and communicated to violators. Clear deadlines and penalties incentivize timely compliance and strengthen enforcement.

Expected Outcome:

- Higher collection rates
 - Effective deterrent for violations
 - Reduced administrative burden on the City
 - Greater collection of fines should offset administrative costs
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6. Collection and Legal Enforcement Authority**Proposal:**

After 90 days of nonpayment, the City may:

- File civil action in County Court
- Recover administrative, court, and attorney costs
- Record violations for enforcement tracking
- Place liens on properties if allowed by law

Rationale:

Explicit authorization ensures the City can enforce compliance fairly, recover costs, and maintain accountability, protecting taxpayers.

Expected Outcome:

- Stronger enforcement outcomes
 - Cost recovery for enforcement efforts
 - Long-term accountability for repeat violators
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Summary of Benefits

By revising the current ordinance to mirror the October 2020 version and implementing the above targeted enhancements, Marco Island will:

- Restore a more effective noise regulation framework
- Align decibel standards with neighboring communities

- Provide clear, consistent, and documented enforcement procedures
 - Ensure accountability is applied to both property owners and those directly responsible for violations
 - Protect residents reporting violations
 - Ensure fines are legally enforceable and collectible
 - Strengthen the City's ability to manage repeat offenders
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Conclusion

This approach provides a practical, legally sound path to a more effective noise ordinance. The intent of this white paper is to facilitate informed discussion by the City Council and public, ensuring transparency and understanding as these solutions are considered. By taking this approach, Marco Island can protect residential quality of life while maintaining fair, consistent, and enforceable noise regulations.